

Dear NEFI Members and friends of the Industry:

WHO THIS APPLIES TO:

Anyone with dyed diesel fuel and/or dyed kerosene dispensers. Also applies to clear kerosene dispensed tax-free at “blocked pumps.”

NEFI has learned that the IRS has been stepping up enforcement of “Tax Exempt” decals required on dyed diesel and dyed kerosene dispensers. Decals are also required for clear kerosene sold tax-free from blocked pumps.

We have learned of IRS enforcement actions in several New England locations because pumps not labeled or were improperly labeled. It seems that in some cases, IRS’s “non-taxable fuel” decals were removed and replaced with the newer EPA sulfur content decals. As NEFI compliance documents have noted in the past, BOTH the IRS *AND* the EPA labels are required on dispensers for dyed diesel fuel, dyed kerosene and “blocked pump” clear kerosene.

See the following page for more information.

As noted in the alert, NEFI is in the process of obtaining these decals. NEFI already offers the sulfur content pump decals required by the EPA, as well as the biodiesel pump decals required by the FTC. We are also working on obtaining ethanol pump labels.

This regulatory alert is yet another valuable member communication made possible by your generous donations to the NEFI Action Center (pledge form available online at <http://www.nefi.com/pdfs/LRACpledge.pdf> or, by calling 617-924-1000 or emailing dave@nefi.com).

As always, thank you for your continued support!



Legislative & Regulatory Action Center

REGULATORY ALERT

August 8, 2008

REMINDER: IRS DYED DIESEL & DYED KERO PUMP DECALS ARE REQUIRED UNDER FEDERAL LAW

WHO THIS APPLIES TO:

Fuel dealers with dyed diesel fuel and/or dyed kerosene dispensers. Also applies to clear kerosene dispensed tax-free at “blocked” or “barricaded” pumps.

REGULATORY ACTION:

The Internal Revenue Service (IRS) requires all dyed diesel and dyed kerosene dispensers to have a specific decal indicating that the fuel is dyed and for nontaxable use only (26 CFR 48.4082.2). The labeling requirement has been in place for dyed diesel dispensers since 1993 and dyed kerosene dispensers since 1998. Clear kerosene sold tax-free at blocked pumps also requires a dispenser decal. **NEFI has learned that the IRS has recently enforced the decal requirements in several New England locations.**

COMPLIANCE:

The below decals must be posted on any retail dispenser or other delivery facility where dyed diesel fuel and/or dyed kerosene are dispensed for use by a purchaser/consumer. They must be affixed in a conspicuous place within easy sight of the person dispensing the fuel. This may either be on the face of the dispenser (on both sides) or on the side of the dispenser just above the nozzle housing. They may NOT be placed over, in obstruction of, or in place of the EPA-mandated sulfur content decals or any other decal required under local, state or federal law.

FUEL TYPE	DISPENSER DECAL WORDING
Dyed Diesel Fuel	“DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE”
Dyed Kerosene	“DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE”
Clear Un-taxed Kerosene (at blocked pumps)	“UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY”

**NEFI is working on obtaining the above decals.
To be notified when available, email Dave Huffman (dave@nefi.com).**

PENALTY:

Any seller that fails to post the required decal on any retail dispenser where it sells dyed fuel is presumed to know that the fuel will not be used for a nontaxable use and may be responsible for paying the 24.4 cpg federal excise tax on the fuel and assessed a \$10 for every gallon of fuel in the tank at the time of the violation or \$10 per gallon based on the gallon capacity of the tank.

BOTTOM LINE:

Check all diesel fuel and kerosene dispensers for proper federally-mandated IRS decals. You should check to make sure you have the correct EPA-mandated sulfur content decals (available through NEFI). Dispensers include any device in which product flows directly into the tank of a diesel motor vehicle or equipment. Residential heating oil tanks and distillate fuel cargo tank vehicles and loading racks do not require an IRS or EPA decal.

PLEASE NOTE: Reporting to members on regulatory developments or providing pertinent compliance information does not constitute NEFI’s support for that particular issue, unless otherwise stated. NEFI only takes positions on public policy issues after consulting its officers, chairs and receiving consensus from the members of relevant committees. NEFI’s Government Affairs Committee assembles on a monthly basis to review positions and strategy on timely public policy issues. Feedback from members is always welcome and appreciated!

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