

**N.D.A.G. Letter to Robb (Feb. 17, 1987)**

February 17, 1987

Ms. Jane S. Robb  
Director  
North Dakota State Laboratories  
Lock Box 937  
Bismarck, ND 58502

Dear Ms. Robb:

Thank you for your letter of February 5, 1987, inquiring as to the State Laboratories Department's ability to impose upon and collect a petroleum inspection fee from the initial user of certain fuels of this state. Specifically, you inquire as to whether the initial person who ships, transports, or holds certain fuels for sale or consignment may be subjected to the inspection fee requirements of N.D.C.C. § 19-10-19.

Through a conversation with a staff attorney, I have learned that the problem you have experienced at the State Laboratories Department is one where you have attempted to impose upon and collect the petroleum inspection fee from those persons who have subsequently come in contact with the fuels in question. Upon contact with these individuals, you are told that the inspection fee has already been paid by a prior handler of the fuels. However, the Department has been unable to confirm this fact and is convinced that it is failing to enforce this law uniformly.

By the very terms of the statute, N.D.C.C. § 19-10-19 imposes an inspection fee upon "every person shipping or transporting" certain fuels or holding such products for sale within this state. The statute makes no differentiation between the initial person or the ultimate person who ships, transports, or holds such products, or any other person in between. Thus, it is up to the Department to determine which person shall be the subject of the petroleum inspection fee. Certainly, it is well within the authority of the Department pursuant to this statute to impose this fee upon the initial person shipping, transporting, or holding such fuel products within the state of North Dakota.

Sincerely,

Nicholas J. Spaeth

dfm  
Enclosure