



**State of New York
Department of Agriculture and Markets
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Albany, New York 12235**

Bureau of Weights and Measures
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Memorandum

To: All Importers, Wholesalers, Distributors and Retailers of Gasoline
From: Ross Andersen, Director
Date: September 25, 2003
Re: Ban against gasoline containing MTBE

Effective January 1, 2004, the gasoline additive methyl tertiary butyl ether, better known as MTBE, will no longer be permitted in New York State. Agriculture and Markets Law section 192-g provides as follows:

Methyl tertiary butyl ether; prohibited.

1. For the purposes of this section, "gasoline" shall mean any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.
2. No person shall import into, or sell, dispense or offer for sale any gasoline which contains methyl tertiary butyl ether.
3. Any person who violates the provisions of this section shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars.

The Department of Agriculture and Markets oversees a sampling and testing program to verify conformance of motor fuels with this and other sections of the Agriculture and Markets Law and associated regulations. Beginning January 1, 2004 samples taken under this program will be examined to determine the presence of MTBE in gasoline.

The Department has received inquiries from regulated parties as to how a trace amount of MTBE that may be found will be treated for enforcement purposes. The Department recognizes that MTBE exists naturally in some gasoline. It may be absorbed from inadvertent co-mingling with other gasoline products or residues while in transit in tankers, barges, or in pipelines. Other states that have banned gasoline containing MTBE have set a tolerance level for that additive at one-half of one percent by volume. Such a de minimus level for New York would be consistent with the regulatory approach taken by other states. Thus, in enforcing Agriculture and Markets Law section 192-g, the Department will not consider regulatory action in instances where laboratory analysis confirms the presence of MTBE at a level of 0.5% by volume, or less, in gasoline.

I hope that the above information is helpful to you in meeting the requirements of the new law.