

## Clarification of Nonroad, Locomotive & Marine Diesel Fuel under Articles 12-A, 13-A, and 28 of the Tax Law

As explained in TSB-M-07(2)M/(4)S, *Treatment of Nonroad, Locomotive & Marine Diesel Fuel under Articles 12-A, 13-A, and 28 of the Tax Law*, the Tax Department determined that nonroad, locomotive, and marine (NRLM) diesel fuel designated as *500 ppm sulfur NRLM diesel fuel* or similar designations (e.g., 500 ppm dyed low sulfur nonroad diesel fuel) is **unenanced** diesel motor fuel for the purposes of Articles 12-A, 13-A and 28 of the Tax Law. Questions have arisen requiring clarification of the information provided in that TSB-M.

### Unenanced diesel motor fuel

The Tax Department's determination that NRLM diesel fuel will be treated as unenanced diesel motor fuel applies when **both** of the following criteria are met:

- the diesel fuel has a sulfur content greater than 15 parts per million (ppm) but not greater than 500 ppm; and
- the diesel fuel is designated as *500 ppm sulfur NRLM* or has a similar designation.

### Enhanced diesel motor fuel

The Tax Department has determined that diesel fuel with a sulfur content of 15 ppm or less is **enhanced** diesel motor fuel for the purposes of Articles 12-A, 13-A and 28 of the Tax Law. This determination applies to diesel fuel designated as *motor vehicle diesel fuel* or *NRLM diesel fuel*. Accordingly, diesel fuel meeting the 15 ppm (maximum) sulfur standard is enhanced diesel motor fuel whether it is designated as *15 ppm sulfur NRLM*, *500 ppm sulfur NRLM*, or has a similar designation.

In addition, as explained in TSB-M-07(2)M/(4)S, diesel motor fuel meeting the 500 ppm (maximum) sulfur standard with a designation that indicates that the fuel is intended for use in a motor vehicle engine of the diesel type is enhanced diesel motor fuel.

### Additional information

For additional information regarding the Tax Law provisions and exemptions that apply when fuel is treated as unenanced diesel motor fuel, see TSB-M-07(2)M, (4)S.

NOTE: A TSB-M is an informational statement of existing Department policies or of changes to the law, regulations, or Department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information presented in a TSB-M.