

CONTAMINATED PETROLEUM

Update on Contaminated Petroleum

1. The Petroleum Trade Reform Committee ("PTRC") was appointed on January 8, 2016 to *inter alia*, investigate the reports of substandard petrol in the Jamaican market.
2. The PTRC was further mandated to make recommendations with respect to the protection of the integrity of the petroleum trade; optimum maintenance of standards; new protocols; legislative amendments; and the adequacy of penalties for offences under the Petroleum (Quality Control) Act and Regulations.
3. In furtherance of fulfilling its mandate, the PTRC conducted numerous interviews with various stakeholders in the petroleum sector.
4. Additionally, the PTRC engaged a consultant who was responsible for conducting independent scientific analyses with the objective of identifying the source of the contaminated petroleum in the local market.
5. On February 20, 2016, the PTRC compiled an Interim Report which served as an update on the progress of its work and that report was submitted to Cabinet on March 14, 2016.
6. The Committee completed its Final Report, which was submitted by way of Cabinet Note dated May 5, 2016.
7. The Final Report offers numerous recommendations which call for legislative amendments to be made. Non-legislative recommendations have also been made in the Final Report.
8. The MSET, having received the Final Report on April 23, 2016, examined the recommendations from the PTRC. Having accepted that they would improve the Petroleum Industry, the MSET submitted the recommendations to Cabinet for its consideration and directives.
9. While awaiting the Cabinet's decision, the BSJ recommended that the specification for unwashed gum on additised fuel should be a maximum

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of 30mg/100mL. This recommendation was based on the PTRC's suspicion that high levels of unwashed gum contributed to the petroleum issues experienced by consumers. The Minister of Energy implemented this recommendation by Ministerial Order.

10. Cabinet considered the submission in connection with the recommendations made by the Petroleum Trade Reform Committee ("PTRC") which was established to *inter alia*, investigate reports of sub-standard petrol in the market.
11. Cabinet has given certain directives in response to the recommendations of the PTRC, and the Ministry of Science, Energy & Technology ("MSET"), the Ministry of Industry, Commerce, Agriculture & Fisheries ("MICA"), the National Compliance and Regulatory Authority ("NCRA") and the Bureau of Standards Jamaica ("BSJ") have commenced acting on these directives.
12. The MSET has begun developing drafting instructions to implement the legislative recommendations made by the PTRC.
13. The new legislative provisions will be made part of the draft Petroleum (Quality Control) Bill and draft Petroleum (Quality Control) Regulations already drafted by the Chief Parliamentary Counsel.
14. On October 18, 2016, a meeting was held between the MSET, MICA, the NCRA and the BSJ in order to particularise the steps to be taken to establish a Petroleum Inspectorate within the BSJ as directed by Cabinet, which would be properly resourced to, among other things, test samples of petroleum throughout the chain of custody.
15. It is to be noted that Cabinet has directed that the establishing of this new Inspectorate would not involve additional resources from the budget.
16. MICA has committed to commencing a review of relevant legislation to address and resolve the commercial concerns and issues existing in the petroleum industry as identified by the PTRC.

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17. The BSJ has advised that a technical group has been formed and will commence a review of gasoline specifications and develop protocols for handling and distribution of petroleum.
18. The MSET, MICA, NCRA and BSJ met on October 24, 2016 and will meet again on November 1, 2016 to finalise, among other things, the plans to establish the petroleum inspectorate within the BSJ.
19. The inspectorate will be charged with regulating quality and safety of petroleum products as well as to monitor the petroleum sector.

RECOMMENDATIONS BY THE PETROLEUM TRADE REFORM COMMITTEE

LEGISLATIVE AMENDMENTS ACCEPTED FROM THE COMMITTEE

The following recommendations for legislative amendments have been accepted by the MSET:

General Amendments

- a. Clarification of Roles & Responsibilities - The roles and responsibilities of the various government entities will be outlined so as to provide greater operational clarity in the petroleum sector. These entities include the Minister of Energy and the BSJ.
- b. Occupational Health and Safety Provisions - Occupational health and safety provisions should be included in the regulations that will be promulgated pursuant to the Petroleum (Quality Control) Act to ensure proper working conditions for petroleum sector workers.
- c. Specifications for Petroleum Products - The specifications for petroleum products will be revised in consultation with the BSJ.

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Petroleum Inspectorate

- d. There will be the re-establishment of a Petroleum Inspectorate as a department under the MSET to *inter alia*, regulate, oversee and monitor the petroleum sector. The number of inspectors will be increased from nine (9) to fifteen (15).¹
- e. The Committee recommends, and the MSET agrees, that the Petroleum Inspectorate should have responsibility to:
 - i. Process applications for licenses and renewals for persons seeking to operate in accordance with the petroleum legislation;
 - ii. Maintain a register and keep records and data on petroleum licensees, petroleum products imported into Jamaica as well as the vetting of the vessels transporting the petroleum products;
 - iii. Provide guidelines for petroleum marketing operations;
 - iv. Ensure the interests of consumers and petroleum service providers are protected by monitoring standards of performance and the quality of the provision of petroleum services through regular inspections of petroleum facilities on a random basis;
 - v. Initiate investigations into standards of quality of petroleum products offered to consumers and supply intelligence on illegal activities to the appropriate investigating bodies;
 - vi. Conduct investigations on a regular basis into the operation of petroleum service providers to ensure safety, occupational health, and other policy objectives are achieved;
 - vii. Conduct research on best practices and protocols in the petroleum industry and provide policy advice;

¹ This recommendation to establish the Inspectorate under MSET was modified by Cabinet. The Inspectorate will now be established in the BSJ.

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- viii. Conduct studies relating to the economy, efficiency and effectiveness of the petroleum industry; and
- ix. Ensure petroleum service providers strictly adhere to the law.
- f. Inspectors should provide quality assurance stickers bearing their assigned identifying number. All inspectors should also be issued with an identification card bearing the assigned identifying number.

Bulk Distribution of Petroleum

- g. Additives will be required to be mixed with fuel in accordance with the manufacturer's specifications stated in the Petroleum (Quality Control) Act and Regulations.
- h. Bulk Distributors will be prohibited from additising fuel at retail stations.
- i. Bulk Distributors will be required to mechanically additize their fuel products.
- j. All existing underground steel tanks older than twenty (20) years will be required to be changed to a modern US EPA or EU approved standard fuel tank within three (3) years.
- k. The specification for unwashed gum levels on additized fuel will be limited to a maximum of 30mg/100mL.
- l. There will be a requirement for fuels that are to be sold to conform to colour specifications as follows:
 - o 87 Octane-Red;
 - o 90 Octane-Green;
 - o USLD – Straw; and
 - o Diesel – Grey.

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Retailing of Petroleum

- m. Bulk Distributors will be required to provide Retailers with a Bill of Lading, Quality Certificate and an invoice upon delivery.
- n. Retailers will be required to install modern fuel receival systems and have a metering system in place to ensure volume traceability.
- o. It will be made mandatory for customers to be given receipts upon fuel purchase.
- p. Meter generated receipts will be the standard of providing receipts and Retailers will be allowed a period of one (1) year for implementation.
- q. All fuel dispensing nozzles will be fitted with an appropriate filter as recommended by the BSJ.
- r. Retailers will be required to prominently display the prices of fuel on both sides of a double-sided display board at their establishment.
- s. There will be a requirement for prices displayed on pumps to be visible. Prices displayed on pumps will have to be identical to the prices displayed on the display board.
- t. The layout of the display board will be two columns by four rows. The first column will list the type of gasoline in the order of unleaded 87, unleaded 90, diesel and Ultra Low Sulphur Diesel and the second will display the corresponding prices.
- u. It will be an offence for Retailers to purchase fuel from unlicensed bulk distributors or haulage contractors and an offender will be liable to have their licence revoked.

Contamination of Petroleum

- v. There will be a requirement that all suspected contaminated fuel be quarantined by the person in possession of it, immediately on discovery.

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- w. All instances of contaminated petroleum shall be reported to the Petroleum Inspectorate within twelve (12) hours of discovery.
- x. Petroleum products retreated after contamination will have to be certified for quality by the Petroleum Inspectorate prior to its release into the trade.
- y. Where the contaminated petroleum can be treated by the Bulk Distributor in possession of it, a new quality certificate after appropriate testing by the BSJ is to be given to the Retailer prior to sale of the treated product to the public.
- z. Where treatment of the contaminated petroleum is infeasible, the product should be removed from the service station by the Bulk Distributor.
- aa. A person in possession of untreatable contaminated petroleum will be required to properly dispose of the substance in accordance with Jamaican environmental laws and the Petroleum Inspectorate should be informed within twenty-four (24) hours of such disposal.

Licensing

- bb. As part of an application, persons will be required to submit their handling (stewardship and traceability) and distribution (transportation) protocols which are to be in accordance with the minimum protocols outlined by the Petroleum Inspectorate in conjunction with the BSJ.
- cc. Licensing requirements should be reviewed and made to include, where appropriate, a demonstrated competency component, an occupational safety and health component, and a training component.
- dd. Licences for Retailers will be subject to revocation where a licensee conducts business with unlicensed marketing companies or unlicensed haulage contractors.

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- ee. Licensees and Registrants will be required to report to the Petroleum Inspectorate, incidents which materially affect health, safety, environment and product quality.
- ff. The forms of licenses should be amended to reflect minimum conditions that should be included in the licence and these conditions may be supplemented by the Minister depending on the circumstance surrounding each application.
- gg. The application and registration fees for licences would be increased to make them more reflective of the costs associated with processing applications as well as to facilitate the establishment of a disaster fund. The period of the licences issued would be shortened to ensure that there is more effective monitoring of licensees.

Importation of Petroleum

- hh. Each shipment of petroleum imported into Jamaica will be required to be tested by the importer and verified by BSJ to ensure conformance with Schedule 2 of the Petroleum (Quality Control) Regulations.
- ii. Each vessel transporting petroleum will be required to declare the nature and quality specifications of the three (3) previous cargoes transported, so that a determination can be made by the Petroleum Inspectorate about the risk of contamination.
- jj. Importers must ensure that, prior to shipment antioxidants are added to petroleum products such as gasoline and diesels.
- kk. Importers will be required to submit, to the Petroleum Inspectorate, the manufacturer's quality certificate of each shipment of petroleum.

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Testing of Petroleum

- ll. The tests that will be required to be done by the Importer/local producer and verified by the BSJ on non-additized fuel will be revised to include the following additional tests:
- Unwashed gum with a maximum level of 5mg/100mL;
 - Water (ASTM -D4176) visual/ 200mg/kg (ref: WFC Sept 2013); and
 - Chlorides (ASTM-D7536).

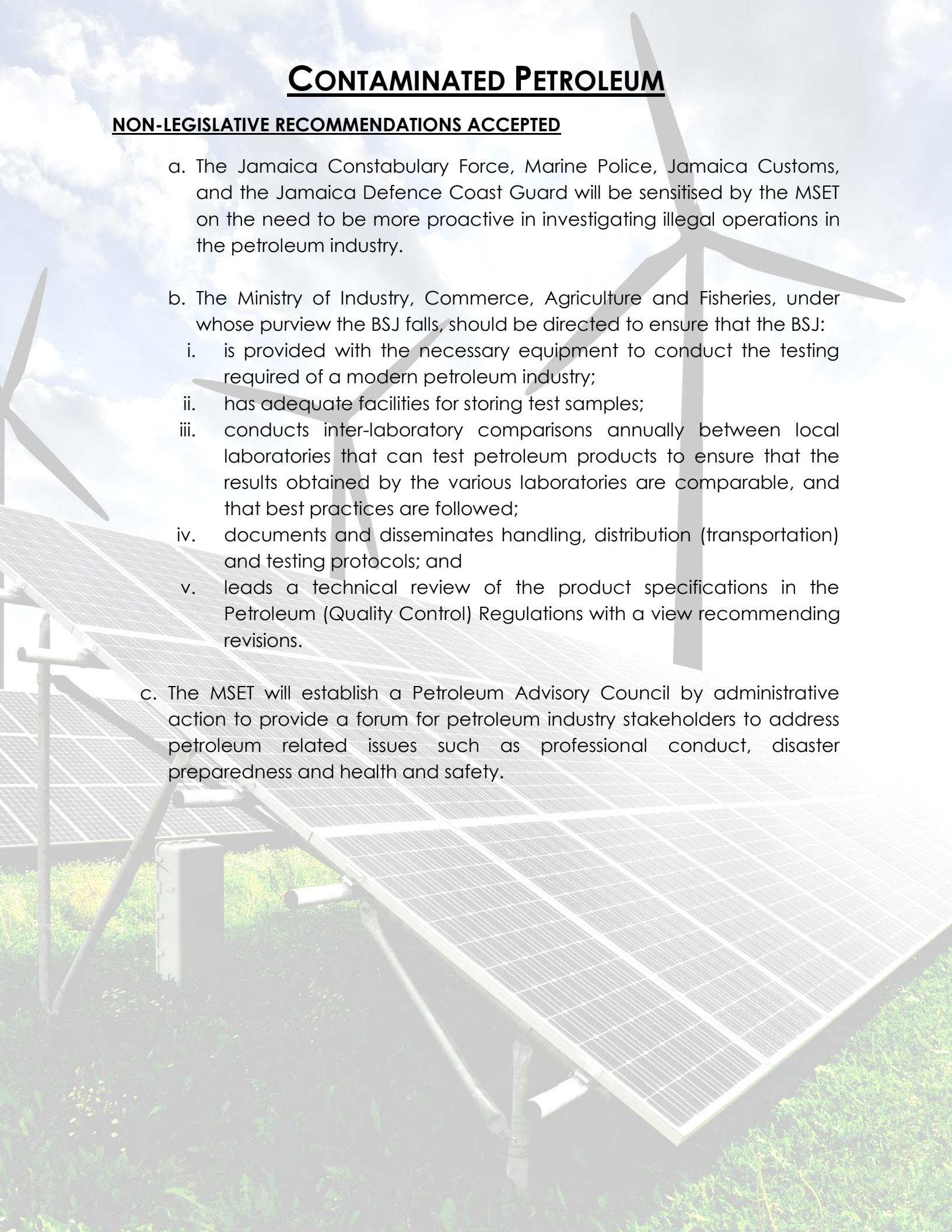
The quality certificate accompanying each shipment/production of fuel and ethanol shall include readings for the above items.

Haulage Contractor

- mm. Every haulage contractor will be required to install an electronic tracking system to their tank trucks and tanker wagons that are used to transport petroleum products.
- nn. The location data can then be used by the Petroleum Inspectorate to monitor the tank wagons for the purpose of effective inspection of same. These tracking systems must therefore allow the Petroleum Inspectorate to remotely access the location data in real time.
- oo. The Petroleum Inspectorate should also have the right to share the information with law enforcement.
- pp. It will be an offence to tamper with the electronic tracking system installed on any tank truck or tanker wagon.
- qq. It will be an offence to convey petroleum products using a tank truck or tanker wagon without the electronic system installed and in good working condition.
- rr. All Haulage Contractors will be required to submit an exception report in writing to the Petroleum Inspectorate, on the movement of each tank truck and tanker wagon within fifteen (15) days after the last day of each quarter.

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NON-LEGISLATIVE RECOMMENDATIONS ACCEPTED

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- The background of the document features a faded, semi-transparent image of a renewable energy farm. In the foreground, there are rows of solar panels mounted on metal frames, tilted towards the sun. In the background, several large wind turbines are visible against a bright, cloudy sky. The overall theme is clean energy and environmental sustainability.
- a. The Jamaica Constabulary Force, Marine Police, Jamaica Customs, and the Jamaica Defence Coast Guard will be sensitised by the MSET on the need to be more proactive in investigating illegal operations in the petroleum industry.
 - b. The Ministry of Industry, Commerce, Agriculture and Fisheries, under whose purview the BSJ falls, should be directed to ensure that the BSJ:
 - i. is provided with the necessary equipment to conduct the testing required of a modern petroleum industry;
 - ii. has adequate facilities for storing test samples;
 - iii. conducts inter-laboratory comparisons annually between local laboratories that can test petroleum products to ensure that the results obtained by the various laboratories are comparable, and that best practices are followed;
 - iv. documents and disseminates handling, distribution (transportation) and testing protocols; and
 - v. leads a technical review of the product specifications in the Petroleum (Quality Control) Regulations with a view recommending revisions.
 - c. The MSET will establish a Petroleum Advisory Council by administrative action to provide a forum for petroleum industry stakeholders to address petroleum related issues such as professional conduct, disaster preparedness and health and safety.