

**§ 80.611 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?**

(a) *Compliance with sulfur, cetane, and aromatics standards, dye and marker requirements.* Compliance with the standards, dye, and marker requirements in §§ 80.510, 80.511, 80.520, and 80.521 shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in § 80.330(b), as applicable, and an approved testing methodology under the provisions of §§ 80.580 through 80.586 for sulfur; § 80.2(w) for cetane index; § 80.2(z) for aromatic content; and § 80.582 for fuel marker. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel or additive, or motor oil to be used in diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the regulatory sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph (a), business records, and commercial documents.

(b) *Compliance with other requirements.* Determination of compliance with the requirements and prohibitions of this subpart other than the standards described in paragraph (a) of this section and in §§ 80.510, 80.511, 80.520, and 80.521, and determination of liability for any violation of this subpart, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

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**§ 80.612 Who is liable for violations of this subpart?**

(a) *Persons liable for violations of prohibited acts—*(1) *Standard, dye, marker, additives, used motor oil, heating oil, fuel introduction, and other product requirement violations.* (i) Any refiner, im-

porter, distributor, reseller, carrier, retailer, wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility where a violation of any provision of § 80.610(a) through (e) occurred, or any other person who violates any provision of § 80.610(a) through (e), is deemed liable for the applicable violation, except that distributors who receive diesel fuel or distillate from the point where it is taxed, dyed or marked, and retailers and wholesale purchaser-consumers are not deemed liable for any violation of § 80.610(b).

(ii) Any person who causes another person to violate § 80.610(a) through (e) is liable for a violation of § 80.610(f).

(iii) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of, diesel fuel or distillate that violates § 80.610(a), is deemed in violation of § 80.610(f).

(iv) Any person who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of a diesel fuel additive which is used in motor vehicle diesel fuel or NRLM diesel fuel that is found to violate § 80.610(a), is deemed in violation of § 80.610(f).

(2) *Cause violating diesel fuel or additive to be in the distribution system.* Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer or any other person who owned, leased, operated, controlled or supervised a facility from which distillate fuel or additive was released into the distribution system which does not comply with the applicable standards, marking or dye requirements of this Subpart I is deemed in violation of § 80.610(g).

(3) *Branded refiner/importer liability.* Any refiner or importer whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name appeared at a facility where a violation of § 80.610(a) or (b) occurred, is deemed in violation of § 80.610(a) or (b), as applicable.