

Amendments to the Renewable Fuel Standard and Diesel Sulfur Programs

EPA is issuing a Direct Final Rule (DFR) to amend the definition of heating oil in 40 CFR § 80.1401 in the Renewable Fuel Standard (RFS) program under section 211(o) of the Clean Air Act. Today's DFR will also amend two aspects of the diesel sulfur program: to provide additional flexibility for transmix processors who produce locomotive and marine diesel fuel, and to amend the fuel marker requirements to allow solvent yellow 124 (SY124) to transition out of the distribution system.

Also today, EPA is issuing a Notice of Proposed Rulemaking (NPRM) to accomplish the same amendments if any adverse comment is received on the DFR.

Overview

Amended Definition of Home Heating Oil

This rule amends the definition of heating oil in 40 CFR § 80.1401 in the renewable fuel standard ("RFS" or "RFS2") program promulgated under section 211(o) of the Clean Air Act (CAA). This amendment will expand the scope of renewable fuels that can generate Renewable Identification Numbers ("RINs") as "home heating oil" to include fuel oil that will be used to generate heat to warm buildings or other facilities where people live, work, recreate, or conduct other activities. This rule will allow producers or importers of fuel oil that meets the amended definition of heating oil to generate RINs, provided that other requirements specified in the regulations are met. Fuel oils used to generate process heat, power, or other functions will not be approved for RIN generation under the amended definition of heating oil. The amendment will not modify, limit, or change fuel included in the current definition of heating oil at 40 CFR § 80.2(ccc).

Diesel Transmix Amendments

The diesel transmix amendments will reinstate an allowance for transmix processors to produce 500 ppm sulfur diesel fuel for use in older technology locomotive and marine diesel outside of the Northeast Mid-Atlantic Area after 2014. EPA's ocean-going vessels rule forbade this allowance beginning 2014 because a new stream of diesel, containing up to 1000 ppm sulfur, was introduced at that time, which we believed would provide a suitable outlet for transmix distillate product. Transmix processors stated that they were not aware of the changes to the 500-ppm LM transmix provisions until after they were finalized, and that the ocean-going vessels market would not be a viable outlet for their distillate product. Based on additional input that we received from transmix processors and other stakeholders in the fuel distribution system during our consideration of the petition, EPA believed that it would be appropriate to extend the 500-ppm diesel transmix flexibility beyond 2014. EPA finalized a settlement agreement and this DFR and NPRM are in accord with the settlement agreement. Our analysis indicates that extending this flexibility beyond 2014 will have a neutral or net beneficial effect on overall emissions.

Yellow Marker Amendments

The yellow marker amendments address an oversight in the original nonroad diesel rulemaking. In that rulemaking, the regulations failed to incorporate provisions described in the rulemaking preamble. The preamble made clear that EPA intended to allow 500 ppm locomotive marine (LM) diesel fuel containing greater than 0.10 milligrams per liter of Solvent Yellow 124 (SY124) time to transition out of the fuel distribution system. However, the regulations are not consistent with the preamble and did not provide this same allowance.

Specifically, the regulations as currently written do not provide any transition time for unmarked LM fuel delivered from a truck loading rack beginning June 1, 2012 to work its way through the fuel distribution system downstream of the truck loading rack. The yellow marker amendments will allow 500 ppm LM diesel fuel at any point in the fuel distribution and end use system to contain more than 0.10 milligrams per liter of SY 124 through November 30, 2012. This regulatory change will allow marked LM diesel fuel to transition normally through the LM fuel distribution and use system. Today's rule also amends the regulation to clarify the transition of the solvent yellow 124 marker out of heating oil beginning June 1, 2014. After December 1, 2014, EPA will no longer have any requirements with respect to the use of the SY 124 marker.

For More Information

You can access these rules and related documents on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

www.epa.gov/otaq/fuels/renewablefuels/regulations.htm

Regulatory Announcement

For more information, please contact EPA's Fuels Program at:

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