Environmental Protection Agency

§ 80.610

What acts are prohibited under the diesel fuel sulfur program?

No person shall—

(a) **Standard, dye, marker or product violation.** (1) Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel fuel, NRLM diesel fuel, ECA marine fuel, or heating oil that does not comply with the applicable standards, dye, marking or any other product requirements under this subpart I and 40 CFR part 69, except as allowed by 40 CFR part 1043 for ECA marine fuel.

(2) Beginning June 1, 2007, produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport any diesel fuel for use in motor vehicle or nonroad engines that contains greater than 0.10 milligrams per liter of solvent yellow 124, except for 500 ppm sulfur diesel fuel sold, offered for sale, dispensed, supplied, offered for supply, stored, or transported for use in LM from June 1, 2010 through November 30, 2012 for use only in locomotive or marine diesel engines that is marked under the provisions of §80.510(e).

(3) Beginning June 1, 2007, produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport heating oil for use in any nonroad diesel engine, including any locomotive or marine diesel engine.

(b) **Designation and volume balance violation.** Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel, NRLM diesel fuel, ECA marine fuel, heating oil or other fuel that does not comply with the applicable designation or volume balance requirements under §§80.598 and 80.599.

(c) **Additive violation.** (1) Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport

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any fuel additive for use at a down-
stream location that does not comply 
with the applicable requirements of 
§ 80.521.

(2) Blend or permit the blending into 
motor vehicle diesel fuel, NRLM diesel 
fuel, or ECA marine fuel at a down-
stream location, or use, or permit the 
use, in motor vehicle diesel fuel, NRLM 
diesel fuel, or ECA marine fuel, of any 
additive that does not comply with the 
applicable requirements of § 80.521.

(d) Used motor oil violation. Introduce 
into the fuel system of a model year 
2007 or later diesel motor vehicle or 
model year 2011 or later nonroad diesel 
engine (except for locomotive or ma-
rine engines) or other nonroad diesel 
engine certified for the use of 15 ppm 
sulfur content fuel, or permit the in-
roduction into the fuel system of such 
vehicle or nonroad engine of used 
motor oil, or used motor oil blended 
with diesel fuel, that does not comply 
with the requirements of § 80.522.

(e) Improper fuel usage violation. (1) In-
troduce, or permit the introduction of, 
fuel into model year 2007 or later diesel 
motor vehicles, and beginning Decem-
ber 1, 2010 into any diesel motor vehi-
cle, that does not comply with the 
standards and dye requirements of 
§ 80.520(a) and (b);

(2) Introduce, or permit the introdun-
tion of, fuel into any nonroad diesel en-
gine (including any locomotive or ma-
rine diesel engine) that does not com-
ply with the applicable standards, dye 
and marking requirements of § 80.510(a), 
(d), and (e) and § 80.520(b) beginning on 
the following dates:

(i) This prohibition begins December 
1, 2007 in the areas specified in 
§ 80.510(g)(1) and (g)(2), except as speci-
fied in paragraph (e)(2)(i) of this sec-
tion.

(ii) This prohibition begins December 
1, 2010 in the area specified in 
§ 80.510(g)(2) for NRLM diesel fuel that 
is produced in accordance with a com-
pliance plan approved under § 80.554.

(iii) This prohibition begins December 
1, 2014, in all other areas.

(4) Introduce, or permit the introduc-
tion of, fuel into any locomotive and 
marine diesel engine which does not 
comply with the applicable standards, 
dye and marking requirements of 
§ 80.510(c) and § 80.510(f) in the following 
areas beginning on the following dates:

(i) This prohibition begins December 
1, 2012 in the areas specified in 
§ 80.510(g)(1) and (g)(2), except as speci-
fied in paragraph (e)(4)(i) of this sec-
tion.

(ii) This prohibition begins December 
1, 2014 in the area specified in 
§ 80.510(g)(2) for NRLM diesel fuel that 
is produced in accordance with a com-
pliance plan approved under § 80.554.

(iii) This prohibition begins Decem-
ber 1, 2014, in all other areas.

(5) Introduce, or permit the introduc-
tion of, fuel into any model year 2011 or 
later nonroad diesel engine certified 
for use on 15 ppm sulfur content fuel, 
diesel fuel which does not comply with 
the applicable standards, dye and 
marking requirements of § 80.510(b) 
through (f).

(6) Beginning January 1, 2015, intro-
duce (or permit the introduction of) 
any fuel with a sulfur content greater 
than 1,000 ppm for use in a Category 3 
marine vessel within an ECA, except as 
allowed by 40 CFR part 1043. This pro-
hibition is in addition to other prohibi-
tions in this section.

(f) Cause another party to violate. 
Cause another person to commit an act 
in violation of paragraphs (a) through 
(e) of this section.

(g) Cause violating fuel or additive to be 
in the distribution system. Cause motor 
vehicle diesel fuel, NRLM diesel fuel, 
or ECA marine fuel to be in the diesel 
fuel distribution system which does not 
comply with the applicable standards, dye 
or marker requirements or the
product segregation requirements of this subpart I, or cause any fuel additive to be in the fuel additive distribution system which does not comply with the applicable sulfur standards under §80.521.


§ 80.611 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?

(a) Compliance with sulfur, cetane, and aromatics standards, dye and marker requirements. Compliance with the standards, dye, and marker requirements in §§80.510, 80.511, 80.520, and 80.521 shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in §80.330(b), as applicable, and an approved testing methodology under the provisions of §§80.580 through 80.586 for sulfur; §80.2(w) for cetane index; §80.2(z) for aromatic content; and §80.582 for fuel marker. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel or additive, or motor oil to be used in diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the regulatory sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph (a), business records, and commercial documents.

(b) Compliance with other requirements. Determination of compliance with the requirements and prohibitions of this subpart other than the standards described in paragraph (a) of this section and in §§80.510, 80.511, 80.520, and 80.521, and determination of liability for any violation of this subpart, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

(69 FR 39204, June 29, 2004)

§ 80.612 Who is liable for violations of this subpart?

(a) Persons liable for violations of prohibited acts—(1) Standard, dye, marker, additives, used motor oil, heating oil, fuel introduction, and other product requirement violations. (i) Any refiner, importer, distributor, reseller, carrier, retailer, wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility where a violation of any provision of §80.610(a) through (e) occurred, or any other person who violates any provision of §80.610(a) through (e), is deemed liable for the applicable violation, except that distributors who receive diesel fuel or distillate from the point where it is taxed, dyed or marked, and retailers and wholesale purchaser-consumers are not deemed liable for any violation of §80.610(b).

(ii) Any person who causes another person to violate §80.610(a) through (e) is liable for a violation of §80.610(f).

(iii) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of a diesel fuel additive which is used in motor vehicle diesel fuel or NRLM diesel fuel that is found to violate §80.610(a), is deemed in violation of §80.610(f).

(iv) Any person who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of a diesel fuel additive which is used in motor vehicle diesel fuel or NRLM diesel fuel that is found to violate §80.610(a), is deemed in violation of §80.610(f).

(2) Cause violating diesel fuel or additive to be in the distribution system. Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer or any other person who owned, leased, operated, controlled or supervised a facility from which distillate fuel or additive was released into the distribution system which does not comply with the applicable