

yellow solvent 124 under §§ 80.510 and 80.511. Further, the following language shall be added to the product transfer documents: "Exempt from red dye requirement applicable to diesel fuel for non-highway purposes if it is used only in Alaska."

(3) For purposes of calculating a non-highway baseline percentage under 40 CFR 80.533, Alaska refiners and importers:

(i) Must declare under 40 CFR 80.533(c)(i)(C), as applicable, that the fuel was exempt under 69.52 from the dye provisions and did not meet the definition of motor vehicle diesel fuel; and

(ii) As an alternative to the submission of batch data for the baseline period under 40 CFR 80.533(c), may assume 30 percent for the non-highway baseline percentage.

(c) Non-motor vehicle diesel fuel and heating oil that is designated for use only in areas of Alaska not accessible by the Federal Aid Highway System, or is used only in areas of Alaska not accessible by the Federal Aid Highway System, is excluded from the applicable provisions of 40 CFR Part 80, Subpart I; except that:

(1) All model year 2011 and later nonroad diesel engines and equipment must be fueled only with diesel fuel that meets the specifications of § 80.510(b), and the product transfer document requirements under 40 CFR 80.590 and pump dispenser labels under 40 CFR 80.570–80.573, except that, (i) The language of product transfer documents under 40 CFR 80.590 and pump dispenser labels under 40 CFR 80.570–80.573 may be modified, as applicable, to reflect the fact that the fuel is undyed and unmarked, and that diesel fuel for motor vehicles, nonroad equipment, locomotive or marine engines, and heating oil that meet the same sulfur, cetane and/or aromatics standards that would otherwise be required to be segregated are permitted to be commingled, distributed and dispensed as one fuel under this section (c), and

(ii) The following language shall be added to the product transfer documents: "Exempt from red dye requirement applicable to diesel fuel for non-highway purposes if it is used only in Alaska."

(2) Diesel fuel that is exempt under this section, except when paragraph (c)(1) of this section applies, must meet the requirements for product transfer documents under 40 CFR 80.590, except the following language shall be substituted for the language specified under (a)(5) of that section:

(i) Until August 31, 2010:

This diesel fuel is for use only in those areas of Alaska not accessible by the Federal Aid Highway System. It is exempt from the federal sulfur standards applicable to highway, nonroad, locomotive and marine diesel fuel, and the red dye requirements applicable to non-highway diesel fuel. It may not be used in model year 2007 and newer highway vehicles.

(ii) After August 31, 2010:

This diesel fuel is for use only in those areas of Alaska not accessible by the Federal Aid Highway System. It is exempt from the federal sulfur standards applicable to highway, nonroad, locomotive and marine diesel fuel, and the red dye requirements applicable to non-highway diesel fuel. It may not be used in model year 2007 and newer highway vehicles or in model year 2011 and newer nonroad equipment.

(3) Diesel fuel that is exempt under this section, except when paragraph (c)(1) of this section applies, must meet the labeling requirements under §§ 80.570–80.573, except the following language shall be substituted for the language on the labels:

(i) Until August 31, 2010:

HIGH-SULFUR DIESEL FUEL

(May Exceed 500 ppm)

WARNING

Federal Law *Prohibits* Use in Model Year 2007 and Newer Highway Vehicles.

(ii) After August 31, 2010

HIGH-SULFUR DIESEL FUEL

(May Exceed 500 ppm)

WARNING

Federal Law *Prohibits* Use in Any Highway Vehicle or in Any Model Year 2011 and Newer Nonroad Engine.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

4. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

5. Section 80.2 is amended by revising paragraphs (f), (j), (o), (x), (y), (nn), and (xx) and adding paragraphs (yy) through (ooo) to read as follows:

§ 80.2 Definitions

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(f) *Previously certified diesel fuel* or *PCD* means diesel fuel that previously has been included by a refiner or importer in a batch for purposes of complying with the standards and requirements of subpart I of this part.

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(j) *Retail outlet* means any establishment, whether stationary or mobile, at which gasoline, diesel fuel,

methanol, natural gas or liquified petroleum gas is sold or offered for sale for use in motor vehicles, nonroad engines, locomotive engines or marine engines.

* * * * *

(o) *Wholesale purchaser-consumer* means any organization that is an ultimate consumer of gasoline, diesel fuel, methanol, natural gas, or liquified petroleum gas and which purchases or obtains gasoline, diesel fuel, natural gas or liquified petroleum gas from a supplier for use in motor vehicles, nonroad engines, locomotive engines or marine engines and, in the case of gasoline, diesel fuel, methanol or liquified petroleum gas, receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

* * * * *

(x) *Diesel fuel* means any fuel sold in any State or Territory of the United States and suitable for use in diesel engines, and which is commonly or commercially known or sold as number 1 or number 2 diesel fuel, or any distillate or nondistillate fuel that has comparable physical or chemical properties.

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(nn) *Batch of diesel fuel* means a quantity of diesel fuel which is homogeneous with regard to those properties that are specified for motor vehicle, nonroad, locomotive or marine diesel fuel under subpart I of this part.

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(xx) *Diesel fuel additive* means any substance not composed solely of carbon and/or hydrogen, or of diesel blendstocks, that is added, intended for adding, used, or offered for use in motor vehicle diesel fuel or NRLM diesel fuel subsequent to the production of diesel fuel by processing crude oil from refinery processing units, or in diesel motor vehicle or NRLM fuel systems.

(yy) [Reserved]

(zz) [Reserved]

(aaa) [Reserved]

(bbb) *Nonroad (NR) diesel fuel* means any diesel fuel, or any distillate product, that is used, intended for use, or made available for use, as a fuel in land based diesel engines subject to the provisions of either 40 CFR part 89 or part 1039.

(ccc) *Locomotive and marine (LM) diesel fuel* means any diesel fuel, or any distillate product, that is used, intended for use, or made available for use, as a fuel in diesel engines subject to the provisions of either 40 CFR part 92 or part 94, or marine diesel engines subject to the provisions of part 89.