

Regulatory Announcement

Direct Final Rule and Notice of Proposed Rulemaking: Revisions to Motor Vehicle Diesel Fuel Sulfur Transition Provisions and Technical Amendments to the Highway Diesel, Nonroad Diesel, and Tier 2 Gasoline Programs

The highway diesel fuel sulfur rule, issued in 2001, becomes effective in June 2006. The fuel industry has raised concerns that the required nationwide transition from higher sulfur to ultra-low sulfur diesel (ULSD) fuel may require a limited amount of additional time. EPA is providing 45 additional days for the transition to be completed while ensuring that ULSD will be available exclusively when new diesel engines are introduced.

Background

As a result of the highway diesel fuel sulfur program, finalized in 2001, there will be a nationwide transition in 2006 of most diesel fuel from low-sulfur diesel (LSD) to ULSD (diesel fuel that meets the 15 parts per million [ppm] sulfur standards). This program was carefully designed, through an extensive process of discussion and comment with industry and others, to ensure the successful transition of the diesel fuel distribution system to ULSD nationwide. The design of the program also incorporated an understanding that as new 2007 diesel engines and vehicles are introduced, ULSD must be universally available for them to use.

Earlier this year, some companies in the diesel fuel production and distribution industries indicated to us that they may be unable to complete the transition to ULSD by the current deadlines at the very furthest reaches of the distribution system. In response, EPA is making limited changes to the transition provisions for entities in the highway diesel distribution system. These changes will facilitate the rapid and complete shift to ULSD without seriously interfering with the planned introduction of the new diesel engines and vehicles that need this clean fuel.

The impacts of the recent hurricanes along the Gulf Coast of the United States are not a contributing factor in making these changes. The need for the limited actions taken in this rulemaking was identified prior to the storms. To the extent that individual refineries identify hurricane-related issues with meeting ULSD requirements, there are existing regulatory provisions to address such concerns. The additional flexibility provided here is available only to entities downstream of refineries, and there is no change in the June 1, 2006 start date for refiners to be producing ULSD.

Rulemaking Overview

The goals of this rule are met with three limited revisions to the existing highway diesel program. First, we extend the ULSD implementation dates for terminals and retail outlets by 45 days. Terminals will have until September 1 (vs. July 15), 2006, and retailers will have until October 15 (vs. September 1), 2006, to complete their transitions to ULSD. Second, fuel up to 22 ppm sulfur temporarily may be sold as ULSD at terminals until September 1, 2006 and at retail outlets until October 15, 2006. Third, we extend the beginning of the

restriction on how much ULSD can be downgraded to higher sulfur fuel by 15 days, to October 15, 2006, to be consistent with the end of the new transition dates.

This rule also includes corrections to the recordkeeping and reporting requirements under the highway diesel program to facilitate enforcement during the program's initial year. Finally, the rule also includes several minor amendments to the highway diesel sulfur, nonroad diesel sulfur, and gasoline sulfur programs to correct errors or omissions in the regulations.

Benefits of these Amendments

The amendments to the highway diesel transition provisions directly provide flexibility to parties downstream of diesel refineries (such as pipelines, terminals, wholesalers, and retailers). The rulemaking will also indirectly benefit refiners to the degree that the entire system quickly and efficiently transitions to ULSD. The other amendments to the highway diesel regulations will help ensure that the projected benefits of the program are achieved. The corrections to the gasoline sulfur, highway diesel sulfur, and nonroad diesel sulfur regulations will help provide clarity to regulated parties regarding the requirements under the nonroad diesel program.

EPA has worked with members of the fuel refining and distribution industry and the diesel auto and heavy-duty engine makers, as well as non-governmental stakeholders, in developing these amendments. We understand that some 2007 model year vehicle introductions will be delayed. We finely balanced the considerations of the stakeholders in determining the

changes in this rulemaking. These changes will not adversely affect the environment, but rather will help ensure that the full benefits of the diesel program are expeditiously achieved.

Costs

There are no costs associated with the amendments to the ULSD transition provisions. Regarding the corrections to the provisions of the highway diesel fuel regulations needed to ensure appropriate enforceability, some diesel fuel distributors may incur the modest annual cost of compliance one year earlier than expected.

Public Participation Opportunities

We welcome your comments on this rule. For instructions on submitting written comments, please see the Federal Register notice, which is available from the EPA Air Docket (202-566-1742; <http://docket.epa.gov/edkpub/index.jsp>; please refer to Docket No. OAR-2005-0153). In addition, you can access the rule and related documents on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

www.epa.gov/otaq/regs/fuels/diesel/diesel.htm

We do not currently plan to hold a hearing. We have worked extensively with diesel fuel production and distribution industries and the diesel engine and vehicle manufacturing industries, as well as other stakeholders, and believe that concerns of all parties have been satisfied.

For More Information

You can access information regarding the Highway Diesel and Nonroad Diesel Rules on EPA's Office of Transportation and Air Quality Web sites:

- **Highway Diesel Rule**
Web site: www.epa.gov/otaq/diesel.htm
Preamble: www.epa.gov/otaq/regs/hd2007/frm/frdslpre.pdf
Regulations: www.epa.gov/otaq/regs/hd2007/frm/frdslreg.pdf
- **Nonroad Diesel Rule**
Web site: www.epa.gov/nonroad-diesel/2004fr.htm
Preamble & Regulations: www.epa.gov/otaq/url-fr/fr29jn04.pdf
- **Tier 2 Gasoline Rule**
Web site: www.epa.gov/tier2
Preamble & Regulation: www.epa.gov/otaq/url-fr/fr10fe00.pdf

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