



## Legislative & Regulatory Action Center

# COMPLIANCE BULLETIN

July 5, 2007

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### MOST FREQUENTLY ASKED QUESTIONS: JUNE 1, 2007 EPA REGULATIONS AFFECTING NRLM DIESEL FUEL, DYED KEROSENE & HEATING OIL

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U.S. Environmental Protection Agency (EPA) regulations affecting non-road, locomotive and marine (or "NRLM") diesel fuel, dyed kerosene and heating oil fell into place on June 1, 2007. The New England Fuel Institute's ([www.nefi.com](http://www.nefi.com)) compliance kit made available to NEFI members and to approved associations provides accurate and comprehensive guidance information on these new regulations for petroleum marketers in the Northeast/Mid-Atlantic (NEMA) area.

However, due to the complex nature of these regulations and new interpretations by the EPA, members have been calling NEFI with questions about the new regulations. Below are some of the most common questions and some helpful answers for marketers in the NEMA area. These questions assume that you already have and are intended to supplement the comprehensive NEFI compliance kit for petroleum marketers described above. If you do not have a copy, contact Jim Collura at [jimcollura@nefi.com](mailto:jimcollura@nefi.com) or (617) 924-1000 for information on obtaining one.

#### **Q. How do I know which of the two NRLM compliance areas I am in?**

A. There are two NRLM compliance areas with different requirements, NEMA and non-NEMA.

*The following states and counties are located in the Northeast/Mid-Atlantic (NEMA) area:* Massachusetts Vermont, New Hampshire, Maine, Connecticut, Rhode Island, New York, New Jersey, Delaware, North Carolina, Virginia, Maryland, Washington D.C., (except for the counties of Chautauqua, Cattaraugus, and Allegany), Pennsylvania (except for the counties of Erie, Warren, Mc Kean, Potter, Cameron, Elk, Jefferson, Clarion, Forest, Venango, Mercer, Crawford, Lawrence, Beaver, Washington, and Greene), and the eight eastern-most counties of West Virginia (Jefferson, Berkeley, Morgan, Hampshire, Mineral, Hardy, Grant, and Pendleton).

Every other state and county not listed above is located in the non-NEMA area.

#### **Q. Can I still sell heating oil for use in non-road, locomotive or marine applications?**

A. There are two answers, depending on the time period:

*Before October 1, 2007:* Yes, but only under certain conditions. Heating oil sold, delivered or dispensed for use in NRLM applications from June 1, 2007 through September 30, 2007 must be re-designated on product transfer documents and on fuel dispenser decals as high sulfur NRLM diesel fuel (per EPA regulations). This re-designation may be accomplished by stamping product transfer documents. If ink stamps are used, make sure that each copy of the product transfer document is stamped.

*After October 1, 2007:* Not if the heating oil is high sulfur. Starting October 1, 2007, any distillate fuel over 500-ppm sulfur, including heating oil, may no longer be used in NRLM applications (see stationary engine exception below). If the heating oil is low (500ppm Sulfur) or ultra-low (15ppm) sulfur, it may be used in NRLM applications but must be sold, delivered or dispensed ONLY as low or ultra low sulfur NRLM diesel fuel.

**Q. What is marked heating oil and can I sell it in the NEMA area?**

A. Heating oil in the non-Nema area must contain a yellow marker. Only product with this yellow marker may be marketed as heating oil in the non-NEMA area. No such marker is required in the NEMA area. However, there is nothing in the regulations that prevents the use of marked heating oil in the NEMA area.

**Q. Why is the EPA requiring changes to my delivery tickets?**

A. On-road diesel engines introduced in 2007 and off-road diesel engines due out in 2010 are designed to operate on 15-ppm ULSD only. Downstream users must have the sulfur content notification language on delivery tickets to make certain they do not damage ULSD engines by misfueling with a higher sulfur product. There is no sulfur reduction for heating oil under the NRLM regulations. Nevertheless, the EPA requires the heating oil language on all delivery tickets, even to end users.

**Q. Can I shorten the PTD language to fit on my shipping papers and delivery tickets?**

A. No. You must use the exact language authorized by the EPA (see Code of Federal Regulations 40 CFR 80.590 or visit <http://www.epa.gov/otaq/regs/fuels/diesel/diesel.htm#regs>). If you do not have room, you may use an ink stamp, or print or stamp the information on the back of the document as long as there is a phrase on the front directing you to the back of the ticket or document.

**Q. Do I have to put the EPA language on all copies of my delivery ticket?**

A. Yes, the EPA requires that every copy of a product transfer document, including bills of lading, shipping papers and delivery tickets accompanying transfers of product below the terminal rack must contain the required language. There are no exceptions to this requirement.

**Q. What Language do I need to include on product transfer documents for dyed kerosene?**

A. Kerosene is subject to the EPA's sulfur reduction requirements because the EPA classifies it as a diesel fuel product. Kerosene PTD language is identical to the language required for diesel

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fuel, except that the word “kerosene” must be substituted for the word “diesel fuel” and the designation “ULSK”, and “LSK” and must be substituted for “ULSD”, and “LSD” respectively. These PTD language notices are required for all transfers of NRLM kerosene, including sales by retailer fuel sellers to end users at retail, and to wholesale purchaser consumers (any party that purchases fuel, other than at a retail location and consumes the fuel for its own use, such as a construction company that fuels off-road vehicles from skid tanks or by wet hosing.)

**Q. What are the diesel fuel dispenser decal requirements and where can I get all of the decals required by the EPA?**

A. There is an array of dispenser decals that are required by June 1, 2007. NRLM ULSD, LSD and HS all require specific decals for retail and wholesale purchaser/consumer dispensers. There are also decals for marked and unmarked heating oil and kerosene. These decals may be obtained from the New England Fuel Institute at [www.nefi.com](http://www.nefi.com) or by calling (617) 924-1000.

**Q. What are the labeling requirements for dyed kerosene?**

A. Again, the EPA is requiring dyed kerosene be made subject to these new regulations, including the labeling requirements. In mid-June, the EPA approved two new labels, one for dyed Ultra-low Sulfur Kerosene, and one for dyed Low Sulfur Kerosene. Again, these labels are available from NEFI at [www.nefi.com](http://www.nefi.com) or by calling (617) 924-1000. You may continue to sell or dispense high sulfur kerosene prior to October 1, 2007, however it must use the high sulfur NRLM diesel language on delivery tickets and fuel dispensers. Starting October 1, 2007, high sulfur kerosene may no longer be used in NRLM applications and it must be re-designated as heating oil, utilizing the heating oil PTD language and heating oil fuel dispenser decals.

**Q. My NRLM diesel fuel customers are not familiar with these regulations whatsoever. To what extent must they comply?**

A. End users with their own fueling facilities must comply with the dispenser labeling requirements. If end users dispense product from skid tanks, the dispensing mechanism must be labeled. If there is no room on the dispensing mechanism, the tank itself must be labeled. As a service to your customers, you may wish to inform them of this requirement. However, residential heating oil tanks are not required to have labels.

**Q. Can I deliver to a customer’s tank if it is not labeled or is mislabeled?**

A. Yes, there is no restriction on delivery of product to a tank with an unmarked dispenser. There is no restriction for delivery of product to a skid tank that is not properly labeled. It is the customer’s responsibility to comply with the regulations.

**Q. Can I use the same truck to deliver diesel fuel and heating oil?**

A. Yes, but you must be careful not to contaminate the sulfur content of 15-ppm or 500-ppm beyond their maximum limit with sulfur from residue left in the tank from the previous delivery of heating oil. It only takes five gallons of heating oil left in the tank or lines to push 15-ppm diesel fuel out of compliance. Proper fuel sequencing, (delivering low sulfur products first), compartment segregation and line purging can prevent sulfur contamination. Please refer to

NEFI's NRLM diesel fuel compliance kit for detailed information on how to prevent downstream sulfur contamination.

**Q. Are stationary generators subject to the NRLM regulations?**

A. It depends on the date of manufacture of the equipment. Beginning October 1, 2007 all stationary engines (emergency generators, etc.) manufactured, remanufactured or modified on or after April 1, 2006 may only use NRLM diesel fuel with a sulfur content of 500-ppm or less. Stationary engines manufactured, remanufactured or modified before April 1, 2006 may continue to use heating oil with sulfur content greater than 500-ppm.

**Q. Are there any downgrading limits for NRLM?**

A. No. In the NEMA area, you may mix 15-ppm dyed diesel fuel with 500-ppm dyed diesel fuel without limitation. However, you may not mix these products with heating oil. The EPA adopted this restriction in order to prevent supply shortages of 15-ppm and 500-ppm non-road motor vehicle diesel fuels.

**Q. What are the fuel testing requirements?**

A. Under the NRLM diesel fuel regulations testing is not required for any party downstream of the terminal gate. However, petroleum marketers who distribute NRLM must conduct sampling and testing in order to raise a defense against a violation of the sulfur limits. If you don't test, you can't contest the violation. The regulations do not say how often sampling and testing must occur, though testing every batch of NRLM diesel fuel is *not* required. Periodic random testing, perhaps once per month may be sufficient. To raise a defense against liability, sampling and testing of the specific batch of diesel fuel found to be out of compliance is not required. It is sufficient that a periodic sampling and testing program is in place. Currently, there are currently no reliable field tests to determine sulfur content in diesel fuel. Sulfur testing must be conducted by an off-site laboratory.

NEFI member Bently Tribology Services, Inc. offers quality fuel testing and is EPA-certified to test for sulfur content compliance. They can be reached at (978) 535-9990 or by visiting [www.bentlytribology.com](http://www.bentlytribology.com). Be sure to tell them that NEFI referred you.

**Q. When will the EPA begin enforcing these rules on petroleum marketers and heating oil dealers?**

A. The compliance date for labeling dispensers and including new language on product transfer documents is June 1, 2007. The 500-ppm sulfur standard compliance date for all NRLM distillate fuels for parties downstream of the terminal rack is October 1, 2007.

**Q. Why isn't the EPA requiring heating oil to move to 500-ppm or 15-ppm sulfur?**

A. The NRLM and ULSD regulations only regulate mobile sources (cars, trucks, boats, locomotives, etc) of air pollution. Heating oil, when used for heating purposes is not considered a mobile source. For now, any discussion of lower sulfur content standards for heating oil is occurring at state and regional levels. NORA, NEFI and individual state associations have been intimately involved in these discussions, and will keep the industry up-to-date on developments.

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**Q. Why do the NRLM rules keep changing?**

A. There have been a number of downstream issues that the EPA did not foresee when writing the NRLM regulations. As these issues come to light, the agency has moved quickly to make corrections. For example, when PTD language was too long for onboard ticket printers, the EPA shortened the required language. It is expected that additional issues will come up that require the EPA to make additional NRLM changes.

**Q. Are there additional diesel fuel regulations coming down the road?**

A. Yes. The sulfur content of NRLM will be reduced to 15-ppm (except for marine engines and locomotives) on June 1, 2010. Two years later on June 1, 2012, the sulfur content of diesel fuel for marine engines and locomotives will also be reduced to 15-ppm. After this date there will no longer be a 500-ppm diesel fuel. Only 15-ppm and high sulfur heating oil (and specialty fuels such as jet fuel and #4 fuel oil) will be permitted.

**ADDITIONAL COMPLIANCE QUESTIONS NOT COVERED IN THIS DOCUMENT???**

**See the New England Fuel Institute’s NRLM Diesel Fuel Compliance Kit or contact the NEFI Legislative & Regulatory Action Center at (617) 924-1000.**

**YOUR HELP IS NEEDED AND APPRECIATED!**

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**Thank you for your continued support... we cannot do it without you!**

**Revision History**

| <u>Version</u> | <u>Date</u>   | <u>Notes</u>                                     |
|----------------|---------------|--|
| <b>v.1.0.0</b> | July 5, 2007  | Publication                                      |
| <b>v.1.0.1</b> | July 9, 2007  | Slight but potentially confusing typo corrected. |
| <b>v.1.0.2</b> | July 13, 2007 | A few other slight typos were corrected.         |

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