Environmental Protection Agency

§ 80.598  What are the designation requirements for refiners, importers, and distributors?

(a) Designation requirements for refiners and importers. (1) Any refiner or importer shall accurately and clearly designate all fuel it produces or imports for use in diesel motor vehicles as either motor vehicle diesel fuel meeting the 15 ppm sulfur standard under § 80.520(a)(1) or as motor vehicle diesel fuel meeting the 500 ppm sulfur standard under § 80.520(c).

(2) Subject to the restrictions in paragraph (a)(3) of this section, beginning June 1, 2006, any refiner or importer shall accurately and clearly designate each batch of diesel fuel or distillate fuel for which they transfer custody to another entity, according to the following categories, including specifying its volume:

(i) Designate the fuel as one of the following fuel types:
   (A) Motor vehicle, nonroad, locomotive or marine (MVNRLM) diesel fuel.
   (B) Heating oil.
   (C) Jet fuel.
   (D) Kerosene.
   (E) No. 4 fuel.
   (F) Distillate fuel for export only.

(ii) From June 1, 2006 through May 31, 2014 any batch designated as MVNRLM diesel fuel must also be designated as one of the following:
   (A) Motor vehicle diesel fuel; or
   (B) NRLM diesel fuel.

(iii) From June 1, 2010 through May 31, 2012 any batch designated as NRLM must also be designated as one of the following:
   (A) NR diesel fuel; or
   (B) LM diesel fuel.

(iv) Until June 1, 2014, any batch designated as MVNRLM diesel fuel must also be designated according to one of the following three sulfur level specifications:
   (A) 15 ppm if its sulfur content is less than or equal to 15 ppm.
   (B) 500 ppm if its sulfur content is less than or equal to 500 ppm.
   (C) High Sulfur if its sulfur content is greater than 500 ppm.

(iv) From June 1, 2006, through May 31, 2010, any batch designated as motor vehicle diesel fuel must also be designated according to one of the following distillation classifications that most accurately represents the fuel:
   (A) #1D.
   (B) #2D.
   (C) NP diesel (NP).

(3) The following restrictions and clarifications apply:

(i) Prior to June 1, 2006, any batch of MVNRLM not containing visible evidence of red dye under § 80.520(b) must be designated as motor vehicle diesel fuel.

(ii) Any distillate fuel containing visible evidence of dye may not be designated as motor vehicle diesel fuel unless it is further designated as tax exempt motor vehicle diesel fuel.
(iii) Any distillate containing the marker required pursuant to the provisions of §80.510(d) through (f) must be designated as heating oil, except that from June 1, 2010 through May 31, 2012 it may also be designated as LM diesel fuel, pursuant to §80.510(e).

(iv) Prior to June 1, 2009 all 15 ppm sulfur MVNRLM diesel fuel must be designated as motor vehicle diesel fuel. A refiner that has been approved as a NRLM diesel fuel small refiner under §80.551(g) and has elected to use the compliance option specified under §80.554(d) may also designate 15 ppm sulfur MVNRLM fuel as NRLM diesel fuel beginning June 1, 2006.

(v) Beginning June 1, 2010 any distillate fuel having a sulfur content greater than 15 ppm may not be designated as motor vehicle diesel fuel.

(vi) Beginning June 1, 2014, any distillate fuel having a sulfur content greater than 15 ppm may not be designated as NRLM diesel fuel.

(vii) Any batch of #1D fuel which is suitable for use as MVNRLM and which is also suitable for use as kerosene or jet fuel (i.e., commonly referred to as dual use kerosene) may be designated as MVNRLM, kerosene, or jet fuel (as applicable).

(viii) Beginning June 1, 2007, any distillate fuel with a sulfur content greater than 500 ppm distributed or intended for distribution in the area specified in §80.510(g)(1), may not be designated as MVNRLM diesel fuel.

(ix) From June 1, 2011, through May 31, 2014, any distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the area specified in §80.510(g)(1), may not be designated as NRLM diesel fuel.

(x) From June 1, 2010 through May 31, 2012, any distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the area specified in §80.510(g)(2) may not be designated as NRLM diesel fuel unless EPA has first approved a compliance plan for the refiner for segregating the fuel from all other types of NRLM diesel fuel from the refinery gate to the ultimate consumer, as specified under §80.554(a)(4).

(xi) From June 1, 2010 through May 31, 2012, any distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the area specified in §80.510(g)(2) may not be designated as NR diesel fuel.

(xii) From June 1, 2012 through May 31, 2014, any distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the area specified in §80.510(g)(2) may not be designated as NR diesel fuel unless EPA has first approved a compliance plan for the refiner for segregating the fuel from all other types of NRLM diesel fuel from the refinery gate to the ultimate consumer, as specified under §80.554(b)(4).

(xiii) From June 1, 2012 through May 31, 2014, any distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the area specified in §80.510(g)(2) may not be designated as NRLM diesel fuel unless, EPA has first approved a compliance plan for the refiner for segregating the fuel from all other types of NRLM diesel fuel from the refinery gate to the ultimate consumer, as specified under §80.554(b)(4).

(xiv) Beginning June 1, 2014, any distillate fuel with a sulfur content greater than 15 ppm may not be designated as MVNRLM diesel fuel.

(xv) Beginning June 1, 2014, any fuel designated as ECA marine fuel will be subject to all the following restrictions:

(A) Such fuel may not exceed a sulfur level of 1,000 ppm.

(B) Such fuel may only be produced, distributed, sold, and purchased for use in C3 marine vessels.

(b) Designation requirements for fuel distributors. (1) Pursuant to the provisions of paragraphs (b)(2) through (b)(9) of this section, beginning June 1, 2006, any distributor shall accurately and clearly designate each batch of diesel fuel or distillate fuel for which they transfer custody to another facility, including specifying its volume, as specified in this paragraph (b). Distributors must also accurately and clearly classify such diesel fuel and distillate fuel by sulfur content, while it is in their custody between receipt and delivery.

(2) From June 1, 2006 through May 31, 2009, whenever custody of a batch of 15 ppm sulfur motor vehicle diesel fuel is transferred to another facility, the entity transferring custody must accurately and clearly designate the batch...
as one of the following and specify its volume:

(i) #1D 15 ppm sulfur motor vehicle
diesel fuel.

(ii) #2D 15 ppm sulfur motor vehicle
diesel fuel.

(iii) Fuel that meets the require-
ments specified in §80.616 which is
transferred by a pipeline facility to a
terminal facility outside of the State
of California pursuant to §80.617(b) may
be designated as California diesel fuel.
Such fuel must subsequently be re-
designated by the receiving terminal as ei-
ther #1D or #2D 15 ppm motor vehicle
diesel fuel, or segregated for delivery
by tank truck to a retail or wholesale
purchaser consumer facility inside the
State of California pursuant to
§80.617(b)(2).

(iv) NP 15 ppm sulfur motor vehicle
diesel fuel.

(3) From June 1, 2009 through May 31,
2010, whenever custody of a batch of
15 ppm sulfur MVNRLM diesel fuel is
transferred to another facility, the en-
tity transferring custody must accu-
rately and clearly designate the batch
as one of the following and specify its
volume:

(i) #1D 15 ppm sulfur motor vehicle
diesel fuel.

(ii) #2D 15 ppm sulfur motor vehicle
diesel fuel.

(iii) 15 ppm sulfur NRLM diesel fuel.

(iv) Fuel that meets the require-
ments specified in §80.616 that is trans-
ferred by a pipeline facility to a ter-
minal facility outside of the State of
California pursuant to §80.617(b) may
be designated as California diesel fuel.
Such fuel must either be redesignated
by the receiving terminal as either #1D
or #2D 15 ppm motor vehicle diesel fuel
as prescribed in paragraph (b)(9)(xi) of
this section, or segregated for delivery
by tank truck to a retail or wholesale
purchaser consumer facility inside the
State of California pursuant to
§80.617(b)(2).

(v) NP 15 ppm sulfur motor vehicle
diesel fuel.

(4) From June 1, 2006 through May 31,
2010, whenever custody of a batch of
undyed, 500 ppm sulfur MVNRLM is
transferred to another facility, the en-
tity transferring custody must accu-
rately and clearly designate the batch
as one of the following and specify its
volume:

(i) #1D 500 ppm sulfur motor vehicle
diesel fuel.

(ii) #2D 500 ppm sulfur motor vehicle
diesel fuel.

(iii) 500 ppm sulfur NRLM diesel fuel.

(iv) NP 500 ppm sulfur motor vehicle
diesel fuel.

(5) From June 1, 2007 through May 31,
2010, whenever custody of a batch of
distillate fuel (other than jet fuel, ker-
osene, No. 4 fuel, or fuel for export)
having a sulfur content greater than
500 ppm is transferred to another facil-
ity, the entity transferring custody
must accurately and clearly designate
the batch as one of the following and
specify its volume:

(i) High sulfur NRLM diesel fuel
(HSNRLM);

(ii) Heating oil; or

(iii) Exempt distillate fuels such as
fuels that are covered by a national se-
curity exemption under §80.606, fuels
that are used for purposes of research
and development pursuant to §80.607,
and fuels used in the U.S. Territories
pursuant to §80.608 (including addi-
tional identifying information).

(6) From June 1, 2010 through May 31,
2012, whenever custody of a batch of
distillate fuel (other than jet fuel, ker-
osene, No. 4 fuel, or fuel for export)
having a sulfur content greater than 15
ppm is transferred to another facility,
the entity transferring custody must
accurately and clearly designate the
batch as one of the following and speci-
fy its volume:

(i) 500 ppm sulfur NR diesel fuel;

(ii) 500 ppm sulfur LM diesel fuel;

(iii) Heating oil; or

(iv) Exempt distillate fuels such as
fuels that are covered by a national se-
curity exemption under §80.606, fuels
that are used for purposes of research
and development pursuant to §80.607,
and fuels used in the U.S. Territories
pursuant to §80.608 (including addi-
tional identifying information).

(7) From June 1, 2012 through May 31,
2014, whenever custody of a batch of
distillate fuel (other than jet fuel, ker-
osene, No. 4 fuel, or fuel for export)
having a sulfur content greater than 15
ppm is transferred to another facility,
the entity transferring custody must
accurately and clearly designate the

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batch as one of the following and specify its volume:

(i) 500 ppm sulfur NRLM diesel fuel.
(ii) Heating oil.
(iii) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(8) Beginning June 1, 2014, whenever custody of a batch of distillate or residual fuel (other than jet fuel, kerosene, No. 4 fuel, fuel for export, fuel intended for use outside an ECA, or fuel otherwise allowed to be used under 40 CFR part 1043) having a sulfur content greater than 15 ppm is transferred to another facility, the entity transferring custody must accurately and clearly designate the batch as one of the following and specify its volume:

(i) ECA marine fuel.
(ii) Heating oil.
(iii) Exempt distillate fuels such as fuels that are covered by a national security exemption under §80.606, fuels that are used for purposes of research and development pursuant to §80.607, and fuels used in the U.S. Territories pursuant to §80.608 (including additional identifying information).

(9) The following restrictions and clarifications apply. Subject to the provisions of this paragraph (b)(9) and subject to the dye and marker provisions of §80.520(b) and §80.510(d) through (f), when custody of a batch of distillate fuel is transferred, the designation provided by the entity transferring custody pursuant to paragraphs (b)(1) through (b)(8) of this section may be different from the designation of the fuel when that same entity received custody.

(i) Any 500 ppm sulfur diesel fuel designated under this paragraph (b) and containing visible evidence of red dye may not be designated as motor vehicle diesel fuel.

(ii) Until June 1, 2014, any distillate fuel containing greater than or equal to 0.10 milligrams per liter of marker solvent yellow 124 required under §80.510(d), (e), or (f) must be designated as heating oil except that from June 1, 2010, through September 30, 2012, it may also be designated as LM diesel fuel as specified under §80.510(e).

(iii) Any batch of #1D fuel which is suitable for use as MVNRLM diesel fuel and which is also suitable for use as kerosene or jet fuel (i.e., commonly referred to as dual use kerosene) may be designated as either MVNRLM diesel fuel, kerosene, or jet fuel (as applicable).

(iv) Any MVNRLM diesel fuel with a sulfur content of 500 ppm or less in inventory as of June 1, 2007 may be designated as motor vehicle diesel fuel.

(v) Batches or portions of batches of fuel received designated as 15 ppm sulfur #2D motor vehicle diesel fuel may be re-designated as 500 ppm sulfur motor vehicle diesel fuel by a truck loading terminal only if the terminal maintains a neutral or positive balance at the end of each quarterly compliance period on their motor vehicle diesel fuel volume from June 1, 2006 as calculated in §80.599(b)(4).

(vi) Batches or portions of batches received designated as 500 ppm sulfur NRLM diesel fuel may be re-designated as 500 ppm sulfur motor vehicle diesel fuel by a truck loading terminal only if the terminal maintains a neutral or positive balance at the end of each quarterly compliance period on their motor vehicle diesel fuel volume from June 1, 2007 as calculated in §80.599(b)(4).

(vii) Batches or portions of batches received designated as 500 ppm sulfur NRLM diesel fuel may be re-designated as 500 ppm sulfur motor vehicle diesel fuel by a facility other than a truck loading terminal only if the following restrictions are met:

(A) At the end of each annual compliance period, the facility has a neutral or positive balance on its motor vehicle diesel fuel volume from June 1, 2007 as calculated in §80.599(b)(4); and

(B) At the end of each annual compliance period, the facility’s balance for motor vehicle diesel fuel volume, from the beginning of the compliance period must be less than two percent of the total volume of motor vehicle diesel fuel received during the compliance period, as calculated in §80.599(b)(5).

(viii) For facilities in areas other than those specified in §80.510(g)(1) and (2), batches or portions of batches of unmarked distillate received designated as heating oil may be re-designated as NRLM or LM diesel fuel.
only if all the following restrictions are met:

(A) From June 1, 2007, through May 31, 2010, for any compliance period, the volume of high sulfur NRLM diesel fuel delivered from a facility cannot be greater than the volume received, unless the volume of heating oil delivered from the facility is also greater than the volume it received by an equal or greater proportion, as calculated in §80.599(c)(2).

(B) From June 1, 2010, through May 31, 2014, for any compliance period, the volume of fuel designated as heating oil delivered from a facility cannot be less than the volume of fuel designated as heating oil received, as calculated in §80.599(c)(4).

(ix) For facilities in areas other than those specified in §80.510(g)(1) and (g)(2), from June 1, 2010 through May 31, 2012, batches or portions of batches received designated as 500 ppm LM diesel fuel may be redesignated as 500 ppm NR diesel fuel only if for any compliance period the following restrictions are met:

(A) The volume of fuel designated as 500 ppm sulfur NR diesel fuel delivered from the facility cannot be greater than the volume received calculated in §80.599(d)(2)(i); or

(B) The volume of fuel designated as 500 ppm sulfur NR diesel fuel delivered from the facility in relation to the volume received is not a greater proportion than the volume of fuel designated as 500 ppm sulfur LM diesel fuel delivered from the facility in relation to the volume received, as calculated in §80.599(d)(2)(i).

(x) Notwithstanding the provisions of paragraphs (b)(5) and (b)(6) of this section, beginning October 1, 2007:

(A) No distillate fuel with a sulfur content greater than 500 ppm distributed or intended for distribution in the areas specified in §80.510(g)(1) and (g)(2), may be designated as NR diesel fuel, except as provided in paragraph (b)(9)(xiii) of this section; and

(B) Distillate fuel with a sulfur content greater than 500 ppm distributed from within the areas specified in §80.510(g)(1) and (g)(2) to areas outside these areas is subject to the provisions of paragraphs (b)(6) through (b)(7) of this section.

(xi) Notwithstanding the provisions of paragraphs (b)(6) through (b)(8) of this section, beginning October 1, 2010—

(A) No distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the areas specified in §80.510(g)(1) and (g)(2), may be designated as NR diesel fuel, except as provided in paragraph (b)(9)(xiv) of this section; and

(B) Distillate fuel with a sulfur content greater than 15 ppm distributed from within the areas specified in §80.510(g)(1) and (g)(2) to areas outside these areas is subject to the provisions of paragraphs (b)(6) through (b)(7) of this section.

(xii) Notwithstanding the provisions of paragraphs (b)(7) and (8) of this section, beginning October 1, 2012—

(A) No distillate fuel with a sulfur content greater than 15 ppm distributed or intended for distribution in the areas specified in §80.510(g)(1) and (g)(2), may be designated as NR diesel fuel, except as provided in paragraph (b)(9)(xv) of this section; and

(B) Distillate fuel with a sulfur content greater than 15 ppm distributed from within the areas specified in §80.510(g)(1) and (g)(2) to areas outside these areas is subject to the provisions of paragraphs (b)(7) and (8) of this section.

(xiii) From June 1, 2007 through September 30, 2010, in the area specified in §80.510(g)(2) only segregated batches of distillate fuel received designated as HSNRLM diesel fuel may be distributed designated as HSNRLM diesel fuel and must remain segregated from fuel with any other designations unless otherwise approved by EPA in a refiner compliance plan under §80.554(a)(4).

(xiv) From June 1, 2010 through September 30, 2012, in the area specified in §80.510(g)(2) only segregated batches of distillate fuel received designated as HSNRLM diesel fuel may be distributed designated as 500 ppm sulfur NR diesel fuel and must remain segregated from fuel with any other designations and from any other 500 ppm sulfur NRLM diesel fuel from any other sources, except as approved by EPA in a refiner compliance plan under §80.554(a)(4).
§ 80.599 How do I calculate volume balances for designation purposes?

(a) Quarterly compliance periods. The quarterly compliance periods are shown in the following table:

<table>
<thead>
<tr>
<th>Beginning date of quarterly compliance period</th>
<th>Ending date of quarterly compliance period</th>
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<tbody>
<tr>
<td>June 1, 2006</td>
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<td>January 1, 2013</td>
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</table>

(1) The annual compliance periods are shown in the following table:

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</tbody>
</table>

(2) [Reserved]

(b) Volume balance for motor vehicle diesel fuel. (1) A facility’s motor vehicle diesel fuel volume balance is calculated as follows:

\[
MV_B = MV_t - MV_O - MV_{INVCHG}
\]

Where:

- \( MV_B \) = the volume balance for motor vehicle diesel fuel for the compliance period.
- \( MV_t \) = the total volume of all batches of fuel designated as motor vehicle diesel fuel received for the compliance period. Any motor vehicle diesel fuel produced by or imported into the facility shall also be included in this volume.