



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 28 2010

Mr. Patrick Kelly
Policy Advisor
Fuels Issues, Downstream
American Petroleum Institute
1220 L Street NW
Washington, DC 20005-4070

OFFICE OF
AIR AND RADIATION

Re: Diesel Fuel Labeling Requirements

Dear Mr. Kelly:

In response to your May 11, 2010 letter to Margo Oge, this letter clarifies Environmental Protection Agency (EPA) labeling requirements for diesel fuel pumps in 2010. This letter also acknowledges that EPA has reviewed and approved the alternative diesel fuel pump labels and the alternative kerosene pump labels described in your May 11, 2010 letter, for use by all retail and wholesale purchaser-consumer facilities.

Clarification of Labeling Requirements for Diesel Fuel Pumps in 2010

In the recently published Category 3 Marine Rule, EPA extended the labeling requirements in 40 CFR 80.570(a) from May 31, 2010 to November 30, 2010.¹ EPA had intended to also change the start date for the labeling requirements in 40 CFR 80.572(a) from June 1, 2010 to December 1, 2010 in the Category 3 Marine Rule to be consistent with the new November 30, 2010 end date in 40 CFR 80.570(a), but did not do so. As a result of this oversight, there is now a period, from June 1, 2010 to November 30, 2010, when technically both 40 CFR 80.570(a) and 40 CFR 80.572(a) apply. This ambiguity has the potential to create confusion in the market place, and it raises compliance issues as well. In order to resolve this ambiguity, EPA interprets the regulations to allow retailers and wholesale purchaser-consumers to use the label language detailed at either 40 CFR 80.570(a) or 40 CFR 80.572(a) on pumps dispensing ultra-low sulfur highway diesel fuel from June 1, 2010 through November 30, 2010. We understand that some retailers and wholesale purchaser-consumers have already begun using new labels to meet the requirements in 40 CFR 80.572(a). Beginning December 1, 2010, only the label language detailed at 40 CFR 80.572(a) may be used.

¹ <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480ae43a6>

Applicable from June 1, 2006 through November 30, 2010, per 40 CFR 80.570(a):

ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)
Required for use in all model year 2007 and later highway diesel vehicles and engines.
Recommended for use in all diesel vehicles and engines.

Applicable from June 1, 2010 through September 30, 2014, per 40 CFR 80.572(a):

ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)
Required for use in all highway diesel vehicles and engines.
Recommended for use in all diesel vehicles and engines.

The Category 3 Marine Rule also extended the labeling requirements in 40 CFR 80.571(b) from May 31, 2010 to September 30, 2010. EPA had intended to also change the start date for the labeling requirements in 40 CFR 80.572(c) and 40 CFR 80.572(d) from June 1, 2010 to October 1, 2010 in the Category 3 Marine Rule to be consistent with the new September 30, 2010 end date in 40 CFR 80.571(b), but did not do so. As a result of this oversight, there is now a period, from June 1, 2010 through September 30, 2010, when technically both 40 CFR 80.571(b) and 40 CFR 80.572(c) apply, and both 40 CFR 80.571(b) and 40 CFR 80.572(d) apply. These ambiguities again have the potential to create confusion in the market place, and raise compliance issues. In order to resolve these ambiguities, EPA interprets the regulations to allow retailers and wholesale purchaser-consumers to use the label language detailed at either 40 CFR 80.571(b) or 40 CFR 80.572(c) on pumps dispensing low sulfur non-highway diesel fuel from June 1, 2010 through September 30, 2010, and also use the label language detailed at either 40 CFR 80.571(b) or 40 CFR 80.572(d) on pumps dispensing low sulfur locomotive and marine diesel fuel from June 1, 2010 through September 30, 2010. We understand that some retailers and wholesale purchaser-consumers have already begun using new labels to meet the requirements in 40 CFR 80.572(c) and 40 CFR 80.572(d). Beginning October 1, 2010, only the label language detailed at 40 CFR 80.572(c) or 40 CFR 80.572(d) may be used, as appropriate.

Applicable from June 1, 2007 through September 30, 2010, per 40 CFR 80.571(b):

LOW SULFUR NON-HIGHWAY DIESEL FUEL (500 ppm Sulfur Maximum)
WARNING
Federal Law *prohibits* use in highway vehicles or engines.

Applicable from June 1, 2010 through September 30, 2014, per 40 CFR 80.572(c):

**LOW SULFUR NON-HIGHWAY DIESEL FUEL (500 ppm Sulfur Maximum)
WARNING**

Federal Law *prohibits* use in all model year 2011 and newer nonroad engines.
May damage model year 2011 and newer nonroad engines.
Federal Law *prohibits* use in highway vehicles or engines.

Applicable from June 1, 2010 through September 30, 2012, per 40 CFR 80.572(d):

**LOW SULFUR LOCOMOTIVE AND MARINE DIESEL FUEL (500 ppm Sulfur
Maximum)
WARNING**

Federal law *prohibits* use in nonroad engines or in highway vehicles or engines.

Alternative Diesel Fuel Pump Labels

EPA has reviewed and approved the alternative diesel fuel pump labels described in your May 11, 2010 letter to Margo Oge, as allowed under 40 CFR 80.571(f) and 40 CFR 80.572(f). These labels contain the language specified in the regulations in 40 CFR 80.572(a) through (d) and 40 CFR 80.571(d), and use the following alternative fonts:

- 24-point font for the fuel type designation (i.e., ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL).
- 20-point font for the applicable maximum sulfur level (i.e., 15 ppm Sulfur Maximum).
- 14-point font for all other required language.

In a previous letter from EPA to API (April 25, 2007 letter from Dave Kortum to Prentiss Searles), EPA already approved this font scheme for all label language in 40 CFR 80.570 through 40 CFR 80.574, as an alternative to the 24-point font required for all label language in 40 CFR 80.570 through 40 CFR 80.574.²

As provided for in 40 CFR 80.572(f) and 40 CFR 80.573(c), EPA also approves use of the label language detailed at 40 CFR 80.571(a) as an alternative to the label language specified in 40 CFR 80.572(b) and 40 CFR 80.573(a) for pumps dispensing ultra-low sulfur non-highway diesel fuel from June 1, 2010 through September 30, 2014. EPA agrees that the differences in language between 40 CFR 80.571(a) and 40 CFR 80.572(b) or 40 CFR 80.573(a) are not significant and will not result in confusion in the marketplace.

² http://www.clean-diesel.org/pdf/AltLabel_042507.pdf

40 CFR 80.571(a):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and newer nonroad diesel engines.
Recommended for use in all nonroad, locomotive, and marine diesel engines.

WARNING

Federal Law *prohibits* use in highway vehicles or engines.

40 CFR 80.572(b):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and later nonroad diesel engines.
Recommended for use in all other non-highway diesel engines.

WARNING

Federal law *prohibits* use in highway vehicles or engines.

40 CFR 80.573(a):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and later nonroad diesel engines.
Recommended for use in all other non-highway diesel engines.

WARNING

Federal law *prohibits* use in highway vehicles or engines.

Alternative Kerosene Pump Labels

EPA has reviewed and approved the following alternative kerosene pump labels described in your May 11, 2010 letter to Margo Oge, as allowed under 40 CFR 80.571(f), 40 CFR 80.572(f) and 40 CFR 80.573(c). Approval of these labels will help avoid misfueling when kerosene is blended into diesel fuel to improve the cold-flow properties of the diesel fuel.

1) The following language may be used from June 1, 2010 through September 30, 2014 as an alternative to language in 40 CFR 80.572(a):

ULTRA-LOW SULFUR KEROSENE (15 ppm Sulfur Maximum)

Required for use in all highway diesel vehicles and engines.
Recommended for use in all diesel vehicles and engines.

2) The following language may be used from June 1, 2010 through September 30, 2014 as an alternative to language in 40 CFR 80.572(b) and 40 CFR 80.573(a):

ULTRA-LOW SULFUR KEROSENE (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and later nonroad diesel engines.

Recommended for use in all other non-highway diesel engines.

WARNING

Undyed and untaxed. Federal law *prohibits* use in highway vehicles or engines.

3) The following language may be used from June 1, 2010 through September 30, 2014 as an alternative to language in 40 CFR 80.572(c):

LOW SULFUR KEROSENE (500 ppm Sulfur Maximum)

WARNING

Federal Law *prohibits* use in all model year 2011 and newer nonroad engines.

May damage model year 2011 and newer nonroad engines.

Undyed and untaxed. Federal Law *prohibits* use in highway vehicles or engines.

4) The following language may be used from June 1, 2010 through September 30, 2012 as an alternative to the language in 40 CFR 80.572(d):

LOW SULFUR LOCOMOTIVE AND MARINE KEROSENE (500 ppm Sulfur Maximum)

WARNING

Federal law *prohibits* use in nonroad engines or in highway vehicles or engines.

5) The following language may be used from June 1, 2010 onward as an alternative to the language in 40 CFR 80.571(d):

KEROSENE HEATING OIL (May Exceed 500 ppm Sulfur)

Federal Law *prohibits* use in highway vehicles or engines, or in nonroad, locomotive or marine diesel engines.

Its use may damage these diesel engines.

All of these alternative kerosene pump labels may also use the following alternative fonts:

- 24-point font for the fuel type designation (i.e., ULTRA-LOW SULFUR KEROSENE).
- 20-point font for the applicable maximum sulfur level (i.e., 15 ppm Sulfur Maximum).
- 14-point font for all other required language.

If you have any additional questions regarding this matter, please contact Mr. Chris McKenna of my staff at (202) 343-9037 or mckenna.chris@epa.gov.

Sincerely,



Karl J. Simon, Director
Compliance and Innovative Strategies Division