

ATTACHMENT 3 TO TXX-94099
AFFECTED TECHNICAL SPECIFICATION PAGES
(NUREG-1468)

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ELECTRICAL POWER SYSTEMSSURVEILLANCE REQUIREMENTS (Continued)

- a) An API Gravity of within 0.3 degrees at 60°F, or a specific gravity of within 0.0016 at 60/60°F, when compared to the supplier's certificate, or an absolute specific gravity at 60/60°F of greater than or equal to 0.8348 but less than or equal to 0.8984, or an API gravity of greater than or equal to 26 degrees but less than or equal to 38 degrees;
- b) A kinematic viscosity at 40°C of greater than or equal to 1.9 centistokes, but less than or equal to 4.1 centistokes (alternatively, Saybolt viscosity, SUS at 100°F of greater than or equal to 32.6, but less than or equal to 40.1), if gravity was not determined by comparison with the supplier's certification;
- c) A flash point equal to or greater than 125°F;
- d) ^{Either} A clear and bright appearance with proper color when tested in accordance with ASTM-D4176-1982;
- 2) By verifying within 30 days of obtaining the sample that the other properties specified in Table 1 of ASTM-D975-1981 are met when tested in accordance with ASTM-D975-1981 except that the analysis for sulfur may be performed in accordance with ASTM-D1552-1979 or ASTM-D2622-1982.
- e. At least once every 31 days by obtaining a sample of fuel oil in accordance with ASTM-D2276-1978, and verifying that total particulate contamination is less than 10 mg/liter when checked in accordance with ASTM-D2276-1978, Method A;
- f. At least once per 18 months*, during shutdown, by:
- 1) Subjecting the diesel to an inspection in accordance with procedures prepared in conjunction with its manufacturer's recommendations for this class of standby service;
 - 2) Verifying the generator capability to reject a load of greater than or equal to 783 kW while maintaining voltage at 6900 ± 690 volts and frequency at 60 ± 6.75 Hz;
 - 3) Verifying the generator capability to reject a load of 7000 kW without tripping. The generator voltage shall not exceed 8280 volts during and following the load rejection;
- or a water and sediment content of less than or equal to 0.05% volume when tested in accordance with ASTM-D1796-1968

*For any start of a diesel, the diesel must be operated with a load in accordance with the manufacturer's recommendations. All planned diesel engine starts for the purpose of this surveillance may be preceded by a prelube period in accordance with vendor recommendations.

ENCLOSURE 1 TO TXX-94099

40CFR80.29

FUEL AND FUEL ADDITIVES

Dated: May 1, 1992.
Gene R. Haislip,
Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.
[FR Doc. 92-10000 Filed 5-6-92; 8:45 am]
BILLING CODE 4119-09-92

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Parts 80 and 86

[AMS-FRL-4127-7]

Regulation of Fuels and Fuel
Additives: Standards for Highway
Diesel Fuel Quality-Sulfur Content; et
al.

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule announces revisions to the Fuels and Fuel Additives regulations to conform such regulations to section 211(l) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAA or Act). Specifically, section 211(l) of the CAA requires that all highway diesel fuel comply with a maximum sulfur content standard of 0.05 percent by weight, effective October 1, 1993. In addition to the preceding statutory required revisions, this final rule also amends the regulations for the Control of Air Pollution from New and In-use Motor Vehicles and New and In-use Motor Vehicle Engines by carrying-over the existing heavy-duty diesel engine (HDDIE) oxides of nitrogen (NOx) standard of 8.0 g/DIIP-hr to the 1994 through 1997 model years, and by correcting an error in the viscosity specification for Type 2-D diesel test fuel. Finally, this rule also amends the regulations for the Control of Air Pollution from New and In-use Motor Vehicles and New and In-use Motor Vehicle Engines by removing the requirement, which was scheduled to become effective with the 1994 model year, that labels be affixed to diesel vehicles directing that only low sulfur fuel be used in the vehicle. The intended effects of this rule are to ensure that all highway diesel fuel available after September 30, 1993 will be suitable for use in 1994 and later model year HDDIEs which will require the use of low sulfur fuel, to remove any ambiguity in the regulations with respect to the NOx standard for 1994 through 1997 model year HDDIEs and to remove a labeling requirement which was made redundant

as a result of the revision to the highway diesel fuel sulfur standard.

EFFECTIVE DATE: This Final Rule is effective on June 8, 1992.

ADDRESSES: Materials relevant to this final rule are contained in Public Docket No. A-90-41. The docket is located in room M-1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 12 noon and between 1 p.m. and 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Peter Hutchins, U.S. EPA (SDSB-12), Emission Control Technology Division, 2605 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 606-4340.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 211(l) of the Clean Air Act requires that all highway diesel fuel must comply with the maximum sulfur content standard of 0.05 percent by weight, and a minimum cetane index of 40, effective October 1, 1993. This eliminated the two year extension for small refiners contained in EPA's current regulations, and expanded the diesel fuel content prohibition of 40 CFR 80.20(a) to include all persons. Section 211(l) also established sulfur content requirements for heavy-duty diesel certification fuel, and authorized EPA to require the use of a dye to differentiate highway diesel fuel from other diesel fuel, and to adopt an aromatic content requirement as an alternative to a minimum cetane index.

In a July 17, 1991 Federal Register Notice (56 FR 32533; July 17, 1991) EPA proposed various revisions to 40 CFR part 80, to conform it with section 211(l) of the Act. The proposal included the removal of a two year extension for small refiners from compliance with the diesel sulfur content requirements, and an extension of the prohibitions of 40 CFR 80.20(a) to include all persons.

Unrelated to section 211(l) of the Act, EPA also proposed certain revisions to 40 CFR Part 80: (a) The carryover of the HDDIE NOx standard of 8.0 g/DIIP-hr through the 1997 model year, and (b) the correction of an error in the viscosity specification of Type 2-D diesel test fuel for 1994 and later model years.

As announced in the NPRM, a public hearing on the proposed changes was held on August 2, 1991 at EPA's Motor Vehicle Emission Laboratory in Ann Arbor, Michigan. While the opportunity for public participation was provided, no persons or organizations availed

themselves of the opportunity to provide oral comments on the proposal. The period for acceptance of written comments continued for thirty days following the public hearing; i.e. through September 3, 1991.

II. Description of the Action

This final rule adopts the revisions which were proposed in the July 17, 1991 NPRM as follows. First, the highway diesel fuel quality standards are revised to bring them into conformance with section 211(l) of the Clean Air Act. Specifically, effective October 1, 1993, all highway diesel fuel is required to comply with the maximum sulfur content standard of 0.05 percent by weight, as well as other requirements found in 40 CFR 80.20(a). No person may introduce highway diesel fuel into commerce in violation of these requirements. Second, the regulations applicable to 1994 through 1997 model year heavy-duty diesel engines are amended to include an Oxides of Nitrogen (NOx) exhaust emission standard of 8.0 gram per brake-horsepower hour.¹ In addition, requirements are removed that would have required certain diesel vehicles to be labeled for the use of low sulfur fuel only, and errors are corrected in the regulations for the viscosity specification for Type 2-D diesel test fuel for use with 1991 and 1994 model year light-duty vehicles and light-duty trucks, and with 1991 model year heavy-duty engines. The corrections to the viscosity specification, and the labeling requirements were not proposed in the July 17, 1991 NPRM but were brought to EPA's attention by comments from interested parties.

III. Public Participation

A public hearing was held at EPA's Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan on August 2, 1991. No persons or organizations provided testimony or comments on the proposal at the hearing.

The period for the provision of written comments on the NPRM remained open for thirty (30) days following the hearing; i.e., through September 3, 1991. Written comments on the proposed amendments to the regulations were provided by seven organizations: Engine Manufacturers Association; Exxon Company, U.S.A.; Mobil Oil Corporation; Motor Vehicle Manufacturers Association of the United

¹ EPA's current definition of useful life, 40 CFR 80.1005-2, is appropriate under section 202(d) of the Act with respect to this emissions standard rulemaking, and continues without change.

States, Inc.; Navistar International Transportation Corp.; Volvo CM Heavy Truck Corporation; and Witco Corporation.

Summary of the Comments

Commenters were generally supportive of the proposal and agreed with the changes proposed to conform the regulations with the Clean Air Act as amended in 1990, and with the carryover of the 5.0 g/DIIP-hr NO_x standard for heavy-duty diesel engines. Commenters recommended changes in three areas of the proposal as follows.

First, Navistar International Transportation Corp. (Navistar) and the Motor Vehicle Manufacturers Association (MVMA) both commented that additional changes should be made to the regulations to remove the requirement that two or more labels, reading "Low Sulfur Diesel Fuel Only", be affixed to diesel fueled motor vehicles. They argued that vehicle labels will serve no useful purpose given the elimination of the small refiner extension. Their belief was that the opportunities for unintentional misfueling will be virtually eliminated since only low-sulfur highway diesel fuel will be available. Finally, they argued that the presence of labels will not prevent intentional misfueling with either off-highway diesel fuel or home heating oil. As a means of informing vehicle owners/operators of the need for the use of low-sulfur diesel fuel, MVMA proposed that vehicle manufacturers include, along with the other information on fuel specification requirements, a statement in the owners manual requiring the use of low-sulfur fuel along with a warning against the use of improper fuels and associated penalties.

Second, the Engine Manufacturers Association (EMA) commented that the correction proposed for the viscosity of Type 2-D diesel test fuel was in error and should occur in Table N91-2 and not in Table N94-2 as had been proposed. In support of this comment, EMA referenced the EPA/EMA Calibration Task Force meeting of March 13-14, 1991 at which the discrepancy between the test fuel viscosity specification for the 1991 model year and that for the 1990 and 1994 model years had been noted and the need for correction of the 1991 specification had been identified.

Third, on the understanding that EPA was proposing changes in the analytical test procedure for the measurement of the aromatic content of diesel fuel, Witco Corporation recommended the use of a Supercritical Fluid Chromatography test rather than ASTM

test procedure D 1319 which is specified in the regulations.

EPA Response to the Comments

The first issue concerns a requirement that manufacturers of certain diesel fueled motor vehicles, beginning with the 1994 model year, affix two or more permanent labels on the vehicle, reading "Low Sulfur Diesel Fuel Only".³ This labeling requirement was promulgated along with the provisions which provided small refiners with a two year extension for compliance with the sulfur standard. As a result of the small refiner extension, two grades of highway diesel fuel would have been available, and it was necessary to require labeling of diesel vehicles designed and certified for operation on low sulfur fuel (0.05 percent by weight maximum). Since the small refiner extension for compliance with the sulfur standard will no longer be available, EPA concurs with the comments provided and has made the necessary change in the rules.

Concerning the second issue detailed above, i.e. correction of an error in the viscosity specifications for Type 2-D diesel test fuel, EPA concurs with the comment provided and has made the necessary correction in the rules. Inspection of the specifications for Type 2-D diesel test fuel for use with light-duty diesel vehicles and light-duty diesel trucks showed that the error was also present in those specifications. Those errors are also corrected in this rulemaking.

The third issue summarized above, i.e. the comment by Witco recommending a change in the analytical test procedure for the determination of the aromatic content of diesel fuel, was directed to an area of the regulations which was not being addressed by the NPRM. EPA will, therefore, not take any action in response to this comment.

IV. Environmental and Economic Impacts

The estimated environmental and economic effects of this final rule remain the same as were presented in the proposal. The estimates are summarized below.

A. Highway Diesel Fuel Quality, Sulfur Content

At the time of publication of the final rule establishing the diesel fuel sulfur standard (55 FR 34120, August 21, 1990), EPA noted that the two year extension for compliance by small refiners would have some small delaying effect in achieving the full benefits of the sulfur standard. While the magnitude of the

effect was expected to be small, it could not be accurately quantified because of the lack of information on which small refiners would either: (a) comply with the 0.05 standard either immediately or prior to termination of the extension, (b) comply with the interim standards which, while being less stringent than the 0.05 standard, still required significant reduction in the sulfur content of diesel fuel, or (c) terminate production of highway diesel fuel.

For this action, which removes the small refiner extension and which as a result will recover any benefits which might not have been realized during the two year period of the extension, the above conditions remain unchanged. A precise estimate of the benefits for this action can not be developed since the degree to which small refiners may have availed themselves of the extension can not be predicted. Directionally, the effect of elimination of the extension will be for a reduction in emissions.

In terms of costs, the regulations establishing the small refiner extension (55 FR 34120, August 21, 1990) specified that use of the extension was available only to those small refiners intending to produce 0.05 weight percent sulfur highway diesel fuel by October 1, 1995. The regulations also specified that small refiners availing themselves of the extension would have to provide evidence to EPA of capital commitments required to make the necessary modifications to their refineries. Because of these regulatory requirements, small refiners which would have used the extension would have delayed costs of complying with the 0.05 weight percent standard by up to two years. They would not, however, have actually eliminated any significant costs. The effect of removing the two year extension, as proposed in this action, on these refiners is that required investments will have to be made one or two years earlier.

Although the small refiner extension was eliminated, the amended Clean Air Act provides for small refiners that produce complying highway diesel fuel to receive desulfurization allowances (Title IV, Acid Deposition Control, section 410(h)). Preliminary estimates for the value of these desulfurization allowances suggest that they may be significant. Such provisions, when implemented by EPA, should mitigate any special problems that small refiners may face in complying with the highway diesel fuel sulfur standard.

³ 49 CFR 89.21

B. Heavy-duty Diesel Engines, NO_x Standard

Reductions in NO_x emissions for HDDEs presently being achieved as a result of the 5.0 g/BHP-hr NO_x standard will continue to be realized through the 1997 model year. When the 5.0 g/BHP-hr NO_x standard was promulgated in 1985, for implementation in the 1991 model year, the anticipated discounted emissions reductions were approximately 0.40 tons per heavy-duty diesel engine over the useful life of the engine.

Since manufacturers are already complying with the 5.0 g/BHP-hr NO_x standard, carryover of the standard will not impose any new costs on manufacturers or users of vehicles equipped with complying engines.

V. Statutory Authority

The statutory authority for the standards being implemented today are contained in the following sections of the Clean Air Act as amended: Section 202 for the HDDE NO_x standard and the diesel test fuel specification, and section 211 for the highway diesel fuel sulfur standard.

VI. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. Major regulations have an annual effect on the economy in excess of \$100 million, have a significant adverse impact on competition, investment, employment or innovation or result in a major price increase. The two elements of this rulemaking package, individually and collectively, do not constitute major rules according to the established criteria. One of the elements, the removal of the extension for small refiners, merely shortens the time for compliance with current rules for a small number of companies. The second element, the carryover heavy-duty engine NO_x standard, will impose no new costs since manufacturers are already complying with the standard. Therefore, I have determined that this final rule does not constitute a "major" regulation and no Regulatory Impact Analysis has been prepared.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments have been placed in the public docket for this rulemaking.

VII. Compliance With the Regulatory Flexibility Act

Under section 605 of the Regulatory Flexibility Act, the Administrator is required to certify that a regulation will not have a significant adverse economic impact on a substantial number of small business entities or to perform an analysis of such impact. There will not be a significant impact on a substantial number of small business entities due to the heavy-duty NO_x standard since none of the manufacturers which will be affected by these regulations are small business entities. Nor will there be such impacts from the changes to the diesel fuel quality provisions. Although EPA had determined that an extension was advisable to mitigate the effect of the diesel fuel quality regulations on small refiners as part of its August 21, 1990 rulemaking, Congress has determined that desulfurization allowances will be a more effective tool for mitigation than the extension. For those reasons, I certify that the rules contained in this final rule will not have an adverse economic impact on a substantial number of small entities.

VIII. Reporting and Recordkeeping Requirements

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must obtain OMB clearance for any activity that will involve collecting substantially the same information from 10 or more non-Federal respondents. This final rule does not create any new information requirements or contain any new information collection activities.

IX. Judicial Review

Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 90 days of publication. Under section 307(h)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects

40 CFR Part 80

Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, and Reporting and recordkeeping requirements.

40 CFR Part 86

Administrative practice and procedure, Confidential business

Information, Labeling, Motor vehicle pollution, and Reporting and recordkeeping requirements.

Dated: April 22, 1992.
William K. Reilly,
Administrator.

APPENDIX TO PREAMBLE.—TABLE OF CHANGES TO BE MADE TO VARIOUS SECTIONS OF 40 CFR

Section	Change	Reason
1. Part 80 Authority.	None	
2. Section 80.2(b).	Remove definition of "Exempted on-highway diesel fuel".	Remove small refiner extension.
3. Section 80.29(a), (c), (d) and (e).	Revise paragraph (a), remove existing paragraph (c), recodify and revise paragraphs (d) and (e).	Do.
4. Section 80.31.	Remove Section 80.31.	Do.
5. Part 86 Authority.	Add Sections 206 and 216.	Correct typographical error.
6. Section 86.094-11(a)(1)(ii).	Add NO _x standard.	Paragraph was reserved, NO _x standard not specified.
7. Section 86.113-81(b)(2).	Change viscosity specification.	Correct typographical error.
8. Section 86.113-84(b)(2).	Change viscosity specification.	Correct typographical error.
9. Section 86.113-81(b)(2).	Change viscosity specification.	Correct typographical error.

For the reasons set forth in the preamble, parts 80 and 86 of title 40 of the Code of Federal Regulations are amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

1. The Authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211(c), 211(h) and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7845(c), 7845(h) and 7601(a).

§ 80.2 [Amended]

2. Section 80.2 is amended by removing and reserving paragraph (bb).

3. Section 80.29 is amended by revising paragraph (a), by removing existing paragraph (c), by redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively, and by revising the newly designated paragraphs (c) and (d), to read as follows:

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, re-sellers, carriers, retailers or wholesale purchasers-consumers shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply, or transport any diesel fuel for use in motor vehicles unless the diesel fuel is free of visible evidence of the dye 1,4-dialkylamino-anthraquinone and has a cetane index of at least 40, or a maximum aromatic content of 35 volume percent, and a sulfur percentage, by weight, no greater than 0.05 percent.

(c) *Liability.* Liability for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.30.

(d) *Penalties.* Penalties for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.5.

§ 80.31 [Removed]

4. Part 80 is amended by removing § 80.31.

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

5. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216 and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7521, 7522, 7574, 7523, 7541, 7542, 7549, 7550 and 7601(a).

6. Section 86.004-11 of subpart A is amended by revising paragraph (a)(1)(iii), to read as follows:

§ 86.004-11 Emission standards for 1994 and later model year diesel heavy-duty engines.

(a)(1) * * *
(iii) *Oxides of nitrogen.* (A) 5.0 grams per brake horsepower-hour (1.0 grams per megajoule), as measured under transient operating conditions.

(B) A manufacturer may elect to include any or all of its diesel heavy-duty engine families in any or all of the NOx averaging, trading, or banking programs for heavy-duty engines, within the restrictions described in § 86.004-15. If the manufacturer elects to include engine families in any of these programs, the NOx FEIa may not exceed 8.0 grams per brake horsepower-hour (2.2 grams per megajoule). This ceiling value applies whether credits for

the family are derived from averaging, trading or banking programs.

7. Section 86.113-01 of subpart D is amended by revising paragraph (b)(2) to read as follows:

§ 86.113-01 Fuel specifications.

(1) * * *
(2) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum fuel recommended by the engine manufacturer, commercially designated as "Type 2-D" grade diesel, shall be used.

Item	ASTM test method No.	Type 2-D
Cetane Number	D613	42-50
Distillation range: IBP	"F" D66	340-400
	"(C)" D66	(171.1-204.4)
10 pct. point	"F" D66	400-460
	"(C)" D66	(204.4-237.8)
50 pct. point	"F" D66	470-540
	"(C)" D66	(243.3-282.2)
90 pct. point	"F" D66	580-630
	"(C)" D66	(293.3-332.2)
EP	"F" D66	610-690
	"(C)" D66	(321.1-365.8)
Gravity	"API" D287	32-37
Total sulfur	pct. D2622	0.06-0.12
Hydrocarbon composition: Aromatics, min	pct. D1319	27
Paraffins, Naphthenes, Olefins	D1319	(1)
Flashpoint, min	"F" D63	130
	"(C)" D63	(54.4)
Viscosity, centistokes	D445	9.0-3.2

1 Remainder.

8. Section 86.113-04 of subpart D is amended by revising paragraph (b)(2) to read as follows:

§ 86.113-04 Fuel specifications.

(1) * * *
(2) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum fuel recommended by the engine manufacturer,

commercially designated as "Type 2-D" grade diesel, shall be used.

Item	ASTM test method No.	Type 2-D
Cetane Number	D613	40-48
Cetane Index	D076	40-48
Distillation range: IBP	"F" D66	340-400
	"(C)" D66	(171.1-204.4)
10 pct. point	"F" D66	400-460
	"(C)" D66	(204.4-237.8)
50 pct. point	"F" D66	470-540
	"(C)" D66	(243.3-282.2)
90 pct. point	"F" D66	580-630
	"(C)" D66	(293.3-332.2)
EP	"F" D66	610-690
	"(C)" D66	(321.1-365.8)
Gravity	"API" D287	32-37
Total sulfur	pct. D2622	0.03-0.05
Hydrocarbon composition: Aromatics, min	pct. D1319	27
Paraffins, Naphthenes, Olefins	D1319	(1)
Flashpoint, min	"F" D63	130
	"(C)" D63	(54.4)
Viscosity, Centistokes	D445	2.0-3.2

1 Remainder.

9. Section 86.1313-01 of subpart N is amended by revising paragraph (b)(2), to read as follows:

§ 86.1313-01 Fuel specifications.

(1) * * *
(2) Petroleum fuel for diesel engines meeting the specifications in Table ND1-2, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum fuel used shall be commercially designated as "Type 2-D" grade diesel fuel except that fuel commercially designated as "Type 1-D" grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use "Type 1-D" grade diesel fuel as the primary fuel for use in the engines or

other evidence acceptable to the Administrator.

TABLE N91-2

Item	ASTM	Type 1-D	Type 2-D
Cetane Number	D613	40-54	40-48
Cetane Index	D678	40-54	40-48
Distillation range:			
IDP	F D86	330-390	340-400
10 pct. point	(°C) D86	(165.6-198.9)	(171.1-204.4)
50 pct. point	F D86	370-430	400-460
90 pct. point	(°C) D86	(187.8-221.1)	(204.4-237.8)
IDP	F D86	410-490	470-540
10 pct. point	(°C) D86	(210-248.8)	(243.3-282.2)
50 pct. point	F D86	460-520	580-630
90 pct. point	(°C) D86	(237.8-271.1)	(283.3-332.2)
IDP	F D86	500-560	610-690
10 pct. point	(°C) D86	(260.0-293.3)	(321.1-365.6)
Gravity	API D267	40-44	32-37
Total sulfur	pct. D2622	0.03-0.05	0.03-0.05
Hydrocarbon composition:			
Aromatics	pct. D1319	(¹) 8	(¹) 27
Paraffins	D1319	(²)	(²)
Naphthenes, Olefins	F D93	120	130
Flashpoint, min	(°C) D445	(48.9)	(54.4)
Viscosity, centistokes		1.8-2.0	2.0-3.2

¹ Minimum.
² Remainder.

(FR) Dec. 92-0981 Filed 5-6-92; 8:45 am
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**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Parts 59, 61, 62, and 75

RIN 3087-AD78

**National Flood Insurance Program
Coverage and Sales**

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Final rule.

SUMMARY: This final rule amends the National Flood Insurance Program (NFIP) regulations dealing with flood insurance coverage, premiums, and commissions for agents, including revisions to the Standard Flood Insurance Policy (SFIP) terms and provisions. The amendments involve revision to the commissions paid to property insurance agents and brokers ("producers") selling flood insurance policies issued by the NFIP through its servicing contractor; increase in the deductibles (building and contents, separately) for those flood insurance policies which are rated using the subsidized rates, i.e., "chargable rates", established pursuant to sections 1306 (a)(1) and (a)(2) and 1335(b)(1) of the National Flood Insurance Act of 1968, as amended 42 U.S.C. 4015 and 42 U.S.C.

4058; increase in the probation additional premium for flood insurance policies issued on properties located in communities which are on probation; and other technical or editorial changes. This final rule is necessary (1) to eliminate the administrative burden experienced by insurance agents and the NFIP servicing contractor because of the paperwork and record-keeping involved with the dual commission rate system and (2) to effect an increase in the revenues in the National Flood Insurance Fund, from which all expenses for operation of the NFIP are derived. These changes are intended to achieve a greater administrative and fiscal effectiveness in the operation of the NFIP and lessen the burdens on those property insurance agents and brokers ("producers") who are selling NFIP Direct policies.

EFFECTIVE DATE: This rule is effective October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-3418.

SUPPLEMENTARY INFORMATION: On September 16, 1991, FEMA published in the Federal Register, 56 FR 48758, a proposed rule containing amendments to the NFIP regulations dealing with the commissions paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf

of policyholders insured under the NFIP directly by the Federal Government through its servicing contractor (NFIP direct business). The proposed rule also contained amendments relating to revision to the SFIP terms pertaining to the deductibles for those flood insurance policies issued or renewed on and after January 1, 1992, which are rated using the subsidized rates, i.e., "chargable rates", established pursuant to sections 1306 (a)(1) and (a)(2) and 1335(b)(1) of the National Flood Insurance Act of 1968, as amended, and to revision of the probation additional premium for flood insurance policies issued or renewed on properties located in communities which are placed on probation on and after January 1, 1992.

No comments were received concerning the commission changes or the increase in the probation additional premium for flood insurance policies issued or renewed on properties located in communities placed on probation. Therefore, those revisions are incorporated into the final rule as proposed, except that the effective date for the probation increase has been changed to October 1, 1992. The effective date of the commission changes, which was not mentioned in the proposed rule, is also October 1, 1992.

The only comment received during the 60-day comment period was from an association concerned with flood plain management issues. The association

Environmental Protection Agency

§ 80.30

cation shall be deemed sufficient evidence of compliance provided it is not contradicted by specific evidence, such as testing results, and provided that the party has no other reasonable basis to believe that the facts stated in the certification are inaccurate. In the case of a violation alleged against a retail outlet or wholesale purchaser-consumer facility, such certification shall be deemed an adequate defense for the retailer or wholesale purchaser-consumer, provided that the retailer or wholesale purchaser-consumer is able to show certificates for all of the gasoline contained in the storage tank found in violation, and, provided that the retailer or wholesale purchaser-consumer has no reasonable basis to believe that the facts stated in the certifications are inaccurate.

[54 FR 11886, Mar. 23, 1989; 54 FR 27017, June 27, 1989, as amended at 56 FR 64711, Dec. 12, 1991; 56 FR 14484, Mar. 17, 1993]

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, re-sellers, carriers, retailers or wholesale purchasers-consumers shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply, or transport any diesel fuel for use in motor vehicles unless the diesel fuel is free of visible evidence of the dye 1,4-dialkylamino-anthraquinone and has a cetane index of at least 40, or a maximum aromatic content of 30 volume percent, and a sulfur percentage, by weight, no greater than 0.06 percent.

(b) *Determination of compliance.* Any diesel fuel which does not show visible evidence of being dyed with 1,4-dialkylamino-anthraquinone (which has a characteristic blue-green color in diesel fuel) shall be considered to be available for use in diesel motor vehicles and motor vehicle engines, and shall be subject to the prohibitions of paragraph (a) of this section. Compliance with the standards listed in paragraph (a) of this section shall be determined by the use of one of the sampling methodologies specified in appendix G to this part.

(c) *Liability.* Liability for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.30.

(d) *Penalties.* Penalties for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.5.

[56 FR 34138, Aug. 21, 1990, as amended at 57 FR 19637, May 7, 1992]

§ 80.30 Liability for violations of diesel fuel control and prohibitions.

(a) *Violations at refiners or importers facilities.* Where a violation of a diesel fuel standard set forth in § 80.29 is detected at a refinery or importer's facility, the refiner or importer shall be deemed in violation.

(b) *Violations at carrier facilities.* Where a violation of a diesel fuel standard set forth in § 80.29 is detected at a carrier's facility, whether in a transport vehicle, in a storage facility, or elsewhere at the facility, the following parties shall be deemed in violation:

(1) The carrier, except as provided in paragraph (g)(1) of this section; and

(2) The refiner or importer at whose refinery or import facility the diesel fuel was produced or imported, except as provided in paragraph (g)(2) of this section.

(c) *Violations at branded distributor or reseller facilities.* Where a violation of a diesel fuel standard set forth in § 80.29 is detected at a distributor or reseller's facility which is operating under the corporate, trade or brand name of a refiner or any of its marketing subsidiaries, the following parties shall be deemed in violation:

(1) The distributor or reseller, except as provided in paragraph (g)(3) of this section;

(2) The carrier (if any), if the carrier caused the diesel fuel to violate the standard by fuel switching, blending, mislabeling, or any other means; and

(3) The refiner under whose corporate, trade, or brand name (or that of any of its marketing subsidiaries) the distributor or reseller is operating, except as provided in paragraph (g)(4) of this section.

(d) *Violations at unbranded distributor facilities.* Where a violation of a diesel fuel standard set forth in § 80.29 is de-

ENCLOSURE 2 TO TXX-94099

26 CFR PARTS 47 AND 48
IRS REGULATIONS ON DIESEL FUEL OIL

Abandonment of Secured Property, and Form 1099-C, Cancellation of Debt, must be filed.

(2) *Multiple debtors*—(i) *In general.* In the case of a discharge of indebtedness involving more than one debtor, a return under this section must be filed for each debtor that had a debt of \$600 or more discharged.

(ii) *Joint and several liability.* If multiple debtors are jointly and severally liable on an indebtedness, the return filed under this section for each debtor must reflect the entire amount of indebtedness discharged.

(3) *Use of magnetic media.* Any return required under section 6050P and this section must be filed on magnetic media to the extent required by section 6011(e) and the regulations thereunder. A failure to file on magnetic media when required constitutes a failure to file an information return under section 6721. Any person not required by section 6011(e) to file returns on magnetic media may request permission to do so under applicable regulations and revenue procedures.

(4) *TIN solicitation requirement*—(i) *In general.* All reasonable efforts must be made to obtain the TIN of the person whose indebtedness is discharged. For this purpose, the TIN may be obtained at the time the debtor incurs the debt. If the TIN is not obtained prior to the time the debt is discharged, the TIN must be requested of the debtor for purposes of meeting the requirements of this section.

(ii) *Manner of requesting TIN.* A TIN request made after the debt is discharged must clearly notify the debtor that the Internal Revenue Service requires the debtor to furnish its TIN, and that failure to furnish such TIN subjects the debtor to a \$50 penalty imposed by the Internal Revenue Service. No particular form is required to solicit a TIN. A request made on Form W-9 satisfies the reasonable efforts requirement of this section. A TIN provided under this section is not required to be certified under penalties of perjury.

(5) *Recordkeeping requirements.* Any applicable financial entity required to file a return with the Internal Revenue Service under paragraph (a) of this section must also retain a copy of the return, or have the ability to reconstruct the data required to be included on the return under paragraph (a)(1) of this section, for at least four years from the date such return is required to be filed under paragraph (a)(3) of this section.

(e) *Requirement to furnish statement*—(1) *In general.* Any applicable financial entity required to file a return under paragraph (a) of this

section must furnish to each person whose name is shown on such return a written statement that includes the following information—

(i) The information required by paragraph (a)(1) of this section;

(ii) The name, address, and TIN of the applicable financial entity required to file a return under paragraph (a) of this section; and

(iii) A legend identifying the statement as important tax information that is being furnished to the Internal Revenue Service, and informing the debtor about a possible negligence penalty or other sanction for failure to report taxable income.

(2) *Furnishing copy of Form 1099-C.* The requirement to provide a statement to the debtor will be satisfied if the applicable financial entity furnishes copy B of the Form 1099-C or a substitute statement that complies with the requirements of the current revenue procedure for substitute Forms 1099.

(3) *Time and place for furnishing statement.* The statement required by this paragraph (e) must be furnished to the debtor on or before January 31 of the year following the calendar year in which the indebtedness was discharged. The statement will be considered furnished to the debtor if it is mailed to the debtor's last known address.

(f) *Penalties.* The penalties for failure to comply with the requirements of this section are provided in sections 6721 through 6724.

(g) *Effective date.* This section applies to discharges of indebtedness after December 31, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by adding "1.6050P-1T 1545-1419" in numerical order in the table.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 13, 1993

Leslie Samuels,

Assistant Secretary of the Treasury.
[FR Doc. 93-31308 Filed 12-23-93; 8:45 am]

BILLING CODE 4830-01-P

26 CFR Parts 47 and 48

[TD 8512]

RIN 1545-AS33

Amendments to the Temporary Fuel Floor Stocks Taxes Regulations and the Temporary Diesel Fuel Excise Tax Regulations Under the Omnibus Budget Reconciliation Act of 1993

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that amend the temporary regulations relating to the fuel floor stocks taxes (TD 8498) published in the *Federal Register* on November 29, 1993 (58 FR 62526) and the diesel fuel excise tax regulations (TD 8496) published in the *Federal Register* on November 30, 1993 (58 FR 63069). The amendments allow diesel fuel dyed past the terminal rack to qualify for exemption from the floor stocks tax and modify the requirements for dyeing of diesel fuel destined for nontaxable uses. They affect producers, marketers, and users of diesel fuel.

EFFECTIVE DATE: These regulations are effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Edward Madden (202) 622-4537 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Floor Stocks Tax

The Omnibus Budget Reconciliation Act of 1993 (Act) imposes a floor stocks tax on diesel fuel that is held by any person at the first moment of January 1, 1994, if (A) no tax was imposed on the fuel under section 4041(a) or 4091 of the Internal Revenue Code as in effect on December 31, 1993, and (B) tax would have been imposed by section 4081, as amended by the Act, on any prior removal, entry, or sale of the fuel had section 4081 applied to the fuel for periods before January 1, 1994. The rate of the January 1, 1994, floor stocks tax is 24.4 cents per gallon.

The temporary floor stocks tax regulations provide an exception to the January 1, 1994, floor stocks tax for diesel fuel that satisfied the requirements of section 4082 (relating to exemption from the diesel fuel tax for dyed fuel) at the time the diesel fuel was removed from the terminal.

Diesel Fuel Excise Tax; Exception for Dyed Fuel

The Act also provides, effective January 1, 1994, that diesel fuel that is

determined to be destined for a nontaxable use is not subject to tax if it is indelibly dyed in accordance with regulations prescribed by the Secretary. The temporary diesel fuel tax regulations prescribe the type and concentration of dyes that are to be used to dye diesel fuel.

Explanation of Provisions

Floor Stocks Tax

This document removes the requirement that diesel fuel be dyed at the time of its removal from the terminal to be exempt from the floor stocks tax. Thus, diesel fuel that meets the requirements of § 48.4082-1T(b) of the temporary regulations but is dyed past the terminal rack is not subject to the January 1, 1994, floor stocks tax.

Diesel Fuel Excise Tax; Exception for Dyed Fuel

This document modifies the description of the type of the blue dye required to be used for exempt high sulfur diesel fuel and the type of red dye required to be used for exempt low sulfur diesel fuel. It also modifies the concentration of blue dye allowed by the temporary regulations for a transitional period.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Edward Madden, Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Parts 47 and 48

Excise taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 47 and 48 are amended as follows:

PART 47—FLOOR STOCKS TAXES

Paragraph 1. The authority citation for part 47 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 47.3-6T [Amended]

Par. 2. Section 47.3-6T(a) is amended by removing the language "Section" and adding in its place "Except as provided in § 47.3-7T, section".

Par. 3. Section 47.3-7T is amended by revising paragraph (b) to read as follows:

§ 47.3-7T Exception to the January 1, 1994, floor stocks tax (temporary).

(b) *Exception for dyed fuel.* The January 1, 1994, floor stocks tax does not apply to diesel fuel that satisfies the dyeing requirements of § 48.4082-1T(b) of this chapter by March 31, 1994, or by the time the fuel is sold by the person holding the fuel at the first moment of January 1, 1994, whichever is earlier. Thus, for example, diesel fuel held by a heating oil retailer for sale for use as home heating oil is exempt from the January 1, 1994, floor stocks tax if the retailer or another person has dyed the fuel and the fuel satisfies the requirements of § 48.4082-1T(b) of this chapter.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 4. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 5. Section 48.4082-1T is amended by revising paragraphs (b)(1) and (b)(2)(i) to read as follows:

§ 48.4082-1T Diesel fuel tax; exemption (temporary).

(b) *Dyeing and marking requirements—*(1) *Dyeing; high sulfur fuel.* Diesel fuel that is required to be dyed blue pursuant to the Environmental Protection Agency's high sulfur diesel fuel requirement (40 CFR 80.29) satisfies the dyeing requirement of this paragraph (b) only if it contains—

(i) For periods before April 1, 1994, the blue dye 1,4 dialkylamino-anthraquinone in a concentration of at least 1.2 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel and

(ii) For periods after March 31, 1994, the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 10 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel; or

(iii) Any other dye of a type and in a concentration that is approved by the Commissioner.

(2) * * *

(i) The dye red di-azo (Color Index Solvent Red 164) in a concentration of at least 5.6 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel; or

* * * * *

Approved: December 16, 1993.

Margaret Milner Richardson,
Commissioner of Internal Revenue.
Leslie Samuels.

Assistant Secretary of the Treasury.
[FR Doc. 93-31405 Filed 12-23-93; 8:45 am]
BILLING CODE 4830-01-4

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

RIN 2115-AA97

**COTP Los Angeles-Long Beach, CA
Regulation 93-013**

AGENCY: Coast Guard, DOT.

ACTION: Final rule; cancellation.

SUMMARY: The Coast Guard is cancelling the following safety zones: 33 CFR 165.T1103 which was established February 9, 1990 for the cleanup effort in response to the T/V American Trader oil spill; 33 CFR 165.1113 which was established April 19, 1989 for the construction of Pier J in the Port of Long Beach; and 33 CFR 165.T1128 which was established May 11, 1983 around Oil Platform Esther in San Pedro Bay, California to protect vessels from hazards associated with its construction. Each of the above safety zones was meant to be temporary in nature, and are now, no longer necessary.

EFFECTIVE DATES: All three safety zones will terminate January 26, 1994.

FOR FURTHER INFORMATION CONTACT: LTJG K. Leigh Johnson, Port Operations Department, Marine Safety Office Los Angeles-Long Beach, at (310) 980-4454.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was not published for this regulation because the need for these safety zones has long since passed. No adverse comments are expected.

Drafting Information

The drafters of this regulation are LTJG K. Leigh Johnson, project officer, Marine Safety Office Los Angeles-Long Beach and LCDR Craig Juckniess, project attorney, Eleventh Coast Guard District Legal Office.

ENCLOSURE 3 TO TXX-94099

INTERNAL REVENUE SERVICE NOTICE 94-21,
FEBRUARY 18, 1994

Part III - Administrative, Procedural, and Miscellaneous

Diesel Fuel Tax; Notice Requirement, Section 6714 Penalty, and
Dye Concentration

Notice 94-21

The Omnibus Budget Reconciliation Act of 1993 made significant changes to the diesel fuel excise tax, effective January 1, 1994. A principal feature of the new law is the use of dyes to differentiate taxed and untaxed diesel fuel. On November 30, 1993, temporary regulations were issued to implement these changes (T.D. 8496; 58 FR 63069). Those regulations were amended on December 27, 1993 (T.D. 8512; 58 FR 68304).

This document provides guidance relating to the dyed diesel fuel notice required by the regulations and the application of the penalty imposed by section 6714 of the Internal Revenue Code in certain circumstances. It also announces that the regulations relating to dye concentrations will be amended.

The dyed diesel fuel notice requirement

Section 48.4082-2T(a) of the Manufacturers and Retailers Excise Tax Regulations requires that a notice must be provided to buyers of dyed diesel stating: DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE. Because diesel fuel and heating oil are essentially the same product, sellers of heating oil may add language to that required in the notice indicating that the dyed diesel fuel is also heating oil. For example, sellers of

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heating oil may insert "(HEATING OIL)" immediately after "DYED DIESEL FUEL" in the required notice.

The section 6714 penalty

Section 6714 of the Code provides that if any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel, then such person shall pay a penalty in addition to the tax (if any). The amount of the penalty is the greater of \$1,000 or \$10 for each gallon of the dyed fuel involved.

The Internal Revenue Service will not consider the strength or composition of the dye in diesel fuel to have been altered if:

1. Diesel fuel that is dyed in accordance with the regulations is blended with any undyed liquid (such as kerosene) and the resulting product continues to satisfy the dye strength and composition requirements of the regulations.

2. Diesel fuel that is dyed in accordance with the regulations is blended with any other liquid (such as kerosene) that contains a dye of the strength and composition required for tax-exempt diesel fuel under the regulations.

3. Low-sulfur diesel fuel that is dyed in accordance with the regulations is blended with high-sulfur diesel fuel that is dyed in accordance with the regulations. (Taxpayers should note, however, that Environmental Protection Agency rules prohibit the use of high-sulfur diesel fuel in motor vehicles.)

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Dye concentration

Section 48.4082-1T(b)(1) of the regulations will be amended to provide that diesel fuel that is required to be dyed blue pursuant to the Environmental Protection Agency's high sulfur diesel fuel requirement (40 CFR 80.29) satisfies the dyeing requirement of §48.4082-1T(b) only if it contains--

(i) For periods before April 1, 1994, the blue dye 1,4 dialkylamino-anthraquinone in a concentration of at least 1.2 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel;

(ii) For periods after March 31, 1994, and before July 1, 1994, the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 4 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel;

(iii) For periods after June 30, 1994, the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 10 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel;
or

(iv) Any other dye of a type and in a concentration that has been approved by the Commissioner.

Drafting information

The principal author of this notice is Frank Boland, Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Mr. Boland on (202) 622-3130 (not a toll-free call).