



INDEPENDENT LUBRICANT MANUFACTURERS ASSOCIATION

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July 8, 2004

Mr. Dennis Johannes
Division of Measurement Standards
8500 Fruitridge Road
Sacramento, California 95826

**Re: NCWM 89th Annual Meeting
Recommendation to Amend Handbook 130 to Regulate
Lubricants**

Dear Mr. Johannes:

The Independent Lubricant Manufacturers Association (“ILMA”) supports the recommendation of the Laws and Regulations Committee of the National Conference on Weights and Measures (“NCWM”) to amend Handbook 130, “Uniform Laws and Regulations,” to include “lubricants” in the “Uniform Engine Fuels, Petroleum Products, and Automotive Lubricants Regulation.” ILMA’s Second Vice President, James Kudis of Allegheny Petroleum Products, will reiterate the Association’s support for the recommendation at the Committee’s July 12, 2004 open hearing at the NCWM’s 89th annual meeting.

Introduction of ILMA

ILMA, established in 1948, is a national trade association of 142 manufacturing member companies, consisting largely of small businesses, ranging in size from fewer than 10 to more than 200 employees. As a group, ILMA member companies blend, compound and sell over 25 percent of the United States’ total lubricant needs, representing approximately 30 percent of the engine oils and over 75 percent of the metalworking fluids utilized in the country.

A lubricant is a liquid or solid substance used to reduce the friction, heat and wear between solid surfaces. ILMA members manufacture automotive, truck, marine, aircraft and industrial engine oils; transmission fluids; hydraulic fluids; greases; general industrial oils; power equipment oils; process oils; metal removal, treatment, protecting and forming lubricants; and rolling oils.

651 S. Washington Street
Alexandria, VA 22314
phone: 703/684-5574
fax: 703/836-8503
email: ilma@ilma.org
web: www.ilma.org

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In order to manufacture a lubricant, ILMA member companies purchase oil and synthetic lubricant base stocks and a wide range of additives. ILMA member companies then compound and blend the base stocks with the correct additives in the proper proportions to produce a lubricant with the desired characteristics for a particular job.

ILMA members are diverse. A large proportion of our membership manufactures automotive lubricants for original equipment manufacturers and for the retail market, either under their own labels or through contract packaging arrangements. Many produce lubricants for metalworking and heavy industrial machines, while others supply lubricants for mining, textiles, food processing, electronics, as well as many other industries. ILMA members historically have marketed engine oils, gear oils, transmission fluids and other automotive lubricants that meet and/or exceed the automakers' or original equipment manufacturers' performance and warranty requirements.

Independent lubricant manufacturers by definition are neither owned nor controlled by companies that explore for or refine crude oil to produce lubricant base stocks. Base oils are purchased from refiners, who are also competitors in the sale of finished products. Independent lubricant manufacturers succeed by manufacturing and marketing high-quality, often specialized, lubricants. Their success in this competitive market also is directly attributable to their tradition of providing excellent, individualized service to their customers.

The Regulation of Lubricants is Needed

One of the guiding principles of ILMA is to keep the government out of the structure and operation of the lubricants industry to the maximum extent possible. As such, it might appear odd that the Association is supporting the regulation of automotive lubricants by State and local weights and measures officials. However, ILMA feels that such regulation is necessary to remedy a number of practices that are undercutting fair competition in the marketplace.

ILMA has received a steady stream of complaints from its members in recent months about the increasing incidence of unfair practices that are hurting their businesses and consumers. These complaints typically involve: 1) misrepresentation of the performance of the engine oil on the container label, tied to no or "shortchanged" additives in the product or incorrect base oils; 2) the use of "knock off" additives for which performance has not been tested; and, 3) wrong oil viscosities. Unscrupulous oil marketers use these unfair practices to sell lubricants at prices at which legitimate oil marketers cannot compete. At the end of the day, it is the consumer who is harmed. I have attached articles from ILMA's monthly magazine, *Compoundings*, and an industry publication, *Lubes 'N' Greases*, that discuss these unfair practices in more detail.

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The Association has an enforceable Code of Ethics that allows ILMA to sanction members who undertake such unfair practices. However, members have been reluctant to use this avenue to redress their complaints. Further, ILMA has initiated a number of programs and activities to “raise the ethical bar” in the industry. The Association intends to continue to pursue these programs and activities as part of its Strategic Plan.

Accordingly, while effective self-regulation by the lubricants industry is still possible and desirable, ILMA feels that the inclusion of the regulation of lubricants in Handbook 130 will go a long way to remedy many of the problems occurring today in the marketplace for at least number of reasons. First, State and local weights and measures officials are the closest regulators to where the unfair practices reveal themselves – that is, retail stores and automotive outlets. They can respond more quickly and more effectively to have offending products removed from shelves and retail sale. It makes sense that any regulation of lubricants be part of Handbook 130.

Second, the recommendation is largely patterned after a California statute, which has proven to be effective in curbing abuses in the State. Combined with the recent experience of North Carolina weights and measures officials, the regulation of lubricants as recommended for Handbook 130 will work and will provide positive results for oil marketers and consumers.

Third, while lubricants may not be an enforcement priority for all State and local weights and measures officials, the regulation of lubricants as part of Handbook 130 will send a strong message to oil marketers that it is only a matter of time before their unfair practices will be discovered and will be ended.

Fourth, the inclusion of lubricants in Handbook 130 gives additional “muscle” to ILMA’s Code of Ethics. The specifications and requirements in Handbook 130 provide a benchmark against which the Association’s Ethics Committee can more easily measure members’ practices.

It is for these reasons that ILMA supports the Laws and Regulations Committee’s recommendation and urges its adoption next week by the full NCWM.

The Substantive Requirements are Satisfactory

ILMA has no suggested changes to the text of the proposed lubricants regulation for Handbook 130. The Association believes the substantive requirements in the proposal, if adopted, should be satisfactory to address most of the unfair practices that are being encountered by legitimate oil marketers.

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ILMA appreciates this opportunity to share its views with the Laws and Regulations Committee. Mr. Kudis looks forward to making a brief statement at the Committee's open hearing next Monday. The Association appreciates the time and attention given to this matter by you and the other weights and measures officials.

Sincerely,

A handwritten signature in black ink that reads "Celeste Powers". The signature is written in a cursive, flowing style.

Celeste Powers, CAE
Executive Director

cc: James Kudis
Board of Directors
Jeffrey L. Leiter, Esq