

(ddd) *Nonroad, locomotive, and marine (NRLM) 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 89, part 92, part 94, or part 1039.

(eee) *Heating oil* means any number 1 or number 2 distillate (other than jet fuel) that does not meet the definitions of motor vehicle, nonroad, locomotive, marine or NRLM diesel fuel. For example, heating oil can include fuel suitable for use in furnaces, boilers, stationary diesel engines, and similar applications and which is commonly or commercially known or sold as heating oil, fuel oil, and similar trade names.

(fff) *Diesel fuel blending stock, blendstock, or component* means any liquid compound which is blended with other liquid compounds to produce diesel fuel.

(ggg) *Transmix* means an interface mixture in a product pipeline that cannot practicably be added to either of the adjoining products that produced the interface and still meet product specifications and standards. For example, a mixture of gasoline and diesel fuel would generally be considered transmix.

(hhh)–(iii) [Reserved]

(jjj) *Fuel marker* means the fuel marker required in heating oil from 2007 through 2010 pursuant to § 80.510(c)(1) and in locomotive and marine diesel fuel from 2010 through 2014 pursuant to the requirements of § 80.510(c)(2).

(kkk) *Solvent yellow 124* means N-ethyl-N-[2-[1-(2-methylpropoxy)ethoxy]-4-phenylazo]-benzeneamine.

(lll) *Nonroad diesel engine* means, for the purposes of subpart I of this part only, a land-based nonroad diesel engine subject to the provisions of either 40 CFR part 89 or part 1039.

(mmm) *Locomotive diesel engine* means, for purposes of subpart I of this part only, a diesel engine subject to the provisions of 40 CFR part 92.

(nnn) *Marine diesel engine* means, for purposes of subpart I of this part only, a marine diesel engine subject to the provisions of either 40 CFR part 89 or 40 CFR part 94.

(ooo) *Transmix processor* means a refiner who produces diesel fuel or gasoline from transmix.

6. Section 80.230 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 80.230 Who is not eligible for the hardship provisions for small refiners?

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(b)(1)(i) Refiners who qualify as small under § 80.225, and subsequently employ more than 1,500 people as a result of merger with or acquisition of or by another entity, or exceed the 155,000 bpcd crude capacity limit as a result of merger with or acquisition of or by another entity after January 1, 2004, are disqualified as small refiners. If this occurs the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(ii) Except as provided under paragraph (b)(1)(iii) of this section, any refiner whose status changes under this paragraph shall meet the applicable standards of § 80.195 within a period of up to 24 months of the disqualifying event for any of its refineries that were previously subject to the small refiner standards of § 80.240(a). However, such period shall not extend later than December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(iii) A refiner may apply to EPA for additional time to comply with the standards of § 80.195 if more than 24 months would be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time and a proposed amount of additional time. EPA will base a decision to approve additional time on information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(2) Any refiner who qualifies as small under § 80.225 may elect to meet the standards under § 80.195 by notifying EPA in writing no later than November 15 prior to the year the change will occur. Any refiner whose status changes under this paragraph shall meet the standards under § 80.195 beginning with the first averaging period subsequent to the status change.

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7. Section 80.240 is amended by adding paragraph (f) to read as follows:

§ 80.240 What are the small refiner gasoline sulfur standards?

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(f)(1) In the case of a refiner without approved small refiner status under § 80.235 who acquires a refinery from a refiner with approved small refiner status, the applicable small refiner

standards under paragraph (a) of this section will apply to the acquired small refinery for a period up to 24 months from the date of acquisition of the refinery, but no later than December 31, 2007, or, for a refinery for which the Administrator has approved an extension of the small refinery gasoline sulfur standards under § 80.553(c), December 31, 2010, after which time the standards of § 80.195 shall apply to the acquired refinery.

(2) A refiner may apply to EPA for additional time to comply with the standards of § 80.195 for the acquired refinery if more than 24 months would be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time and a proposed amount of additional time. EPA will base a decision to approve additional time on information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond December 31, 2007, or, for a refinery for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

8. Section 80.500 is amended by revising the section heading to read as follows:

§ 80.500 What are the implementation dates for the motor vehicle diesel fuel sulfur control program?

9. Section 80.501 is amended by revising paragraph (a) to read as follows:

§ 80.501 What diesel fuel is subject to the provisions of this subpart?

(a) *Included fuel and additives.* The provisions of this subpart apply to motor vehicle diesel fuel as defined in § 80.2(y); nonroad, locomotive, or marine diesel fuel as defined in § 80.2(ddd); diesel fuel additives as defined in § 80.2(xx), heating oil as defined in § 80.2(eee), and motor oil that is used as or intended for use as fuel in diesel motor vehicles or nonroad, locomotive, or marine engines or is blended with diesel fuel for use in diesel motor vehicles or nonroad, locomotive, or marine engines at any downstream location, as provided in § 80.522.

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10. A new § 80.510 is added to read as follows:

§ 80.510 What are the standards and marker requirements for nonroad, locomotive, and marine diesel fuels?

(a) *Beginning June 1, 2007.* Except as otherwise specifically provided in this