



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.24.15

APRIL 22, 2021

## EFFECTIVE DATE

(04-22-2021)

## PURPOSE

- (1) Updated IRM 4.24.15, Excise Tax, Excise Fuel Compliance Inspection, Sampling and Shipping.

## MATERIAL CHANGES

- (1) Updated IRM 4.24.15 material changes are listed in the table below:

IRM	Description
4.24.15.1 Program Scope and Objectives	Added description of program goal, which was modified and moved from 4.24.15.1.4.
4.24.15.1.1 Background	Refined narrative about role of the Fuel Compliance Program.
4.24.15.1.2 Authority	Cited Code Sections and Regulations that authorize a Service employee to inspect, sample and ship fuel at the recommendation of Counsel.
4.24.15.1.3 Responsibilities	Provided current management structure and titles.
4.24.15.1.4 Program Management and Review	Program goals were moved to 4.24.15.1.
4.24.15.1.6 Definitions/Acronyms	Refined definitions for blitz and pervasively regulated industry.
4.24.15.2.1 Authority to Inspect	Changed title to Site Inspections at the recommendation from Counsel. Removed redundant content.
4.24.15.2.1.1 Designated Inspection Sites	Changed title to Pervasively Regulated Industry Sites. Moved content from 4.24.15.2.1.2.
4.24.15.2.1.2 Pervasively Regulated Industry Inspections	Changed title to Non-Pervasively Regulated Sites Where Consent is Sought. Added definition of a Non-Pervasively Regulated Industry Site.
4.24.15.2.1.3 Other Inspections Where Consent is Sought	Changed title to Designated Inspection Sites. Current content moved from 4.24.15.2.1.1. Clarified procedures for obtaining permission to conduct an inspection at a designated inspection site.
4.24.15.2.1.4 Obtaining a Writ of Entry	Changed title to Required Actions Performed at the Inspection Site Prior to Conducting an Inspection. Provided procedural information prior to conducting an inspection. Prior content moved to 4.24.15.2.1.5.
New 4.24.15.2.1.5	Added title Obtaining a Writ of Entry. Moved content moved from 4.24.15.2.1.4.

IRM	Description
New 4.24.15.2.2	Added title Third Party Contacts. Content moved from 4.24.15.4.1. Content modified at the recommendation of Counsel. Explained the provisions of Taxpayer First Act regarding Third Party Contacts, as well as added a Table providing guidance whether an action is a Third Party Contact requiring advance notice to the taxpayer.
4.24.15.3 Terminal Inspections	Modified guidance for obtaining samples of AB/NB, undefined and waste oil. Moved content of previous note to a separate paragraph.
4.24.15.3.1 Terminal Inspection Procedures	Added content explaining the reason the terminal was selected for inspection. Removed content requiring Service employees to obtain a field concentration sample, if a concentration sample was not obtained at a terminal.
4.24.15.3.2 Procedures for Addressing an Under-Dyed Fuel Sample Obtained from a Terminal	Changed title to Procedures for Addressing a Below Concentration Fuel Sample Obtained from a Terminal at the recommendation from Counsel. Modified procedures for a below concentration sample obtained at a terminal.
4.24.15.4 Wholesaler Inspections	Moved content from a previous note to a paragraph.
4.24.15.4.1 Wholesaler Inspection Procedures	Added content about requirement to state reason site was selected for inspection, as well as to record site and office address for taxpayer shown in IMS. Prior content modified and moved to 4.24.15.2.2.
4.24.15.5 Retailer Inspections	Moved content from a note to a paragraph.
4.24.15.5.1 Retailer Inspection Procedures	Clarified content about requirement to state the reason the site was selected for inspection, as well as to record the site and office address for the taxpayer shown in IMS. Updated penalty information for the table.
4.24.15.7 End-User Inspections	Clarified Temporary Sites are not End-User Inspections.
4.24.15.7.1 End-User Inspection Procedures	Moved content from a previous note to a paragraph. Clarified Service employees must record site and office address for taxpayer shown in IMS.

IRM	Description
New 4.24.15.7.2	Added title Proposing IRC 6715(a)(1) and IRC 6715(a)(2) Penalty without a Fuel Sample. Incorporated content from Internal Guidance Memorandum SB/SE 04-0920-0078, Reissued Memorandum - Assessing a Penalty Under IRC 6715(a)(2) without a Fuel Sample, dated September 29, 2020.
4.24.15.8 Blitz Inspection Procedures	Refined definition for Blitz Inspection Procedures and clarified steps and procedures required for Service employees.
4.24.15.8.2 Collecting Retail Blitz Samples	Moved content from a previous note to a paragraph.
4.24.15.8.4 Completing the Blitz Data Sheets	Moved content from a previous note to a paragraph.
4.24.15.13 Sampling Methods	Moved content from three previous notes to three paragraphs.
4.24.15.14.2 Investigative Sample Procedures	Incorporated content from Internal Guidance Memorandum, IGM SB/SE 04-1220-0097, Reissuance of Obtaining Renewable Diesel Samples, dated December 2, 2020.
4.24.15.15. Sample Bottle Labeling Procedures	Moved content from a previous note to a paragraph.
4.24.15.15.1 Form 9667, Sample Bottle Sealing and Identification Label Required Information	Moved content from a previous note to a paragraph.
4.24.15.15.2 Sample Labeling Matrix	Clarified content regarding the number of samples required for biodiesel testing, as well as types of tests for biodiesel and renewable diesel.
4.24.15.17.1 Packing Instructions	Moved content from five previous notes to paragraphs.
4.24.15.17.2 Shipping Instructions	Provided new point of contact at IRS Excise Forensics Laboratory to receive sample shipments.
Exhibit 4.24.15-1 Blocked Pump Check Sheet	Modified previous table into three new tables: Block Pump Check Sheet, Blocked Pump Requirements Check Sheet and Reason for Pump Failure and Comments.

(2) Editorial changes and website corrections were made as necessary.

### EFFECT ON OTHER DOCUMENTS

IRM 4.24.15, dated July 11, 2017, is superseded. This IRM section (section) incorporates Interim Guidance Memorandum (IGM) SB/SE 04-0920-0078, Reissued Memorandum Assessing a Penalty under IRC Section 6715(a)(2) without a Fuel Sample, dated September 29, 2020, and IGM SB/SE 04-1220-0097, Reissuance of Obtaining Renewable Diesel Samples, dated December 2, 2020.

**AUDIENCE**

This section provides detailed guidance for Supervisory Fuel Compliance Officers, Excise Group Managers, Fuel Compliance Officers (FCOs) and Fuel Compliance Agents (FCAs). Information in this section may also support coordination with SB/SE excise groups.

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Small Business/Self Employed

4.24.15

Excise Fuel Compliance Inspection, Sampling and Shipping

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4.24.15.1  
(04-22-2021)  
**Program Scope and Objectives**

- (1) The Fuel Compliance Program enforces the laws and regulations pertaining to the following:
  - a. Proper sale and use of untaxed, dyed fuel.
  - b. Requirement to dye fuel by means of a mechanical dye injection system.
  - c. Reporting requirements for the bulk distribution of fuel through pipeline or barge.
  - d. Reporting requirements for the distribution of fuel below the terminal rack.
  - e. Sulfur content of taxed, undyed diesel fuel.
- (2) During the course of an inspection, the Service employee conducts interviews, tours the facilities, reviews records and obtains fuel samples from places, such as fuel storage tanks and the propulsion tanks of highway vehicles. The Service employee ships the fuel samples to the Pacific Northwest National Laboratory (PNNL), which will test the samples under an interagency agreement with IRS. PNNL is referred to as the Excise Forensics Laboratory (EFL) throughout this section.
- (3) As a matter of policy, as discussed below, the Service obtains permission to enter premises and absent permission will seek a writ of entry.
- (4) **Purpose** - It is essential for senior-level officials, managers, and employees to understand inspection procedures, based on the type of inspection being conducted. This section contains procedures for all inspection types identified in IRM 4.24.15.2. In addition, it is imperative for the safety of the employees they follow proper sampling and shipping procedures, which is addressed in this section.
- (5) **Audience** - The intended audience of this section includes the Chief, Estate & Gift/Excise Tax Examination, Territory Managers, Group Managers, Fuel Compliance Officers (FCOs) and Fuel Compliance Agents (FCAs).
- (6) **Policy owner** – Director, Examination - Specialty Policy owns the policies contained herein.
- (7) **Program owner** – Program Manager, Excise Tax Policy is responsible for the administration, procedures and updates related to the fuel compliance program.
- (8) **Primary stakeholders** - Other areas that are affected by these policies and procedures include Excise Case Selection (ECS), Joint Operations Center (JOC), Workload Selection and Delivery (WSD), Counsel, Disclosure and the EFL.
- (9) **Program Goal** - The goal of this section is to provide guidance that will enable the Service employee to properly conduct inspections, properly screen and sample fuel products, as well as box and ship fuel products. Following this guidance will not only ensure the Service employee's safety but will also support the government's position to propose a penalty.

4.24.15.1.1  
(04-22-2021)  
**Background**

- (1) The Fuel Compliance Program started in June 1994, following passage of the Omnibus Budget Reconciliation Act of 1993 that became effective on January 1, 1994. Initially, the focus of the program was on the proper sale and use of diesel fuel indelibly dyed in accordance with IRS regulations. In subsequent years, the Fuel Compliance Program adapted as the fuel industry changed.

Fuel inspections now involve a broader range of taxable fuels, as well as alternative fuels. For compliance purposes, it is essential FCAs, FCOs, managers and senior management officials understand and follow the technical guidance explained in this section.

4.24.15.1.2  
(04-22-2021)  
**Authority**

- (1) The federal excise tax imposed by IRC 4081, *Imposition of tax*, no longer applied to removals of diesel fuel that are indelibly dyed (or dyed and marked) in accordance with IRS regulations.
- (2) IRC 4083(d), *Taxable fuel; definitions; special rules; administrative authority*, and Treas. Reg. 48.4083-1(a), *Taxable fuel; administrative authority*, authorize officials (employees) of the IRS, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, to enter any place and to conduct inspections in accordance with paragraphs (a) through (c) of Treas. Reg. 48.4083-1. IRS officials are authorized to inspect, examine and search:
  - Equipment used or capable of being used for the production, storage, or transportation of fuel, fuel dyes or fuel markers.
  - Equipment used to determine the amount or composition of taxable fuel.
  - Equipment used for the dyeing or marking of fuel.
  - Containers used or capable of being used for the production, storage or transportation of fuel, fuel dyes or fuel markers.
  - Books and records kept to determine excise tax liability under IRC 4081.
  - Propulsion tanks of vehicles and trains.
  - Fuel cargo storage tanks of vehicles, trains and marine vessels.
- (3) Service employees are authorized to take and remove samples to determine the composition of the fuel. Refer to Treas. Reg. 48.4083-1(c)(3).
- (4) This authority applies to three broad categories:
  - a. Designated inspection site inspections, see IRM 4.24.15.2.1.3.
  - b. Pervasively regulated industry inspections, where fuel is stored or may be stored, see IRM 4.24.15.2.1.1.
  - c. Other inspections where consent is granted by the taxpayer, see IRM 4.24.15.2.1.2. If permission is not granted, the Service employee will need to obtain a writ of entry, after discussing the issue with the group manager. See IRM 4.24.15.2.1.5.

4.24.15.1.3  
(04-22-2021)  
**Responsibilities**

- (1) Director, Examination - Specialty Policy is responsible for the procedures and policies in this section.
- (2) Program Manager, Excise Tax Policy is responsible for ensuring that the procedures are accurate and updated regularly, as needed.
- (3) Chief, Estate & Gift/Excise Tax Examination is responsible for ensuring excise tax employees adhere to the procedures within this section.
- (4) Territory manager(s) are responsible for ensuring the group managers are aware and adhere to the procedures in this section.
- (5) Excise group managers are responsible for ensuring their employees have current copies of this section and are adhering to the procedures in this section pertinent to their role.

- (6) FCOs and FCAs are responsible for following all pertinent guidance in this section. The term “Service employee” is used throughout this section and refers to both FCO and FCA positions.

4.24.15.1.4  
(04-22-2021)  
**Program Management and Review**

- (1) **Program Reports** - The effectiveness of employees following the procedures outlined in this section is evaluated with the use of the following reports:
  - Sample error
  - Issue Management System (IMS)
  - Year-to-Date (YTD) monitoring
- (2) **Program Effectiveness** - The effectiveness of this program is not measured by revenues assessed or collected, but by revenues protected. IRS employees being vigilant and visible in all geographic regions, promotes voluntary taxpayer compliance.
- (3) **Annual Reviews** -
  - Program Manager, Excise Tax Policy or designee conducts program reviews
  - Chief, Estate & Gift/Excise Examination conducts territory operational reviews
  - Territory managers conduct group operational reviews
- (4) **Annual Review**- The Excise Tax Policy Program Manager is responsible for reviewing the information in this section to ensure accuracy and promote consistent tax administration.

4.24.15.1.5  
(04-22-2021)  
**Program Controls**

- (1) All information management systems that are utilized have safeguard measures in place, which address all key components of Information Technology (IT) security to restrict access to sensitive data.

4.24.15.1.6  
(04-22-2021)  
**Terms/Definitions/ Acronyms**

- (1) The following table contains the definitions of the terms utilized throughout this IRM section.

Terminology	Defined as:
Blitz	Blitz is a short-term inspection effort that focuses on a specified geographic area or segment within the fuel distribution system.
Designated Inspection Site	Designated inspection sites are any state highway inspection station, weigh station, agricultural inspection station, mobile station, construction site, park, rest area, any point on a public highway or any other location as designated by the Commissioner to be used as a fuel inspection site.

<b>Terminology</b>	<b>Defined as:</b>
Diesel Powered Highway Vehicle	A highway vehicle, as defined in Treas. Reg. 48.4061(a)-1(d), <i>Imposition of tax; exclusion for light duty trucks</i> , is a vehicle propelled by a diesel-powered engine.
End-user	A person that purchases diesel fuel or kerosene in either bulk or non-bulk quantities for use, not resale.
Pervasively Regulated Industry	Pervasively regulated industry includes locations where fuel is or may be produced or stored. These include refineries, terminals, wholesalers, retailers or certain end-users.
Retailer	Sells product to end-users. May sell motor fuel and/or heating fuel. A typical retailer has bulk storage.
Terminal	A taxable fuel storage and distribution facility supplied by pipeline or vessel and from which taxable fuel may be removed at a rack.
Wholesaler	Fuel dealer who sells to retailers and end-users. Wholesale distributors may or may not have bulk storage. A wholesale distributor may merely buy fuel from a terminal and transport it to the retailer. A wholesaler distributor may also engage in retailing.

(2) The following table contains the acronyms utilized throughout this IRM section.

<b>Word</b>	<b>Acronym</b>
Bill of Lading	BOL
Code of Federal Regulations	CFR
Employer Identification Number	EIN
Environmental Protection Agency	EPA
Excise Case Selection	ECS
Excise Forensics Laboratory	EFL
Facility Control Number	FCN
Fuel Compliance Agent	FCA

Word	Acronym
Fuel Compliance Officer	FCO
International Air Transportation Association	IATA
Issue Management System	IMS
Memorandum of Understanding	MOU
Pacific Northwest National Laboratory	PNNL
Post of Duty	POD
Standard Audit Index Number	SAIN
Taxpayer Identification Number	TIN
Terminal Control Number	TCN
Vehicle Identification Number	VIN
Workload Selection & Delivery	WSD

4.24.15.2  
(04-22-2021)  
**Overview of Fuel Tax Inspection**

- (1) The inspection types include, but are not limited to, the following:
  - a. Terminals
  - b. Wholesalers
  - c. Retailers
  - d. Designated inspection sites
  - e. End-users
  - f. Blitzes
  - g. Special projects
- (2) Specific procedures for each type of inspection are listed below.
- (3) If during an inspection an FCA or FCO determines an examination of the taxpayer's return is warranted, the Service employee will complete a Form 5346, Examination Information Report, and forward it to the group manager. See IRM 4.24.13.9.1, Referral Procedures, for guidance on referral procedures.
- (4) **All** inspections must be input into IMS within four business days of the inspection. See IRM 4.24.13.5, Issue Management System (IMS), for guidance about IMS.

4.24.15.2.1  
(04-22-2021)  
**Sites of Inspections**

- (1) The inspections sites can be broadly categorized as pervasively regulated, non-pervasively regulated or designated inspection sites.
- (2) The actions taken by a Service employee will be determined by the type of inspection site.

4.24.15.2.1.1  
(04-22-2021)

**Pervasively Regulated  
Industry Sites**

- (1) Pervasively regulated industry sites include refineries, terminals, wholesalers, retailers, end-users and any other location where taxable fuel is produced or stored. Generally, employees are authorized to conduct an inspection at a site where there is fuel production or storage. See Treas. Reg. 48.4083-1(b)(1). Fuel in the propulsion tank of a vehicle is not considered “fuel storage” for purposes of IRC 4083(d).
- (2) The Service employee will first seek consent from the owner of the property or an employee empowered to grant consent to conduct the inspection.
- (3) If permission is granted, the Service employee may proceed with the inspection.
- (4) If permission to inspect is refused or revoked:
  - a. Immediately stop the inspection and advise the taxpayer a refusal penalty will be asserted and a writ of entry may be obtained. If the taxpayer then allows the inspection to proceed, conduct the inspection without assertion of the refusal penalty.
  - b. If the taxpayer still refuses to allow the inspection, the Service employee should leave the premises if the site is owned or controlled by the taxpayer and assert the refusal penalty under IRC 6717, *Refusal of entry; in general*. Consult with the group manager about obtaining a writ of entry. See IRM 4.24.15.2.1.5.
- (5) The Service may impose more than one penalty under IRC 6717 on a taxpayer who refuses to admit entry or refuses to permit another action authorized by IRC 4083(d)(1), *Definitions; special rules; administrative authority; in general*. The number of violations is determined by the number of actions allowable under IRC 4083(d)(1), that the taxpayer refused to allow the Service employee to perform. The facts and circumstances of each situation must be considered. Refer to IRC 6717(a) for additional information.

4.24.15.2.1.2  
(04-22-2021)

**Non-Pervasively  
Regulated Sites Where  
Consent is Sought**

- (1) This category includes inspection sites that are not part of a pervasively regulated business, as defined in IRM 4.24.15.2.1.1; for example, end-user sites where fuel is neither produced nor stored.
- (2) The Service employee will first seek consent from the owner of the property or an employee authorized to grant consent to conduct the inspection.
- (3) If permission is granted, the Service employee may proceed with the inspection.
- (4) If permission to inspect is refused or revoked:
  - a. Immediately stop the inspection and advise the taxpayer that a writ of entry may be obtained.
  - b. If the taxpayer still refuses the Service employee should leave the premises if the site is owned or controlled by the taxpayer and then discuss obtaining a writ of entry with the group manager. See IRM 4.24.15.2.1.5.
- (5) A penalty under IRC 6717 (“refusal penalty”) does not apply at these sites.

4.24.15.2.1.3  
(04-22-2021)  
**Designated Inspection Sites**

- (1) Designated inspection sites are any state highway inspection station, weigh station, agricultural inspection station, mobile station, construction site, park, rest area, any point on a public highway or any other location as designated by the Commissioner to be used as a fuel inspection site.
- (2) A designated inspection site is identified as a fuel inspection site by displaying a free standing and/or magnetized vehicle sign displaying "IRS FUEL INSPECTION SITE."
- (3) A designated inspection site is typically controlled by one agency or entity and has vehicles from multiple entities entering and departing.
- (4) The Service employee will first seek consent from the driver of the vehicle.
- (5) If permission is granted, the Service employee may proceed with the inspection.
- (6) If permission to inspect is refused or revoked:
  - a. Immediately stop the inspection.
  - b. Advise the taxpayer that a writ of entry may be obtained.
  - c. If the taxpayer still refuses, discuss obtaining a writ of entry with the group manager. See IRM 4.24.15.2.1.5.
- (7) A penalty under IRC 6717 ("refusal penalty") generally does not apply at these sites.

4.24.15.2.1.4  
(04-22-2021)  
**Required Actions Performed at the Inspection Site Prior to Conducting an Inspection**

- (1) Prior to conducting inspections permitted under IRC 4083(d) and Treas. Reg. 48.4083-1, the Service employees will identify themselves to the taxpayer or an employee empowered to permit the inspection and explain the:
  - a. Purpose and scope of the fuel inspection.
  - b. Authority to conduct the inspection.
  - c. Taxpayer rights.
- (2) The Service employee will present his/her credentials and provide Notice 916 (EN/SP), Taxable Fuel Inspection Notice, to the taxpayer or an employee authorized to permit an inspection. The Notice 916 explains the IRS authority to inspect and the purpose and scope of the inspection.
- (3) The Service employee will always request permission to conduct the inspection from the taxpayer or an employee authorized to permit an inspection. The Service employee may only proceed with the inspection when permission is granted.

4.24.15.2.1.5  
(04-22-2021)  
**Obtaining a Writ of Entry**

- (1) The Service employee must discuss with the group manager whether to obtain a writ of entry to complete an inspection any time consent is denied or revoked, regardless of whether a refusal penalty was applied.
- (2) The Service employee shall prepare a request for a writ of entry and an affidavit that details why the government needs to inspect and, if applicable, why a consent to enter and inspect was refused.

- (3) The affidavit must be fully detailed and factual. The format can be extrapolated from Form 14742, Writ of Entry Revenue Officer Declaration. The affidavit should include statements that:
  - a. Identify the Service employee with the duty and authority to conduct inspections under IRC 4083(d).
  - b. Identify the location and the business at which the taxable fuel to be inspected is produced or stored (or may be stored) or the records pertaining to the fuel are kept.
  - c. Describe the purposes of the inspection.
  - d. Describe the procedures the Service employee followed to carry out the inspection.
  - e. Describe fully the circumstances under which entry was denied (when, where, why, and by whom).
- (4) The request for writ of entry and the related affidavit must be submitted to the local IRS Counsel for review.
- (5) Local IRS Counsel will make any necessary changes and prepare a package for presentation to the Assistant U.S. Attorney (AUSA) having jurisdiction.
- (6) If the package is approved, the U.S. Magistrate or District Court Judge will issue a writ of entry specific to the circumstances presented in the application package.
- (7) The writ of entry is served on the taxpayer by the FCO or FCA.
- (8) If the taxpayer still refuses to allow the inspection under the writ of entry, it is a refusal of a court order which may lead to a contempt of court citation and enforcement by the U.S. Marshall Service.
- (9) See IRM 5.10.3.7, Writ Procedures, for writ of entry procedures and Form 14742 and Form 10404, Consent to Enter Private Premises, for examples of a writ of entry to effect a levy and the associated affidavit.

4.24.15.2.2  
(04-22-2021)

#### Third Party Contacts

- (1) IRC 7602(a)(2), Examination of Books and Witnesses, permits a Service employee to contact third parties to:
  - a. Ascertain the correctness of any return
  - b. Make a return where none has been made
  - c. Determine the tax liability of any person
- (2) For purposes of IRC 7602, determining the tax or penalty associated with an action permitted by IRC 4083(d) qualifies as determining the tax liability of any person.
- (3) The Taxpayer First Act amended IRC 7602(c)(1) and is effective for notices of third party contacts and contacts of third parties made after August 15, 2019. The Code now requires that the Service:
  - Issue advance written notice of third party contacts.
  - Intend, at the time such notice is issued, to contact third parties (and state this intent in the notice).
  - Specify in the notice the time period, not to exceed one year, within which the Service intends to make the third party contacts.

- Send the notice at least 45 days before making contact with a third party, except as otherwise provided by an authorized Service delegate of the Secretary.

**Note:** Effective August 15, 2019, Publication 1 no longer satisfies the advance notice requirement of IRC 7602(c)(1), *Examination of books and witnesses; notice of contact of third parties.*

- (4) In all situations involving third party contact notices provided after August 15, 2019, or in which contacts with third parties will occur after August 15, 2019, a notice meeting the new requirements must be provided. Employees may not contact a third party until the 46th day following the date of the notice, except as otherwise provided by an authorized Service delegate of the Secretary. Employees will use Letter 3164-E, Third Party Contact, revised in April 2020.
- (5) The taxpayer can waive rights under IRC 7602(c) and authorize the Service to contact a third party by signing Form 12180, Third Party Contact Authorization Form. If a taxpayer signs Form 12180, then Form 12175, Third Party Contact Report Form, does not need to be completed and the Service employee may proceed contacting third parties listed on Form 12180. Refer to IRM 25.27.1.3.6, Taxpayer Authorizes Contact with Third Party, for additional information.

**Note:** Only solicit authorization from the taxpayer if you are confident that reprisal is not a concern.

- (6) For additional guidance about procedures and documenting third party contacts, refer to IRM 25.27.1, Third Party Contacts, Third Party Contact Program.
- (7) The table below provides guidance on whether an action is a third party contact requiring advance notice to the taxpayer:

If an FCO/FCA...	AND...	Then a Third Party Contact...
Conducts a terminal inspection	Wants to obtain a sample of fuel from a transport not owned by the terminal and will initiate contact with the driver of the transport	Will be made
Finds a violation	The taxpayer states it was someone else's fault	Will be made so the FCO/FCA can identify the responsible party

If an FCO/FCA...	AND...	Then a Third Party Contact...
Finds a violation	The taxpayer does not have the information (i.e., fuel purchase records) needed to determine the extent of the non-compliance	Will be made unless the taxpayer initiates contact with third party to secure the records
Obtains information during an inspection	Makes a referral to an excise group	Has not been made
Conducts an inspection at a fuel wholesaler	Asks to look at a list of customers who have purchased dyed product	Has not been made
Conducts a Blitz compliance inspection	Obtains information on the source of the fuel	Has not been made
Arrives at a site to conduct an inspection	Talks to employees to locate the owner	Has not been made
Obtains samples from a state of information regarding potential inspection candidates	Service employee uses the information to propose an IRC 6715 penalty or conduct an inspection	Has not been made
Receives an unsolicited tip	Uses the information to plan and conduct an inspection	Has not been made

4.24.15.3  
(04-22-2021)

**Terminal Inspections**

- (1) IRC 4083(d) authorizes terminal inspections.
- (2) The actions taken during a terminal inspection will depend on the underlying facts and circumstances, as well as managerial direction.
- (3) Terminal inspections are conducted to:
  - a. Verify the terminal is still operating and has not changed ownership.
  - b. Determine if taxable products are stored at the facility.
  - c. Verify dyed fuel crossing the rack is dyed to the specifications in Treas. Reg. Section 48.4082-1(b), *Diesel fuel and kerosene; exemption for dyed fuel*.
  - d. Verify the number and locations of the mechanical dye injection systems are used to dye the fuel crossing the rack.
  - e. Determine if the mechanical dye injection system has been tampered with and if the security requirements have been met.
  - f. Verify required records are maintained on site for one year. See Treas. Reg. Section 48.4101-1(h)(3), *Taxable fuel registration*.

- g. Ensure the appropriate dyed fuel notice “DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE,” is on the bill of lading (BOL). See Treas. Reg. Section 48.4101-1(h)(3)(ii).
- h. Provide samples for certain blitz projects or activities.
- i. Provide samples of undefined product and waste oil, if stored at the terminal.
- j. Identify sales of B70-B99.9 and E-00.
- k. Verify the sulfur content for highway fuel is within prescribed ranges.
- l. Educate taxpayers concerning fuel tax laws.

4.24.15.3.1  
(04-22-2021)  
**Terminal Inspection  
Procedures**

- (1) The procedures to be followed and the samples to be obtained at each terminal facility will differ depending on:
  - a. The terminal’s safety procedures
  - b. The products stored and sold
  - c. The fuel dyeing method
- (2) The Service employee must present credentials and provide the terminal operator or other responsible party with a Notice 916 (EN/SP) and Publication 1 prior to conducting the inspection and explain what fuel samples are needed.

**Note:** The terminal is not permitted to make a copy of the Service employee’s credentials.

- (3) The Service employee should tour the facility. The tour should include, but not be limited to, following the line from the dye tank to the dye injection point(s). The Service employee should look for security measures in place to deter and detect tampering with the mechanical dye injection system and indications security measures were breached. Specific security measures are not required; therefore, the lack of particular security efforts will not result in the imposition of IRC 6715(a)(2), *Dyed fuel sold for use or used in taxable use, etc.; imposition of penalty.*
- (4) The Service employee should obtain information regarding the operation of the terminal including, but not limited to, the terminal’s:
  - a. Emergency plan
  - b. Hours of operation
  - c. Layout including location of tanks and racks
  - d. Modes of fuel delivery and disbursement
  - e. Types of fuel stored and/or sold at this location
  - f. Dyeing method
  - g. Location and number of dye injectors
  - h. Position at the loading rack (loading arm) with which each dye injector is directly coupled
  - i. Fuel supplier
  - j. Types of records maintained at the terminal
  - k. Sales of B70-B99 and E-00
  - l. Security and anti-tamper measures in place to deter and detect tampering with the mechanical dye injection system
- (5) Service employees must inspect the shipping documents to:

- a. Ensure BOLs contain the required notice. See Treas. Reg. Section 48.4101-1(h)(3)(ii)(A).
- b. Ensure the 12 month record retention requirements are met.
- c. Identify unusual sales of dyed fuel, which may indicate improper use of dyed fuel downstream.

**Note:** The BOLs may be paper documents or maintained electronically by the terminal.

- (6) Service employees will ask the terminal about sales of B70-B99 and E-00. If the terminal sells these products, the Service employee will obtain a customer list and submit a Form 5346, Examination Information Report.
- (7) To ensure the dye concentration requirement under Treas. Reg. Section 48.4082-1(b) is met, Service employees will obtain a “concentration” sample of dyed fuel from a transport compartment.

**Note:** See IRM 4.24.15.15.1 for labeling instructions if a “concentration” sample is obtained.

- (8) If the terminal has more than one dye injector at the loading rack, the Service employee should attempt to secure “concentration” samples from each loading arm that has a separate dye injector.
- (9) Transport compartment samples will be secured using the following procedures:
  - a. Present credentials and issue a Notice 916 (EN/SP) to the transport driver.
  - b. Explain the purpose and the method of securing a sample.
  - c. If necessary, ask the driver to relocate the vehicle out of the normal traffic flow before obtaining the sample.
  - d. Record the name of the trucking company and license number.
  - e. Ask the driver which compartments contain dyed fuel.
  - f. Ask the driver about prior cargo.
  - g. Wait at least 15 minutes for fuel to settle and dye to mix.
  - h. Use the sampling pump method described in IRM 4.24.15.13 to obtain the sample.
  - i. Secure a copy of the BOL for the load from which each sample was taken.
  - j. If more than one dye injector exists, indicate in the case file which dye injectors were used to dye the fuel for each sample secured.
  - k. If any of the samples appear to be below concentration, secure additional samples from subsequent transports that used the same dye injector.
- (10) Some terminal owners require terminal employees to draw the samples. In that instance, the Service employee must observe the sampling process to ensure a sample is properly obtained.
- (11) If after two hours a “concentration” sample can not be obtained and the other inspection duties are complete, the Service employee may leave without a sample but will notate in the workpaper why a sample was not obtained.
- (12) Samples of undefined product and waste oil should be obtained if the products are stored at the terminal. The Service employee must:

- Follow the procedures in paragraph (8) if the sample will be obtained from a transport compartment.
- Observe the sampling process if the sample will be obtained from a terminal storage tank by an employee of the terminal.
- Request a list of customers who purchased the undefined product or waste oil.
- Use the sampling matrix in IRM 4.24.15.15.2 to determine the number of one-ounce samples needed. Use the guidance under the Suspicious Fuel category.

**Note:** The sampling matrix also provides instructions for completing Form 9667, required paperwork and information for the laboratory reports generated.

- (13) At a minimum, the case history must document the following:
- a. The reason for conducting the inspection (i.e., FIDGAP selection, observed an event).
  - b. Name and position of the terminal employee who authorized the inspection.
  - c. Name of the transport driver to whom the Service employee was introduced by the terminal manager or designee.
  - d. Delivery of Publication 1 and Notice 916 (EN/SP).
  - e. Any change in ownership of the terminal.
  - f. Fuel products sold and/or stored at the facility.
  - g. Comments on the number of dye injectors and which loading arms are associated with each dye injector.
  - h. Comments regarding fuel storage.
  - i. Method of fuel receipt and delivery (pipeline, barge or transport).
  - j. Comments on the distribution of transmix, undefined product and waste oil.
  - k. Comments on the review of records and sales of dyed products.
  - l. Review of BOLs for notice requirement.
  - m. Statement that required records are maintained on site for one year.
  - n. Comments about the tour and the mechanical dye injection system and security measures the facility uses to secure the injection system.
  - o. Comments on necessary corrective actions discussed with the taxpayer.
  - p. Results of the screening of company vehicles and fueling practices, if applicable.
  - q. Samples taken and sampling procedures. If a concentration sample was not obtained at the terminal, explain why.
  - r. Statement as to whether samples met the dye concentration minimum requirement
- Note:** See IRM 4.24.15.3.2 for procedures for addressing a below concentration fuel sample obtained from a terminal.
- s. Statement as to whether the samples of undefined product and waste oil were determined to be "suitable for use as a motor fuel." If the test results from EFL show the product is suitable for use, the Service employee will generate a Form 5346. The referral will include the EFL test results and the information on the customers who purchased the product. See IRM 4.24.13.9.1 for instructions on completing a referral.
  - t. Date the sample results were received and the closing letter was issued.

- (14) If the test results from EFL show the fuel was below concentration, the Service employee will plan a follow-up inspection to occur within one month of the initial inspection. See IRM 4.24.15.3.2.
- (15) The Service employee must timely record the inspection in IMS. See IRM 4.24.16.2 , Report Writing and Case Processing Overview, for guidance.
- a. Use a substitute Taxpayer Identification Number (TIN) to identify the specific facility. The substitute TIN format is 00-0 plus the 6 digits from the specific facility's Terminal Control Number (TCN). Example: The TCN for ABC Terminal is T-61-KY-1234, therefore, the substitute TIN is 000611234.
  - b. Use Activity Code (AC) - 515.
  - c. Use Standard Audit Index Number (SAIN) - EX515.
- (16) Follow the procedures in IRM 4.24.16, Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures, to close the inspection.
- (17) The Service employee should inform the Facility Control Number (FCN) Coordinator if the terminal or refinery (some terminals may also be refineries) has closed, no longer sells taxable products, has an address change, or has changed ownership. See IRM 4.24.17, Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examination Procedures, for FCN Coordinator notification procedures.

**Note:** An FCN designates a storage location within the motor fuel, or renewable fuel production or the bulk transfer or terminal system. Facilities include refineries with assigned Refinery Control Numbers (RCNs) and terminals with assigned TCNs.

- (18) Refer to the applicable subsections below if the terminal also engages in business activities that would classify it as a fuel wholesaler, retailer and/or end-user.

4.24.15.3.2  
(04-22-2021)  
**Procedures for  
Addressing a Below  
Concentration Fuel  
Sample Obtained From a  
Terminal**

- (1) When test results from the EFL indicate the dye concentration did not meet the requirements (possible infraction), the total number of gallons involved will include only those gallons indicated on the BOL unless another sample was obtained from the same injector on the same or subsequent date (i.e., follow-up inspection additional transports). If additional samples were obtained and found to be below concentration, the total gallons involved would be **all** gallons dispensed from the identified dye injector/loading arm from the time the first below concentration sample was secured through the period of time that the subsequent below concentration sample was secured.

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- (2) The Service employee will follow the procedures below within five business days:

- a. Inform the taxpayer of the sample results and provide a copy of Letter 3144, Fuel Compliance Program Inspection Results, to the terminal operator informing them that the fuel is taxable and instruct the terminal operator to include the fuel on the Form 720, Quarterly Federal Excise

- Return, and Form 720-TO, Terminal Operator Report. The inspection will remain open on IMS until the fuel is dyed to the required concentration.
- b. Obtain from the terminal the position holder's name, employee identification number (EIN) and Form 637 registration number.
  - c. Conduct a follow-up inspection at the terminal within one month from the date of the initial inspection.
  - d. Collect a second sample of dyed fuel from the same source where the original below concentration sample was taken, e.g., loading rack arm, etc.
  - e. Mark the samples so EFL can identify them for priority handling. The sample labels should be marked as usual for terminal "concentration" samples but, in addition, enter the words "SECOND" or "THIRD" (as appropriate) in the blank to the right of "Other" on the sample bottle label.

**Note:** Use words and not numerals to reduce confusion over fuel types, etc.

- f. After entering the TCN on the label, enter the original sample number from the below concentration sample to the right of the TCN.
  - g. The FCO will generate a referral and include a copy of the BOLs or the BOL numbers with the referral. The BOL information is required for the revenue agent to verify the below concentration load was included on the Form 720-TO and to determine if the gallons were included on a Form 720.
  - h. The FCA will contact the group manager to discuss pursuing the tax matter.
- (3) If the lab result from the follow-up sample indicates the concentration of dye in the fuel is still not in compliance, the Service employee will repeat the procedures outlined above. The second referral should reference the previous referral to ensure the revenue agent is aware of the extent of the issue.

### 4.24.15.3.3 (04-22-2021) **Procedures for Gaining Access to Railroad Terminal Inspections**

- (1) Railroad terminals have an exception to Excise Summary Terminal Activity Reporting System (ExSTARS) reporting requirements which permits them to make daily summary disbursement reports instead of reporting the individual disbursements. The Service employee must be aware of this exception when conducting an inspection or, for the FCA, an examination of the Form 720-TO. The meter tickets must contain the dyed fuel notice as required by Treas. Reg. Section 48.4101-1(h)(3).
- (2) The purpose of an inspection of a railroad terminal is the same as for other types of terminals. The Service employee should follow the procedures outlined in IRM 4.24.15.3.1, Terminal Inspection Procedures.
- (3) To address safety concerns and the unique nature of railroad terminals, specific procedures have been developed for railroad terminal inspections. The procedures apply only to fuel inspections, not to the examinations conducted by the FCA or excise revenue agents. Unless specifically contradicted in the procedures below, the procedures for inspections of railroad terminals are the same as for other terminals.
- (4) To address the safety concerns while maintaining the IRS authority to conduct unannounced inspections, the following arrangement has been agreed to:

- a. The IRS will provide the railroad terminals a list of the employees authorized to conduct inspections. The list will include name, title and a unique identifying number.
- b. Each railroad company will provide contact names and telephone numbers for each terminal. If the Service employee does not have the contact information, the Service employee should ask the group manager for assistance in securing the needed contact information.
- c. Upon arrival at the terminal but prior to entering the property, the Service employee will call one of the contact persons identified by the railroad company. The terminal employee will provide instructions to the Service employee or an escort.
- d. The Service employee will provide the terminal with their full name and unique number. The terminal will validate the name and number with the information provided by the IRS.

**Note:** The railroad terminal is not permitted to make a copy of the Service employee's credentials.

- e. After the information is validated, the inspection will proceed.
- (5) Typically, railroad terminals do not retain the records required in Treas. Reg. Section 48.4101-1(h)(3)(ii) at the terminal site. Also, the disbursement records do not detail the disbursements into each locomotive.
  - (6) To address the ability of the railroad terminal companies to comply with the record requirements, railroad terminals must provide the following:
    - a. The summary reports covering the last twelve months. Summary reports detail each removal of fuel. The summary reports are prepared on a thirty-day cycle. Therefore, records of the most recent disbursements (disbursed since the last summary report was filed) will not be available. For example, if an inspection was conducted in January, the summary report for December would not be available. The railroad terminal would be required to provide the summary reports through November.
    - b. Meter tickets must contain the language required in the dyed fuel notice to specify the product is dyed in compliance with Treas. Reg. Section 48.4082-2. In addition the tickets should contain the name of the common carrier who removed the fuel, and the name of the entity that delivered the fuel into the supply tank of the train. If meter tickets for the last twelve months are not maintained at the terminal, the railroad company will provide the records by facsimile upon request by the Service employee.

4.24.15.4  
(04-22-2021)

**Wholesaler Inspections**

- (1) Fuel wholesalers:
  - a. Sell fuel to other wholesalers, retailers, and end-users
  - b. May have storage tanks or may pick up fuel for delivery at terminals or other wholesalers
  - c. May blend and sell biodiesel
  - d. May operate a retail fuel outlet at the location
  - e. May operate diesel powered trucks as end-users of diesel fuel
- (2) The facts and circumstances discovered while conducting the inspection, as well as management instruction, will dictate what actions are taken during the inspection.
- (3) Wholesaler inspections are conducted to:

- a. Ensure the strength or composition of dye has not been altered.
- b. Ensure diesel and kerosene intended for highway use does not contain dye or show indications the fuel was dyed.
- c. Review the wholesaler's records of dyed fuel sales.
- d. Ensure dyed biodiesel blends at the wholesaler meet the requirements of Notice 2005-80 or the governing Treasury regulation.
- e. Ensure diesel trucks operated by the wholesaler do not have dyed fuel in the propulsion tanks.
- f. Inspect retail pumps operated by the wholesaler for compliance with the requirement to post a legible and conspicuous notice on the pumps dispensing dyed fuel (Treasury Regulation Section 48.4082-2, *Diesel fuel and kerosene; notice required for dyed fuel*).
- g. Determine the sulfur concentration of diesel fuel intended for use in a diesel-powered train or highway vehicle. Samples should be obtained for sulfur testing only if information indicates the fuel may exceed the allowable sulfur concentration. See IRM 4.24.15.10, Procedures for Developing an IRC 6720 A Sulfur Content Penalty, for more information and the table therein for situations when Service employees are required to secure a sulfur sample.
- h. Determine if gasoline has been adulterated (upon direction by management or during special projects).
- i. Educate taxpayers concerning fuel tax laws.

4.24.15.4.1  
(04-22-2021)  
**Wholesaler Inspection  
Procedures**

- (1) The Service employee must present credentials and provide the wholesaler with Notice 916 (EN/SP) and Publication 1 prior to conducting the inspection.

**Note:** The wholesaler is not permitted to make a copy of the Service employee's credentials.

- (2) The Service employee should tour the facility and obtain information from the wholesaler that will help understand the operation of the business, including but not limited to, the following information:

- a. Emergency plan, if any
- b. Hours of operation
- c. Location of tanks and racks
- d. Types of fuel stored and/or sold at the location
- e. Identity of the fuel supplier(s)
- f. Types of records kept of sales and deliveries
- g. Sales of dyed product to end-users
- h. Presence of retail pumps
- i. Source of the fuel in the propulsion tanks of the wholesaler's trucks
- j. Verification of correct Form 637 registrations related to the known and observed business operations

- (3) The Service employee will screen the fuel by obtaining a nozzle sample from each tank containing diesel or kerosene, whether or not it is dyed, using the sampling methods described in IRM 4.24.15.13. The Service employee will screen the fuel to:

- a. Determine whether the strength or composition of the dye has been altered. The Service employee will secure a **field concentration** sample

- if the records or appearance of the fuel indicates that the dye concentration of the fuel may have been altered or is otherwise suspicious.
- b. Determine whether fuel identified as highway fuel or intended for use as highway fuel contains dye.
  - c. Determine if clear distillates meet the sulfur requirements. Samples should be obtained for sulfur testing only if information indicates the fuel may exceed the allowable sulfur level. See IRM 4.24.15.10 for more information and for situations when Service employees are required to secure a sulfur sample.

**Note:** If the Service employee cannot obtain a sample independently using approved sampling methods, they may observe an employee obtain a sample from the storage tank by valve or fuel thief.

- (4) Gasoline samples are only secured as part of a project or at the instruction of management. If EFL sample results show adulterants, the FCO will generate a Form 5346 and the FCA will discuss how to proceed with the group manager.
- (5) The Service employee shall take photographs to support any penalty determinations.
- (6) See IRM 4.24.15.15 for labeling instructions if a “field concentration” or “sulfur” sample is obtained.
- (7) Refer to the applicable IRM section if the wholesaler also engages in business activity that would classify it as a retailer and/or an end-user.
- (8) Refer to IRM 4.24.15.10.1 for procedures on documenting samples taken for sulfur concentration testing.
- (9) Refer to Notice 2005-80 or the governing Treasury regulation when published, for the requirements of a blender of biodiesel at a site other than a terminal.
- (10) The wholesaler may be subject to penalties if any of the following is found:

If the Lab Confirms	Then
The dye concentration of the sample has been altered -	A violation under IRC 6715(a)(3) or 6715(a)(4) may be applicable. See IRM 20.1.11.6.1.3, Willful Alteration of Dyed Concentration, for information regarding when a dye alteration penalty is applicable.
The presence of dye in a sample obtained from a retail pump not labeled with the required notice -	A notice violation under IRC 6715(a)(1) is applicable.
The presence of dye in a sample from the propulsion tank of the transport truck -	A violation under IRC 6715(a)(2) is applicable.

If the Lab Confirms	Then
The sulfur content of diesel fuel transferred for resale, sold for resale, or held out for resale for use in a diesel-powered train or highway vehicle exceeds the allowable level established by the EPA regulations -	An IRC 6720A penalty may be applicable. See IRM 4.24.15.10, Procedures for Developing an IRC 6720A Sulfur Content Penalty, for guidance.

- (11) If a potential compliance issue exists, the Service employee is expected to “follow the fuel” back to its source or to its destination. Any inspection conducted as a result of following fuel is considered a separate inspection.
- (12) When proposing a penalty., at a minimum, the case history documentation must include:
  - a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. The reason the site was selected for inspection.
  - e. The name and position within the company of individual that authorized the inspection.
  - f. A statement indicating delivery of Publication 1 and Notice 916 (EN/SP).
  - g. Comments relating to fuel storage.
  - h. The identity of fuel supplier(s).
  - i. Comments on review of records and sales of dyed products to end-users.
  - j. Comments on presence of retail pumps and required notice.
  - k. In situations where the required notice was not present, comments on required actions taken to ensure the notice decal was properly affixed prior to the completion of the inspection and appropriate educational/outreach procedures were followed by providing Notice 1420, Sales of Dyed Diesel and Kerosene. In these situations, a penalty is still appropriate.
  - l. Photographs, if taken to support a penalty determination.
  - m. The results of the screening of company vehicles and fueling practices.
  - n. Comments on the number of samples taken and sampling procedures utilized.
  - o. Comments on Form 637 registration verification.
  - p. Comments on necessary corrective actions discussed with taxpayer.
  - q. The sample results and date the lab results were received.
  - r. The date the closing letter was issued.
- (13) For inspections that result in no adverse action, the case documentation must include (at a minimum):
  - a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. The reason the site was selected for inspection.
  - e. Name and position within the company of the individual that authorized the inspection.

- f. Comments as to what actions were taken (i.e., sampling, screening, required notice) to determine that the taxpayer was in compliance, and the results of those actions.
- g. Lab results (if applicable).
- h. The date the closing letter was issued.
- i. Any additional information, as warranted.

(14) Follow the procedures found in IRM 4.24.15.8 related to a blitz inspection.

4.24.15.5  
(04-22-2021)  
**Retailer Inspections**

- (1) Fuel retailers:
  - a. Obtain fuel from terminals or wholesalers.
  - b. Sell dyed and/or undyed fuel to end-users.
  - c. May operate diesel-powered trucks as end-users of diesel fuel.
- (2) The facts and circumstances discovered while conducting the inspection, as well as management instruction, will dictate what actions are taken during the inspection.
- (3) Retailer inspections, including truck stops, are conducted to:
  - a. Verify dyed fuel dispensers contain the required notice.
  - b. Verify that the strength or composition of dyed fuel has not been altered. The Service employee will secure a **field concentration** sample if the records or appearance of the fuel indicates that the dye concentration of the fuel may have been altered or is otherwise suspicious.
  - c. Verify fuel dispensed from undyed diesel and kerosene pumps do not show visible evidence of dye.
  - d. Determine the concentration of sulfur in samples obtained from diesel fuel pumps. Samples should be obtained for sulfur testing only if information indicates the fuel may exceed the allowable sulfur level. See IRM 4.24.15.10(4) for more information and see the table contained therein for situations when Service employees are required to secure a sulfur sample.
  - e. Verify registered Form 637 Activity Letter UP pumps meet the blocked pump criteria. See IRM 4.24.13.13, Glossary, for a definition of a "blocked pump."
  - f. Obtain blitz samples.
  - g. Determine if gasoline has been adulterated (upon direction by management or during special projects).
  - h. Educate taxpayers concerning fuel tax laws.

4.24.15.5.1  
(04-22-2021)  
**Retailer Inspection Procedures**

- (1) The Service employee must present his/her credentials as well as provide the retailer with a Notice 916 (EN/SP) and Publication 1 prior to conducting the inspection.
 

**Note:** The retailer is not permitted to make a copy of the Service employee's credentials.
- (2) The Service employee will tour the facility and obtain information from the retailer that will help understand the operation of the business, including but not limited to the following:
  - a. Hours of operation

- b. Location of all pumps and tanks
  - c. Types of fuel stored and/or sold at this location
  - d. Identity of the fuel suppliers
  - e. Types of records kept for sales and deliveries
  - f. Sales of dyed products to end-users
  - g. Source of the fuel in the propulsion tanks of the retailer's trucks
  - h. Form 637 registration information
- (3) The Service employee will obtain a nozzle sample from each tank holding diesel or kerosene, whether dyed or undyed, using the procedures found in IRM 4.24.15.13, Sampling Methods.
  - (4) Dyed fuel samples will only be forwarded to the lab if a penalty is being proposed or the appearance of the fuel indicates that the dye concentration of the fuel may have been altered or is otherwise suspicious.
  - (5) Samples should be obtained for sulfur testing only if information indicates the fuel may exceed the allowable sulfur level. See IRM 4.24.15.10 for more information and the table therein for situations when Service employees are required to secure a sulfur sample.
  - (6) The Service employee shall take photographs to support any penalty determinations.
  - (7) Gasoline samples are only secured as part of a project or at the instruction of management. If EFL sample results show adulterants, the FCO will generate a referral, and the FCA will discuss how to proceed with the group manager.
  - (8) Refer to the applicable IRM section below if the retailer also engages in business activity that would classify it as an end-user.
  - (9) The retailer may be subject to penalties if any of the following is found:

If the Lab Confirms	Then
The dye concentration of the pump sample has been altered -	A violation under IRC 6715(a)(3) or IRC 6715(a)(4) may be applicable. See IRM 20.1.11.6.1.3 for information regarding when a dye alteration penalty is applicable.
The presence of dye in a sample from a retail pump not labeled with the required notice -	A violation under IRC 6715(a)(1) is applicable.
The presence of dye in a sample from a retail pump and the retailer sold or held for sale the fuel for any use which the retailer knew or had reason to know was not a non-taxable use	A violation under IRC 6715(a)(1) is applicable.
The presence of dye in a sample from the propulsion tank of the company-controlled vehicle -	A violation under IRC 6715(a)(2) is applicable.

If the Lab Confirms	Then
The sulfur content of the diesel fuel transferred for resale, sold for resale or held out for resale for use in a diesel-powered train or highway vehicle exceeds the allowable level established by the EPA regulations -	An IRC 6720A penalty may be applicable.

- (10) When proposing a penalty, at a minimum, the case history documentation must include the following:
- a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. Name and position within the company of individual that authorized the inspection.
  - e. The reason the site was selected for inspection (e.g. FIDGAP, observed storage tank from road).
  - f. Delivery of Publication 1 and Notice 916 (EN/SP).
  - g. Comments on fuel storage.
  - h. Identity of fuel suppliers.
  - i. Comments on types and number of retail pumps.
  - j. Results of the screening of company vehicles.
  - k. Samples taken and the sampling procedures used to obtain the samples.
  - l. Comments regarding the posting of the required notice on dyed fuel retail pumps.
  - m. In situations where the required notice was not present, include comments on the actions taken to ensure compliance. The actions will include ensuring the notice decal was properly affixed prior to the completion of the inspection and providing educational materials including the Notice 1420, Sales of Dyed Diesel and Kerosene. In these situations, a penalty is still appropriate.
  - n. Photographs of the retail pump (before and after notice decal was affixed).
  - o. Comments on Form 637 registration verification.
  - p. Comments on necessary corrective actions discussed with taxpayer.
  - q. Comments on sample results and date received.
  - r. Comments on the date the closing letter was issued.
- (11) For inspections that result in no adverse action, the case history documentation must include (at a minimum):
- a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. The reason the site was selected for inspection.
  - e. Name and position with the company of the individual that authorized the inspection.
  - f. Comments as to what actions were taken (i.e., sampling, screening, required notice) to determine that the taxpayer was in compliance, and the results of those actions.

- g. Lab results (if applicable).
- h. The date the closing letter was issued.
- i. Any additional information, as warranted.

- (12) Complete the Blocked Pump Check sheet found in Exhibit 4.24.15-1, if the retailer is a Form 637 UP registrant. The Service employee is responsible for sending the completed Blocked Pump Check sheet via secure e-mail to the group manager and to the 637 Registration Group Manager. See IRM 1.10.3.2.1, Secure Messaging & Encryption, for information on sending secured e-mail messages.
- (13) For procedures related to a blitz project, see IRM 4.24.15.8.
- (14) For procedures relating to sulfur, see IRM 4.24.15.10.

4.24.15.6  
(04-22-2021)  
**Designated Inspection  
Site Inspections**

- (1) Designated inspection site inspections are conducted to:
  - a. Ensure on-road diesel vehicles do not have dyed fuel in the propulsion tanks.
  - b. Ensure the fuel carried by fuel transport trucks matches the shipping papers.
  - c. Educate drivers of diesel vehicles about dyed fuel laws and provide Publication 4941, Trucker Bulletin, as warranted.
- (2) The designated inspection site should be identified as a fuel inspection site by displaying a free standing and/or magnetized vehicle sign showing "IRS FUEL INSPECTION SITE."
- (3) When working a site such as a state highway inspection station, weigh station, agricultural inspection station, mobile station or any point along a public highway, the Service employee must coordinate with state/local law enforcement personnel. The law enforcement personnel must be present and control traffic flow.
- (4) When working at other locations designated by the Commissioner to be used as a fuel inspection site (e.g. construction sites, quarries) and from which vehicles from multiple entities enter and depart, the Service employee must first coordinate and obtain permission from the agency/official which controls the site.

4.24.15.6.1  
(04-22-2021)  
**Designated Inspection  
Site Procedures**

- (1) The Service employee must secure permission from the person or agency that controls the site to establish an IRS fuel inspection site.
- (2) The Service employee must defer to the person in control on traffic flow and safety issues.
- (3) The Service employee must identify the site as an IRS fuel inspection site with the official sign provided.
- (4) The Service employee must convey his/her identity and contact information, and provide a Notice 916 (EN/SP) to every driver prior to conducting the inspection.
- (5) If the driver refuses the inspection, see IRM 4.24.15.2.1.2 for procedures.

- (6) If the vehicle is a fuel transport, review the BOL to determine:
  - a. If the BOL indicates dyed middle distillate fuel obtain a fuel sample to confirm.
  - b. If the sample does not match the BOL (e.g. BOL indicates dyed product, but the fuel is clear), secure a copy or photograph of the BOL and document the BOL number and source of fuel. The FCO will make a referral for the appropriate examination fuel group. The FCA should consult with the group manager on how to proceed.
- (7) Screen the fuel in the propulsion tank using the screening procedures found in IRM 4.24.15.12.
- (8) If no dyed fuel is present and the fuel appears normal, the Service employee will secure only the tag and state information and release the driver.
- (9) If dyed fuel is present or the contents of the fuel are suspicious (i.e., the fuel is dark), the Service employee will inform the driver, issue a Publication 1 and secure a **usage** sample. In these situations, the Service employee will obtain the following information:
  - a. Name of driver
  - b. Name of company or owner
  - c. Address of driver and company
  - d. Phone number of driver and company
  - e. Position of the driver with the company
  - f. Driver's license number
  - g. Social security number and/or Federal EIN
  - h. Description of vehicle
  - i. Capacity of propulsion tank(s)
  - j. Estimated amount of fuel in the propulsion tank(s)
  - k. Location of any fuel storage tanks on the vehicle
  - l. Vehicle identification number (VIN)
  - m. License plate number
  - n. Dates of registration period
- (10) The Service employee should obtain the following information to establish who is responsible for the presence of dyed fuel in the on-road vehicle:
  - a. Who fueled the vehicle.
  - b. When the truck was fueled last.
  - c. Where the fuel was obtained.
  - d. Whether the company has fuel storage tanks at the yard.
  - e. Location of the company's yard.
  - f. Fueling practices of the company.
  - g. How many trucks the company operates.
  - h. Other information that would establish culpability and the scope of the non-compliance.
- (11) The Service employee will immediately "follow the fuel," when possible and conduct follow-up inspections to determine the extent of the non-compliance. If it is determined the location is beyond an acceptable distance from which the Service employee is located, the Service employee will notify the group manager to have the information referred to another Service employee in that area for follow-up.

**Note:** Follow-up inspections conducted as a result of the initial inspection for the purposes of IMS are considered separate inspections.

- (12) At a minimum, the case history must document the following:
  - a. The delivery of Publication 1 and Notice 916 (EN/SP).
  - b. The site location, date, the law enforcement or agency controlling the inspection site, if applicable.
  - c. Contain all the necessary facts as outlined above.
- (13) The actual number of vehicles screened during each inspection must be timely recorded in IMS. See IRM 4.24.13.5 for procedures about IMS.
- (14) For case processing procedures, see IRM 4.24.16, Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures.

4.24.15.7  
(04-22-2021)  
**End-User Inspections**

- (1) End-user inspections are conducted to:
  - a. Ensure dyed fuel is not being used or held for use in a taxable manner.
  - b. Verify that the strength or composition of dyed fuel has not been altered.
  - c. Determine if the gasoline or diesel fuel has been adulterated.
  - d. Educate taxpayers concerning fuel tax laws.

**Note:** Other than ensuring dyed fuel is not being used or held for use in a taxable manner, the facts and circumstances discovered while conducting the inspection, as well as management instruction, will dictate what actions are taken during the inspection.

- (2) End-user inspections are conducted at the permanent place of business for a company, such as the company yard. Inspections and screenings at temporary sites, such as construction sites, are not end-user inspections but are considered designated inspection site inspections.

4.24.15.7.1  
(04-22-2021)  
**End-User Inspection Procedures**

- (1) The Service employee must present his/her credentials as well as provide the end-user with a Notice 916 (EN/SP) and Publication 1 prior to conducting the inspection.

**Note:** The end-user is not permitted to make a copy of the Service employee's credentials.

- (2) The Service employee will tour the facility and obtain information from the end-user to understand the operation of the business, including but not limited to the:
  - a. Type of business activity
  - b. Types of fuel used in vehicles
  - c. Types of fuel stored at this location
  - d. The number of diesel trucks owned or operated
  - e. Location and capacity of fuel storage tanks and the identity of the fuel supplier
  - f. Records of deliveries
  - g. Truck fueling procedure (i.e., who fuels and what directions are given by employer)

- h. Records for the fueling of the trucks
  - i. Types and number of pieces of off-road diesel equipment
  - j. Portable diesel tanks used by the company
  - k. Safeguards in place to ensure dyed fuel is not used in a taxable manner
- (3) The Service employee will screen the fuel in the on-road diesel vehicles and mobile machinery using the procedures found in IRM 4.24.15.12. If the fuel in a vehicle or mobile machinery appears to be dyed or suspicious in nature then a **usage** sample is obtained from each propulsion tank and from the storage tank that is the source of the dyed fuel in the vehicle and mobile machinery.
  - (4) The Service employee shall take photographs to support any penalty determinations.
  - (5) All or some of the dyed fuel in the storage tank that is the source of the fuel in the propulsion tank may be considered held for a use other than a nontaxable use and thus subject to a penalty under IRC 6715(a)(2). The number of gallons involved in the violation is determined by the evidence the taxpayer provides regarding the past and current use of dyed fuel.
    - The Service will consider any credible and convincing evidence when calculating the amount of dyed fuel a person held for a use other than a nontaxable use. In accordance with *Needsome Farms v. U.S.*, No. 97-1375-MLB, 1999 WL 131697 (D. Kan. July 16, 1999), in the absence of credible evidence to the contrary, **all** dyed fuel held in the storage tank may be presumed to be involved in the violation.
    - The Service employee should obtain information from the taxpayer on the past and current use of dyed fuel and determine the number of gallons of stored dyed fuel subject to a penalty. The amount of dyed fuel determined to be held for use in a taxable manner should be based solely on the evidence of past and current use by the taxpayer.
  - (6) The Service employee should obtain information to determine the culpable parties. Joint and several liability may apply.
  - (7) The Service employee should “follow the fuel” to determine the extent of the non-compliance. If geographically necessary, the Service employee should notify the group manager to have the information referred to another Service employee in the appropriate area for follow-up.
  - (8) Follow-up inspections will be conducted to ensure the taxpayer is compliant. Follow-up inspections to re-check previously penalized propulsion and bulk tanks are considered a separate inspection for the purposes of correctly calculating multiple violations and should be entered into IMS separately.
  - (9) If directed by management or the circumstances warrant, the Service employee may obtain **sulfur** samples of undyed diesel or gasoline to be tested for adulterants.
  - (10) If directed by management or the circumstances warrant, the Service employee may obtain samples of dyed fuel to ensure the dye concentration has not been altered. An IRC 6715(a)(3) penalty may apply to the end-user, fuel supplier or other person. See IRM 20.1.11.6.1.3, Willful Alteration of Dye Concentration, etc. The following apply in this situation:
    - a. Service employees must identify the supplier(s) of the fuel.
    - b. The sample is considered a field “concentration” sample.

- (11) When proposing a penalty, at a minimum, the case history documentation must include the following:
  - a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. The reason the site was selected for inspection.
  - e. Identification of the individual that authorized the inspection.
  - f. Delivery of Publication 1 and Notice 916 (EN/SP).
  - g. The site information fueling practices (i.e., who fuels and what directions are given by employer).
  - h. If storage tanks are identified (i.e., marked on-road/off-road).
  - i. Comments on fuel storage capacity.
  - j. Identity of fuel supplier(s).
  - k. Results of the screening of company vehicles and fueling practices.
  - l. License plate numbers, when samples are secured.
  - m. Samples taken and sampling procedures utilized.
  - n. Photographs, if taken to support a penalty determination.
  - o. Lab results and date the sample results received.
  - p. Information obtained from the tour and interview.
  - q. Date the penalty package was issued.
  
- (12) Inspections that result in a no adverse action, at a minimum, the case history documentation must include:
  - a. Taxpayer identification number (EIN/SSN).
  - b. Taxpayer name.
  - c. Site address and office address of the taxpayer. Both addresses must be input into IMS.
  - d. The reason the site was selected for inspection.
  - e. Identification of the individual that authorized the inspection.
  - f. Comments as to what actions the Service employee took (i.e., sampling, screening, required notice) to determine that the taxpayer was in compliance, and the results of those actions.
  - g. Lab results (if applicable).
  - h. Date the closing letter was issued.
  - i. Additional information, as warranted.

4.24.15.7.2  
(04-22-2021)  
**Proposing IRC 6715(a)(1)  
and IRC 6715(a)(2)  
Penalty without a Fuel  
Sample**

- (1) To ensure IRC 6715(a)(1) and IRC 6715(a)(2) penalties are based on the best possible evidence, the Service employee will take all reasonable efforts to obtain fuel samples from each vehicle or storage tank subject to the penalty. These efforts include traveling to sites at which the taxpayer's trucks or fuel storage tanks are located.
- (2) The Service employee must contact the group manager if circumstances hinder or prevent the Service employee from obtaining a sample.
- (3) An IRC 6715(a)(1) or IRC 6715(a)(2) penalty may be proposed without a fuel sample if the Service employee visually detects that the fuel in the vehicle or storage tank is dyed but is unable to obtain a sample using the approved sampling method. For example, the Service employee detects dyed fuel in a

propulsion tank during a properly administered pipette screening but the Service employee is unable to obtain a sample using the sampling pump method.

- (4) Under no circumstances will a Service employee propose a IRC 6715(a)(1) or IRC 6715(a)(2) based solely on the testimony of the owner, employee or third party. The oral or written testimony should prompt further investigation.
- (5) The Service employee must record within IMS the steps taken to obtain a sample and, if a sample was not obtained, explain the basis for proposing the penalty without a sample being drawn.
- (6) Some states with whom the IRS has information sharing agreements, do not provide fuel samples to the IRS but provide the results from tests administered in the field or by a state-contracted laboratory. In such instances, the test results are sufficient to support whether the fuel is dyed.

4.24.15.8  
(04-22-2021)  
**Blitz Inspection  
Procedures**

- (1) A blitz is a short-term inspection effort that focuses on a specified geographic area or segment within the fuel distribution system (e.g. terminals, retailers, biodiesel producers and biodiesel blenders). A retail blitz will involve inspections at retailers, wholesalers and some terminals. An end-user blitz will involve inspections of end-users at their permanent places of business. A blitz may be conducted at biodiesel production and blending sites.
- (2) Service employees may be asked to obtain additional information about the sites inspected and the samples obtained. If so, the group manager will provide the Service employee with instructions and a blitz sample data input sheet, if needed.
- (3) Each group is assigned a blitz tracking code.
- (4) The following instructions establish a standard method for working blitz compliance activities.
  - a. The group manager(s) will notify the Service employees of the focus of the blitz, geographic location and duration of the activity. Some overnight travel may be required.
  - b. The Service employee will conduct the inspection and obtain samples, if warranted.
  - c. The Service employee will complete the blitz sample data input sheets, if one was provided.
  - d. The Service employee will send the completed blitz sample data input sheets along with the fuel samples. The EFL will extract the data from the input sheets and e-mail an electronic version back to the field personnel within five business days of receipt of the samples at the lab. The electronic version will not include notes written in the margins.
  - e. The EFL processes blitz samples and associated data input sheets as a high-priority. The goal is to get all abnormal results or requests for additional information to the appropriate group manager within five business days from the date the sample is received at the lab.
  - f. Abnormal results will be assigned to either revenue agents or FCAs to develop and determine any tax consequence. See IRM 4.24.4.11, Abnormal Fuel Referrals, for more information regarding abnormal fuel referrals.
  - g. Any follow-up inspections conducted to secure samples are considered separate inspections in IMS.

4.24.15.8.1  
(04-22-2021)  
**Blitz Inspection Group  
Manager  
Responsibilities**

- (1) The group manager will ensure all necessary supplies are available prior to the beginning of a blitz activity. These supplies include but are not limited to:
  - a. Blitz data input sheets
  - b. Form 9667, Sample Bottle Seals and Identification Labels
  - c. Pre-printed "To/From" labels
  - d. Prepared Form 4564, Information Document Request (IDR)
  - e. Copies of Letter 3918, Fuel Inspection Letter
  - f. Copies of Publication 1, Your Rights as a Taxpayer
  - g. Copies of Notice 916 (EN/SP), Taxable Fuel Inspection Notice
- (2) A list of terminals and TCNs may be provided at the beginning of the retail blitz activity.
- (3) The group manager will appoint a contact person for the blitz activity. The contact person will:
  - a. Provide support to the Service employees.
  - b. Provide information to the group manager, as requested.
  - c. Be the contact point for taxpayers responding to an IDR left by the Service employees.
- (4) The FCO group manager will refer the abnormal sample results to a FCA group manager.
- (5) The FCA group manager will evaluate the EFL reports and assign any abnormal sample results to an FCA.

**Note:** Group managers will not be informed by the EFL if a sample is deemed normal.

- (6) The group manager will provide direction and information for sample collection if at another location other than a retailer or end-user.

4.24.15.8.2  
(10-16-2014)  
**Collecting Retail Blitz  
Samples**

- (1) Samples of undyed diesel and jet fuel are collected from storage tanks at retailers, wholesalers, and selected terminals. Kerosene and gasoline samples may be collected if the fuel is suspicious (i.e., color, smell, location or shipping paperwork).
- (2) The taxpayer is provided with a Letter 3918, Notice 916 (EN/SP) and Publication 1.
- (3) Only one sample per storage tank is collected. All storage tanks must be sampled.
- (4) The group manager will identify terminals to be inspected. A terminal sample must be obtained from each storage tank containing undyed diesel or jet fuel. Samples of other middle distillate products are collected, if warranted. If pulling samples from a terminal:
  - a. The TCN is recorded.
  - b. Do not obtain samples from transport compartments.
  - c. Do not use "retained" samples (i.e., samples previously pulled by the terminal). Ask the terminal to obtain a fresh sample from the storage tank.

4.24.15.8.3  
(10-16-2014)

**Collecting End-User  
Blitz Samples**

- (1) Samples of undyed and dyed diesel fuel are collected from storage tanks of end-users.
- (2) Screen all available on-road registered diesel vehicles.
- (3) Obtain a sample from at least one on-road registered diesel vehicle.
- (4) On the Form 9667, record "V" for a sample from a vehicle and "S" for a sample from a storage tank. The notation should be recorded to the right of the "Blitz" space within the "Type of Test" section.

4.24.15.8.4  
(04-22-2021)

**Completing the Blitz  
Data Sheets**

- (1) Complete one blitz data sheet for each sample. The blitz data sheets should be completed as follows:
  - a. The handwritten data sheets must be legible (block printing is preferred), accurate and timely submitted.
  - b. Use abbreviations only for state names.
  - c. Submit only the information requested on the sheets.
  - d. The product is marked according to what the fuel is supposed to be (i.e., how the fuel is being sold or how the fuel is being used). For example, diesel fuel from an on-road storage tank or propulsion tank, that may be dyed is considered to be diesel, not dyed diesel.
- (2) Do not record deliveries of fuel that occurred more than 60 days prior to the date of inspection.
- (3) Form 4564 should be completed if the taxpayer is not able to provide the required information at the time of the inspection. The Service employees must inform the designated blitz contact person of the issuance of any IDR(s). The form shall be completed, as follows:
  - a. The form should be prepared in duplicate. One copy is given to the person representing the taxpayer during the inspection and the other is sent to the designated blitz contact person.
  - b. The form should be directed to the person responsible for providing the information.
  - c. The taxpayer should be asked to provide the information within 24 hours to the designated contact person.
  - d. The designated contact person will fax information received from the taxpayer to the EFL within 24 hours of receipt.
  - e. The Service employee should notate in the notes section of the blitz data sheet that a Form 4564 was issued.
  - f. The designated contact person should follow-up with the taxpayer if the information is not received from the taxpayer within 24 hours.

4.24.15.8.5  
(04-22-2021)

**Packing and Shipping  
Blitz Samples**

- (1) See IRM 4.24.15.17 for general guidance on packing and shipping samples.
- (2) Verify that the sample numbers on the blitz data sheets match the Form 9667 sample numbers on the bottles.
- (3) Place the original blitz data sheets in a sealed envelope marked "To be opened by addressee only" and include it in the box with the samples.

**Note:** Do not put the chain of custody form in the sealed envelope.

- (4) Handwrite "B" on one of the blank sides of the shipping box.

- (5) Samples shall be shipped on the last day of the blitz activity, or at the end of each week, if the project duration is greater than one week.
  - (6) It is strongly recommended the Service employee make a copy, photograph or scan each blitz data sheet into the laptop prior to enclosing the forms in the box.
- 4.24.15.8.6  
(04-22-2021)  
**Input of Blitz Inspection on IMS**
- (1) All blitz inspections must be input into IMS within five business days following the end of the sample collection period. The Service employee is responsible for updating the IMS case file and issuing the appropriate closing letter.
  - (2) See IRM 4.24.13.5, Issue Management System (IMS), for procedures about IMS.
  - (3) Each group is assigned a blitz tracking code. The code must be entered into IMS under the ERCS Data Tab.
  - (4) For each blitz inspection created on IMS, the SAIN number will reflect the type of inspection; e.g., 515, 516R, 516W, and 518.
- 4.24.15.8.7  
(04-22-2021)  
**Abnormal Lab Results from Blitz Inspections**
- (1) For samples determined to be abnormal, the group manager will send the test results to the Service employee who conducted the inspection and the FCA or revenue agent who will follow-up on the result. The group manager or designated Service employee must send the lab result to the Service employee within one business day of receiving notification from the lab.
  - (2) A request from the EFL for additional samples or information should be forwarded by the group manager to the Service employee. The person following up on the initial sample will not necessarily be the same person who sent the first sample. The manager must send the request for additional samples or information to the Service employee within one business day of receiving notification from the lab.
  - (3) Follow-up samples are considered blitz samples. Instructions for labeling and shipping the samples must be followed. See IRM 4.24.15.15, and IRM 4.24.17, Packing and Shipping Samples. The blitz data sheet must indicate the sample is a follow-up and identify the original sample number(s).
  - (4) If abnormal results are not received within 15 calendar days of shipping the samples, the blitz cases may be moved to a closing status in IMS. The Letter 3143, Non-violation IRC 6715 Inspection Letter, must be issued at this time. For certain blitz projects, the 15 day period may be extended. The Service employee will be notified by the group manager if the time period is extended.
- 4.24.15.9  
(07-11-2017)  
**Farm Inspections**
- (1) Special rules apply to the assertion of IRC 6715 penalties during farm inspections.
  - (2) Farmers who own or operate registered diesel vehicles found with dyed fuel in the propulsion tanks may not be subject to penalties under IRC 6715(a)(2), if:
    - a. The vehicle found with dyed fuel was located on a farm at the time of the inspection. See IRC 6420(c)(2) for the definition of a “farm”).

- b. The vehicle is used for farming purposes. See IRC 6420(c)(3), *Gasoline used on a farm; farming purposes*, for the definition of “farming purposes.”
- (3) When Service employees find dyed fuel in a truck used for farming purposes on a farm, the Service employee should attempt to establish if the vehicle was used on the highway. The burden of proof is on the government to establish the violation. The Service employee must fully develop the facts to support the government’s position.
- (4) A farm vehicle registered or required to be registered and using dyed fuel on the highway is subject to a penalty under IRC 6715(a)(2).

**Example:** A registered flatbed truck being used on the farm is screened properly and dyed fuel is found. The truck is used to move hay from one area of the farm to another. No penalty may be applied. The same truck, carrying hay to another farm, is screened at a weigh station and is found to contain dyed fuel. A penalty would apply. A **usage** sample is secured and submitted for testing.

4.24.15.10  
(07-11-2017)  
**Procedures for  
Developing an IRC  
6720A Sulfur Content  
Penalty**

- (1) The burden of proof is on the government to establish that a wholesaler, reseller, or retailer knowingly sold or held out for sale a liquid for use in a diesel powered train or highway vehicle that violated the applicable EPA regulations pertaining to sulfur content.
- (2) In order to propose an IRC 6720A, *Penalty with respect to certain adulterated fuels*; the IRS must establish the person transferring, reselling, holding for sale, or selling the fuel had actual knowledge that the fuel:
  - a. Will be used in a diesel-powered vehicle or train.
  - b. Exceeded the applicable EPA regulations for sulfur content.

**Note:** Both “a” and “b” must be met.
- (3) Actual knowledge of the sulfur content will be determined by source documents such as a delivery ticket or a BOL informing the seller about the sulfur content of the fuel. Actual knowledge could also be established if the seller adulterated the fuel with a product known to the seller as possessing a concentration of sulfur greater than 15 ppm.
- (4) Actual knowledge as it relates to undyed fuel occurs when a person who includes the federal highway tax on the fuel upon sale has actual knowledge that the fuel will be used in a highway vehicle. As such, the focus of the questions, fuel screenings, and review of records will look for indicators that the fuel exceeds the maximum sulfur level. Undyed kerosene dispensed through a blocked pump is the exception to the rule that sellers know the undyed fuel will be sold for use in a highway vehicle.
- (5) For dyed fuel:
  - a. If there is no indication that the dyed fuel was sold or held for sale for use in a highway vehicle, then an IRC 6720A penalty does not apply.
  - b. If there is an indication that the seller knowingly sold or held for sale the fuel for use in a highway vehicle, the investigation will focus on establishing knowledge about the sulfur content of the fuel and confirming actual knowledge about the use of the fuel. The knowledge regarding the use of

the fuel must be actual knowledge, not presumed. For example, the absence of the dyed fuel notice on a retail pump is not actual knowledge that the fuel will be used in a highway vehicle. Treas. Reg. 48.4082-2, applies to IRC 6715, not to IRC 6720A.

- (6) If the EFL result indicates the fuel does not exceed 15 ppm, then IRC 6720A does not apply.
- (7) If the EFL result indicates the fuel does exceed 15 ppm then the IRC 6720A penalty will apply if the seller knew the fuel exceeded the sulfur limit **and** knew the dyed fuel was to be used in a highway vehicle. The seller, in this instance, is also subject to an IRC 6715(a)1 penalty.
- (8) The table below identifies when **sulfur** samples for sulfur testing will be obtained.

When at a	A sample will be obtained for sulfur testing if:	Reasons for obtaining a sample
Terminal	<ul style="list-style-type: none"> <li>• The FCO/FCA has reason to suspect the undyed fuel has been adulterated, or</li> <li>• A sample of undyed fuel with a sulfur concentration greater than 15 ppm is found below the terminal rack and the Service employee is following the fuel to its source</li> </ul> <p><b>Note:</b> Dyed samples are not generally obtained specifically for sulfur testing.</p> <ul style="list-style-type: none"> <li>• Directed by management.</li> </ul>	<p>Undyed diesel and kerosene leaving the terminal is taxed and therefore is for use in diesel-powered vehicles and trains.</p> <p><b>Note:</b> Terminals may have sulfur test results for the fuel involved. Their records could be important when establishing actual knowledge.</p>
Wholesaler	<ul style="list-style-type: none"> <li>• The FCO/FCA has reason to suspect the undyed fuel has been adulterated, or</li> <li>• The wholesaler knowingly sold dyed diesel for use in a highway vehicle and knew the fuel exceeded 15 ppm sulfur. The knowledge cannot be presumed, but must be actual knowledge of its use (e.g. wholesaler fueled the highway vehicles) and its sulfur content, or</li> <li>• Directed by management.</li> </ul>	<ul style="list-style-type: none"> <li>• Determine whether a product was added resulting in a sulfur concentration &gt;15 ppm. The adulterated fuel may also have tax implications.</li> <li>• Wholesaler knowingly selling dyed fuel for use in highway vehicles is subject to an IRC 6720A penalty if they also knew the fuel had &gt;15 ppm sulfur.</li> </ul>

When at a	A sample will be obtained for sulfur testing if:	Reasons for obtaining a sample
Retailer	<ul style="list-style-type: none"> <li>• The FCO/FCA has reason to suspect the undyed fuel has been adulterated, or</li> <li>• The retailer knowingly sold dyed diesel for use in a highway vehicle and knew the fuel exceeded 15 ppm sulfur. The knowledge can not be presumed (i.e., lack of a dyed notice on the pump), but must be actual knowledge of its use and sulfur content, or</li> <li>• Directed by management.</li> </ul>	<ul style="list-style-type: none"> <li>• Determine whether a product was added resulting in a sulfur concentration &gt;15 ppm. The adulterated fuel may also have tax implications.</li> <li>• Retailer knowingly selling or holding for sale dyed fuel for use in highway vehicles is subject to an IRC 6720A penalty if they also knew the fuel had &gt;15 ppm sulfur.</li> </ul>

- (9) Because there are no visual indicators of sulfur content, at the time of the inspection the Service employee should document and/or copy any taxpayer records that clearly indicate evidence of sulfur content, such as BOLs or delivery tickets.
- (10) If EFL results indicate a potential violation, the Service employee must conduct an inspection of each taxpayer identified as a source of the fuel. For each inspection, the Service employee will obtain diesel samples and record the following:
- a. The source(s) of the fuel.
  - b. The statement on the shipping documents that indicate the sulfur content.
  - c. Whether the location has additional products on site that would account for the increased sulfur content. A sample of the additional product(s) should also be obtained.
- (11) If additional sources of fuel are identified, the Service employee will obtain samples and continue to develop the issue to determine who knowingly transferred for resale, held for resale, or sold for resale the fuel in question.
- (12) EFL results indicating a possible IRC 6720A violation are reported to the Service employee and group manager by e-mail. If a lab result is not received within fifteen (15) days from the date the sample was shipped, the Service employee may assume the sulfur concentration was within the allowable level.

4.24.15.10.1  
(07-11-2017)

**Documentation  
Procedures for Samples  
Obtained for Sulfur  
Content Testing**

- (1) The Service employee will record the content of the sulfur notice label on the pump in the IMS case history.
- (2) The Service employee will review BOLs and delivery tickets and obtain the following information pertaining to each of the last three shipments of diesel fuel:
- a. Name and address of the supplier
  - b. Date of shipment
  - c. The gallons received
  - d. The amount of fuel in the tank at the time of delivery
  - e. The identification of previous fuel type stored in the tank (if different from the current type)

- f. The name of person who placed the orders for the fuel
- g. Other possible sources of the product in the storage tank (consider possible upstream and downstream sources)
- h. Additives placed in the fuel
- i. The sulfur statement and, if applicable, the biodiesel blend percentage

- (3) Only lab results that indicate possible sulfur concentration violations are forwarded. If a lab result is not received within 15 days from the date the sample was shipped, Service employees may assume the sulfur concentration was within the allowable level.

4.24.15.11  
(04-22-2021)  
**Enforcement Activities  
Conducted by FCAs**

- (1) To protect the rights of the taxpayer and to reduce confusion, the FCA will clearly explain to the taxpayer whether the purpose of the contact is to conduct an inspection or an examination.
- (2) The FCA will follow the standard procedures for initiating examinations and compliance reviews. See IRM 4.24.6, Technical Guidance and Information Processing for Excise Tax Examination Issues.
- (3) The FCA will not set an appointment to conduct an inspection.
- (4) If during the course of an inspection the FCA determines an examination of the taxpayer's return is warranted, the FCA will obtain group manager approval prior to initiating the audit. The inspection will proceed to its conclusion if it will not affect the examination.
- (5) If during the course of an examination the FCA determines an inspection is warranted, the FCA may proceed without group manager approval. The inspection will proceed to its conclusion, if it will not affect the examination. When this occurs the inspection must be entered into IMS separate from the examination case.
- (6) As part of an examination or Form 637 registration review, an FCA may need to obtain fuel samples. The FCA may combine the two activities and use the government vehicle to travel to and from the work site (see IRM 4.24.14.10.2, Motor Vehicle Use - Employee Responsibilities). If the FCA conducts any fuel sampling activity, the Service employee must input a fuel inspection in IMS. The Service employee shall input and charge time to the appropriate fuel inspection activity code (e.g. 515-518). For an inspection at a biodiesel producer, the Service employee shall use activity code 516W. The time charged to activity codes 515-518 is limited to the time spent performing the fuel inspection. The Service employee should conduct a full inspection appropriate to the type of site. If the Service employee limits the scope of the inspection, the Service employee must notate in the inspection case file the specific actions taken.

4.24.15.12  
(04-22-2021)  
**Screening Methods**

- (1) The pipette screening method is the approved screening technique to be used when inspecting vehicle propulsion tanks. The Service employee will:
  - a. Wear approved safety glasses with side shields and nitrile gloves. See IRM 4.24.14.7, Personal Protective Equipment (PPE).
  - b. Unseal a new pipette. A new pipette is used for each screening.
  - c. Bond with the propulsion tank. See IRM 4.24.14.6, Bonding Requirement when Screening or Sampling Fuel.

- d. Open the fuel tank.
- e. Insert the pipette into the tank as far as it will reach.
- f. Place a thumb firmly over the upper end of the pipette, forming a seal to hold the fuel in the pipette.
- g. Pull the pipette up until the fuel inside the pipette can be observed.
- h. If no dye is detected, remove the thumb from the end of the pipette, releasing the fuel back into the tank.
- i. If dye is detected or the fuel is a suspicious color, call the driver's attention to it then fold the pipette so both ends are facing up, then release the fuel into an absorbent pad or container.
- j. Properly dispose of the used pipette.
- k. If dye was detected or the fuel is a suspicious color, obtain a **usage** sample using the Sampling Pump Method.

(2) The nozzle screening method is used when inspecting fuel storage tanks. The Service employee will:

- a. Wear approved safety glasses with side shields and nitrile gloves. See IRM 4.24.14.7, Personal Protective Equipment (PPE).
- b. Place a clean two quart glass measuring cup or wide-mouth jar into a bucket (to prevent spillage).
- c. Bond with the retail pump.
- d. Turn on the retail fuel pump.
- e. Dispense a sufficient amount of fuel through the nozzle into the cup or jar to make a determination if a sample is needed.
- f. If the fuel is not suspect to a potential penalty, then the fuel should be disposed of properly.
- g. If a sample is required, follow the guidance found in IRM 4.24.15.13 below to secure a nozzle sample.

4.24.15.13  
(04-22-2021)

#### Sampling Methods

(1) There are two approved methods of sampling fuel. The sample pump method and the nozzle method. These methods provide safety to Service employees and other persons and permit verifiable, evidentiary samples to be obtained.

(2) **Sampling Pump Method:**

- a. Cut a section of new flexible tubing of suitable length to reach the source of the fuel. To reduce the possibility of cross-contamination, the tubing shall not be cleaned and reused. New tubing shall be used to obtain samples from each distinct source of fuel.

**Note:** For example, if one sample is obtained from each of the two propulsion tanks of a vehicle, a section of new tubing is used to obtain each sample. If two samples are obtained from one tank, the same tubing may be used to obtain both samples.

- b. Wear approved safety glasses with side shields and nitrile gloves. See IRM 4.24.14.7, Personal Protective Equipment (PPE). If the sample comes from a compartment on a transport truck, the Service employee should put the nitrile gloves on after climbing the truck.
- c. Place the tubing in the sampling pump and attach a clean unused bottle.
- d. Bond with the truck. See IRM 4.24.14.6, Bonding Requirement when Screening or Sampling Fuel.
- e. Open the hatch or cap of the fuel tank.
- f. Lower the tubing into the tank.
- g. Draw fuel into the bottle using the sampling pump.

- h. Stop pumping when the bottle contains 30 ml (approximately 1 ounce) but keep the tubing in the fuel.
- i. Release the pressure by loosening the bottle (but do not remove) or pressing the release button on the pump, if so equipped.
- j. Allow the fuel in the tube to flow back into the tank.
- k. Remove the tubing from the tank and cradle the end of the tubing in an absorbent towel.
- l. Remove the bottle from the pump.
- m. Seal the bottle with a cap. Seal firmly, but do not over tighten, as that may cause the cap to crack.
- n. Close and secure the hatch or cap of the tank.
- o. Properly apply Form 9667. Ensure the outside surface of the bottle is clean and dry and there is no leakage prior to application. See IRM 4.24.15.15.
- p. Dispose of liquid and absorbent material waste in accordance with local, state, and federal regulations.

**(3) Nozzle Sampling Method:**

- a. If the nozzle screening method determined a sample is needed, use the screening procedures found in IRM 4.24.15.13 to dispense the required amount of fuel needed for a sample. Bond again, if required.
- b. Use the sample pump method to obtain a 30 ml sample from the jar or cup into the sample bottle. Alternatively, a disposable, single-use funnel may be placed in the mouth of the sample bottle and the fuel poured from the cup or jar into the sample bottle. The disposable funnels may be plastic or paper but may only be used once.
- c. Seal the bottle with a cap. Before placing the cap on the bottle, inspect the cap for cracks and ensure the plastic seal is set in the cap. Tighten the cap until its firmly sealed to the bottle but do not over tighten, as that may cause the cap to crack.
- d. Properly apply Form 9667. Ensure the cap on the bottle is tight and doesn't leak and wipe the outside surface of the bottle to ensure it is clean and dry prior to applying the label. See IRM 4.24.15.15.
- e. Dispose of liquid and absorbent material waste in accordance with local, state, and federal regulations.

**(4) Gasoline samples are secured to determine each sample is representative of the declared octane level. Gasoline samples are only secured as part of a project or at the instruction of management. The following sampling procedures involve fueling the field compliance vehicles with gasoline:**

- a. The Service employee must explain to the owner of the fuel that the pump's hose must be flushed to ensure a representative sample is obtained.
- b. The explanation will inform the owner that a gallon of fuel will be dispensed.

**(5) For samples of gasoline, follow the sampling procedures outlined below:**

- a. Service employees must inspect the fuel gauge of the assigned fleet vehicle to determine whether the tank can hold an additional gallon of fuel.
- b. Select the octane needed for the sample.

- c. Dispense only one gallon of fuel into the vehicle's fuel tank. The Service employee will purchase the fuel using the fleet card assigned the truck, unless directed otherwise.
- d. Follow the normal procedures for obtaining a nozzle sample. The sample bottle should be cooled to the fuel temperature prior to obtaining the evidentiary sample. To do this, one ounce of fuel should be added to the sample bottle and carefully swished around, then disposed of properly. Eight one ounce samples are collected to perform octane measurements. Different sample numbers used for the eight samples must be identified as from the same pump so that they may be combined at the EFL. See IRM 4.24.15.15.2.

4.24.15.13.1  
(04-22-2021)  
**Approved Sample  
Bottles**

- (1) All samples must be shipped in two-ounce glass bottles with one-ounce fill lines. Fuel samples secured should be one ounce in volume. See IRM 4.24.15.15.2 for additional guidance pertaining to securing samples.
- (2) Ensure there are no cracks or chips in the sample bottles used.
- (3) Caps with a plastic, cone-shaped seal inside the cap must be used.

**Note:** Verify the presence of the cone-shaped seal before each bottle is sealed. If the cone-shaped seal is not present, discard the bottle cap and replace with a bottle cap that has one present.

4.24.15.14  
(04-22-2021)  
**Investigative Samples**

- (1) The Service employee may encounter fuel held by taxpayers where the nature and composition of the fuel is questionable. Such fuel may raise suspicions because of what it looks or smells like, what it is called, or where it is found. A sample collected of this fuel is called an "investigative sample". Investigative samples are "fingerprinted," and subjected to other analytical procedures to identify unusual components and the percentage of each component in the total volume.
- (2) Any fuel samples that require comparison (that are not part of a blitz study) are considered to be "investigative" samples.
- (3) Any biodiesel or renewable fuel that is sent to the lab to determine if it meets the American Society for Testing and Materials (ASTM) standards is considered to be an "investigative" sample.
- (4) Any 637 registration sample is an "investigative" sample.

4.24.15.14.1  
(04-22-2021)  
**Requests for  
Investigative Samples**

- (1) The request to collect investigative samples may come from a variety of sources such as:
  - a. The Service employee comes upon an unusual and suspicious fuel product.
  - b. IRS Criminal Investigation requests that certain fuel be collected and analyzed for content.
  - c. State agencies, acting under a memorandum of understanding (MOU).
  - d. An excise manager requests that a taxpayer's product be analyzed to see if it is what the taxpayer says it is, or what the agent and manager suspect it is.

- (2) FCOs may work with FCAs and revenue agents in securing samples to determine whether
- Biodiesel registrants and applicants meet the requirements of IRC 40A(d)(1), *Biodiesel and renewable diesel used as fuel; biodiesel*, which defines biodiesel
  - Renewable registrants and applicants meet the requirements for renewable fuel

4.24.15.14.2  
(04-22-2021)  
**Investigative Sample  
Procedures**

- (1) The samples must be obtained using one of the approved sampling methods discussed above. See IRM 4.24.15.13.
- (2) Eight one-ounce samples are collected from each source of fuel for which investigative sample testing is requested, including biodiesel and renewable fuels.
- (3) Eight one-ounce samples are collected from each source for gasoline samples requiring octane measurements.
- (4) A completed Form 14403, Investigative Sample Information, must be included with the shipment to alert the EFL chemist of what is suspected and what tests should be done. This completed form gives the chemist a starting point for the investigation. Form 14403 includes the following information:
- a. Service employee's name.
  - b. Date sampled.
  - c. IRS sample label number from Form 9667.
  - d. Type of sample source (i.e., storage tank, saddle tank, wholesaler, etc.).
  - e. Expected product (i.e., number 1 diesel, number 2 diesel, biodiesel, renewable etc.).
  - f. Reason for sample analysis (why was this sample secured?).  
**Note:** An example of a statement explaining the reason for the sample would be: "Fuel may be mixed with used motor oil, PCBs and other waste products. Test for adulterants to verify. Provide the name of the adulterant(s) and the percentage of each."
  - g. Relationship between samples (if any).
  - h. Any other pertinent information. All 637 registration samples should indicate the applicable type of registration (e.g. AB, NB, S) and the registrant's name and taxpayer identification number (TIN).
  - i. Name, address, secure e-mail address, fax number and phone number of the person(s) to whom the lab analysis will be sent. The results are normally sent to the Service employee or another individual who requested the investigative sample be obtained.  
**Note:** It is important the contact information for the Service employee needing the results be provided.
  - j. The lab analysis is communicated to the individuals identified on the Form 14403 regardless of the results within five business days of the receipt of the samples at the lab.  
**Note:** Analysis results of renewable or complex "investigative" samples may require longer than five business days.

- (5) See IRM 4.24.15.15 for the required label information on the Form 9667.
- (6) See IRM 4.24.15.16 for information on the chain of custody.

4.24.15.14.3  
(04-22-2021)

**Shipping of Investigative Samples**

- (1) See IRM 4.24.15.17 for general instructions on packing and shipping samples.
- (2) Place the completed Form 14403 into the box.

4.24.15.14.4  
(04-22-2021)

**Referral of Investigative Sample Lab Results**

- (1) If the results from an IRS initiated sample indicate the need for further development, a referral should be completed within one day of the receipt of the EFL results. See IRM 4.24.13.9.1, Referral Procedures, for instructions on completing a referral.
- (2) A revenue agent may request the assistance of an FCO or FCA, if additional samples will be collected. The request is routed through the group manager who will assign a Service employee based on factors including, but not limited to, proximity to the site and availability.
- (3) The revenue agent may request an FCO or FCA obtain samples from sources upstream. The FCO or FCA should discuss with his/her manager the need for reassignment if the upstream site is outside of their assigned territory.

4.24.15.15  
(04-22-2021)

**Sample Bottle Labeling Procedures**

- (1) Use only Form 9667 to label the bottles. The forms are pre-printed, sequentially numbered, bar-coded, and tamper-resistant adhesive labels. Ensure that all the required information is accurately recorded in the appropriate space on each part of the sample label.
- (2) Information on sample bottle labels, including the sample number, has been deemed taxpayer information protected by IRC 6103, *Confidentiality and disclosure of return and return information*.
- (3) Record the required information on the label prior to affixing the label to the bottle.
- (4) Ensure the outside of the bottle is clean and dry prior to placing label on bottle.
- (5) The completed sample bottle label must be affixed before leaving the inspection site.
- (6) The information required on Form 9667 is determined by the type of test to be performed on the sample. See the Sample Labeling Matrix found at IRM 4.24.15.15.2 for the types of tests.
- (7) Samples obtained from a state employee must include a "Z" on the right side of the sample label number. Also, the FCO or FCA ID number must be recorded on Form 9667. If the state employee ID number is already on the form, the FCO or FCA number must be written above or next to the FCS ID field. Samples obtained from a state employee that contain more than 30 ml must be re-bottled by either the state employee or the Service employee, or not be shipped for analysis. If re-bottled (with a new IRS identification number), include all appropriate chain of custody documentation. The actions taken must be notated in the IMS case file.

- (8) The sample label has 14 strips and may be used for up to four samples taken from the same tank. Each strip contains the unique sample reference number and will be placed on the bottle as follows:
  - a. Three are placed on the bottle(s).
  - b. One is used on Form 13927, Chain of Custody and Shipping Record, and Form 13926, Chain of Custody Control Document, if applicable.
  - c. One is available for use if a paper file is created.
  - d. Nine remaining strips are used if additional fuel is collected from the same source. This will allow the samples to be associated with each other.
  
- (9) Sample Bottle Labeling Procedures:
  - a. Crisscross the top two narrow labeling strips over the top of the capped bottle so that four approximately equal lengths come down the outside of the bottle.

**Caution:** Carefully press these strips against the side of the cap while one end of the strip is still not applied to the bottle. This will reduce the chance that the strips will tear and thus compromise the integrity of the sample.
  - b. Wrap the third strip, identified as "Bottle Label" on the Form 9667 around the bottle, covering the bottom ends of the two crisscrossed strips.
  - c. If the remaining strips are needed for samples obtained from the same tank, follow steps 1 and 2 above. Instructions on the placement of the strips are included on each strip.

4.24.15.15.1  
(04-22-2021)  
**Form 9667 Sample  
Bottle Sealing and  
Identification Label  
Required Information**

- (1) Unless otherwise notated, these instructions apply to any sample type.
- (2) FCS (FCO/As) I.D. - enter the assigned four or five digit FCO/FCA identification number.
- (3) Date - enter the date the sample was collected.
- (4) Type of Test (**Check only one**) - select the applicable test. See IRM 4.24.15.15 for the correct type of test to select for the tests performed. Checking a single type of test on the label automatically triggers several tests to be performed. For blitz samples obtained from an end-user, record a "V" for a sample obtained from a vehicle or a "S" for a sample obtained from a storage tank. Exceptions to selecting only one test:
  - a. Select "637 registration" in addition to "Investigative" if the sample pertains to a fuel-related 637 registration other than biodiesel (e.g. renewable fuel, blocked pump)
  - b. Select "Biodiesel" in addition to "Investigative", if the sample was obtained to determine if it meets ASTM standards
- (5) Declared Product - mark the space to the right of the declared fuel type. The declared fuel type is the product the paperwork or taxpayer indicates the product to be.
  - a. If the product is unknown, or does not fit the types on the label, indicate within the "Other" field what the fuel is alleged to be. This space may also be used to direct the EFL to an enclosed statement that provides

- more details regarding the sample. Heating oil, fuel oil, locomotive, or marine fuel should be designated in the “other” field, if applicable.
- b. If the Biodiesel test is selected within the “Type of Test” section, input the percentage of biodiesel within the “Bio Percent” space. For Form 637 biodiesel producer registration testing, the percentage is normally 100 percent. If the product is a biodiesel blend, also select the blending product, usually #1 Diesel or #2 Diesel.
- c. No entry is made in the “Bio Percent” field if no biodiesel is present.
- d. All gasoline samples should have an octane rating and percent of ethanol.

- (6) TCN or City/State - For samples obtained from terminals record the TCN. For other samples, record the city and state information.
- (7) Number of bottles associated with the sample (record the number). Ensure the correct number of samples are obtained. See IRM 4.24.15.15.2.
- (8) All information entered in the Chain of Custody and Case File sections must match the corresponding information recorded in the Bottle Label section.

4.24.15.15.2  
(04-22-2021)

**Sample Labeling Matrix**

- (1) The matrix below identifies the tests performed, sample instructions, required paperwork and the reports generated. Review the “Tests Performed” section of this matrix to select the appropriate type of test on Form 9667.

**Note:** The group manager may contact the EFL if there are any questions regarding sample labeling or reports.

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Terminal dyed fuel and follow-up terminal dyed fuel samples (should be dyed to specification)</b>	<b>Concentration</b> (include TCN number)	Dye	Dye report of analysis, two week dye summary spreadsheet	One 2 ounce bottle	Chain of Custody

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Terminal dyed fuel sample taken down steam (in lieu of a terminal dyed fuel sample, should be dyed to specification)</b>	<b>Field concentration</b> (include TCN number and City, State of sampling)	Dye	Dye report of analysis, two week dye summary spread-sheet	One 2 ounce bottle	Chain of Custody
<b>Wholesaler or retail pump or storage tank dyed fuel (should be dyed to specification)</b>	<b>Field concentration</b> (include City, State)	Dye	Dye report of analysis, two week dye summary spread-sheet	One 2 ounce bottle	Chain of Custody
<b>On road propulsion tank (including mobile machinery propulsion tanks) and any storage tank or pump that is designated as clear on-road fuel</b>	<b>Usage</b> (include City, State or other desired applicable identification)	Dye	Dye report or analysis, dye investigative report (if needed), two week dye summary spread-sheet	One 2 ounce bottle	Chain of Custody

<p><b>If your sample is a:</b></p>	<p><b>Then Type of Test on Form 9667 is:</b></p>	<p><b>Then, the tests performed are:</b></p>	<p><b>Then, the reports sent are:</b></p>	<p><b>Then, sample instructions are:</b> <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i></p>	<p><b>Then, the paperwork needed is a:</b></p>
<p><b>Terminal undyed fuel (including kerosene) not part of a blitz (should not contain dye, may be biodiesel blends of 0 to 20 percent)</b></p>	<p><b>Sulfur</b> (include TCN number and Bio percent blending, if applicable)</p>	<p>Sulfur, finger-printing, dye and others, as needed</p>	<p>Sulfur report of analysis, if not ULS, lead sulfur report (fingerprinting problem or other problems), , dye report of analysis, if not compliant, two week sulfur summary spread-sheet</p>	<p>One 2 ounce bottle</p>	<p>Chain of Custody</p>

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Wholesaler or retailer pump or storage tank holding undyed fuel, not part of a blitz (may be biodiesel blends of 0 to 20 percent)</b>	<b>Sulfur</b> (include City, State and Bio percent blending, if applicable)	Sulfur, fingerprinting, dye and others, as needed	Sulfur report of analysis, if not ULS, lead sulfur report (fingerprinting problem or other problems), dye report of analysis, if not compliant, two week sulfur summary spreadsheet	One 2 ounce bottle	Chain of Custody
<b>Biodiesel B-95 to B-100</b>	<b>Investigative &amp; Biodiesel</b> (TCN number, if applicable, or City, State) Also select Biodiesel and indicate the biodiesel percent (select 637 registration, if applicable)	Sulfur, biodiesel (D6751 specifications)	Biodiesel report of analysis	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels)	Chain of custody and Form 14403 (include the type of 637 registration, if applicable)

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Renewable Fuel (R-100)</b>	<b>Investigative &amp; 637 Registration</b> (TCN number, if applicable, or City, State) Select 637 registration, if applicable	Sulfur, renewable (D975, D396 specifications)	Renewable report of analysis	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels)	Chain of custody and Form 14403 (include the type of 637 registration, if applicable)
<b>Any 637 registration sample other than biodiesel or renewable</b>	<b>Investigative</b> (TCN number, if applicable, or City, State)	All available applicable tests for the type of registration	Investigative report, any other reports as needed	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels)	Chain of custody and Form 14403 (include the type of registration)
<b>Suspicious fuel taken at any location for which more than dye and sulfur analysis is desired (may be dyed or undyed) or a fuel sample that does not fit in any category</b>	<b>Investigative</b> (TCN number, if applicable or City, State)	Everything possible depending on the reasons submitted	Investigative report, dye report of analysis, if applicable, sulfur report of analysis (if not ULS), any other reports, as needed	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels)	Chain of custody and Form 14403

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Fuels submitted for comparison or fingerprinting that are not part of a blitz (such as determination of possible sources of dyed fuel in propulsion tanks)</b>	<b>Investigative</b> (TCN number, if applicable or City, State)	Everything possible depending on the reasons submitted	Investigative report, dye report of analysis, if applicable, sulfur report of analysis (if not ULS), any other reports, as needed	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels)	Chain of custody and Form 14403
<b>Gasoline samples for octane measurements that are not part of a blitz</b>	<b>Investigative</b> (include TCN number, if applicable or City, State) Include expected octane and ethanol percent	Sulfur, Octane, Ethanol, Fingerprinting	Investigative report	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels using two IRS identification numbers))	Chain of custody and Form 14403 (include which samples are the same so the may be combined)

If your sample is a:	Then Type of Test on Form 9667 is:	Then, the tests performed are:	Then, the reports sent are:	Then, sample instructions are: <i>Note: All samples are to be obtained in a 2 ounce bottle. Sample volume must never exceed 1 ounce.</i>	Then, the paperwork needed is a:
<b>Any middle distillate fuel that is part of a blitz study</b>	<b>Blitz</b> (include TCN number, if applicable or City, State) Include Bio percent blending, if applicable. Include V or S if an end-user study	Sulfur, Fingerprinting, Dye (if colored), Biodiesel (if B6-B20)	Pendings, Abnormals, Sulfur report of analysis, Dye report of analysis, B6-B20 Biodiesel report (no reports sent for compliant samples)	One 2 ounce bottle	Chain of custody and a Blitz Data Sheet, as applicable (mark data sheets with the product it is supposed to be, not what it looks like)
<b>Any gasoline that is part of a Blitz study</b>	<b>Blitz</b> (include TCN number, if applicable, or City, State) Include expected octane and ethanol percent	Sulfur, Octane, Ethanol, Fingerprinting	Pendings, Abnormals, Sulfur report of analysis (if not compliant)	Eight 2 ounce bottles (using two Forms 9667. Sample Bottle Seals and Identification Labels using 2 IRS identification numbers)	Chain of custody and a Blitz Data Sheet, as applicable (include which samples are the same so they may be combined)

4.24.15.16  
(10-16-2014)  
**Chain of Custody  
Procedures**

- (1) Samples are evidence and must be documented by an unbroken chain-of-custody.
- (2) There are two chain-of-custody forms used by field personnel:
  - a. Form 13926, Chain of Custody Control Document
  - b. Form 13927, Chain of Custody and Shipping Record

4.24.15.16.1  
(10-16-2014)  
**Form 13926 - Chain of  
Custody Control  
Document**

- (1) When custody of a sample is relinquished to another party, Form 13926 is completed to record the sample number, the names of the parties involved, the date each party received the sample, and the date when custody was relinquished.
- (2) One control document should be used for **each** sample and the document should be updated to reflect each transfer of custody. Examples of when this form must be used are:
  - a. When a sample is transferred between fuel compliance employees.
  - b. When a sample is transferred from a state official to an FCO or FCA.
- (3) The properly completed form must include the:
  - a. Sample number.
  - b. Name of individual with custody of the sample.
  - c. Agency of the individual with custody of the sample.
  - d. Signature of the individual with custody of the sample.
  - e. Date the individual with custody of the sample received and relinquished control of the sample.
- (4) This form must be placed in the shipping box with the fuel samples to which it pertains.
- (5) In addition, Form 13927 must also be completed and accompany the relinquished samples.

4.24.15.16.2  
(10-16-2014)  
**Form 13927 - Chain of  
Custody and Shipping  
Record**

- (1) Form 13927 must be completed by Service employees for **every** box of samples relinquished to the shipping company and sent to the EFL. If the shipment contains greater than five samples, an additional Form 13927 will be completed and included in the shipping box.
- (2) The Service employee must manually complete this form.
- (3) The properly completed form must include the following:
  - a. The shipping company tracking number.
  - b. The name of the individual shipping the samples.
  - c. The position title and phone number of the individual shipping the samples.
  - d. The description of the sample (i.e., diesel, kerosene, dyed diesel).
  - e. The type (i.e., usage, concentration, biodiesel).
  - f. The signature of shipper, shipping company and date shipped.

**Note:** The Service employee is encouraged to affix the chain of custody section of the sample label, Form 9667 to Form 13927. When properly completed, this section will include the sample reference number, description of the sample, and type of test.

- (4) The information on the Form 13927 must match the information on the Form 9667 for the corresponding sample.
- (5) This form must be placed in the shipping box with the fuel samples to which it pertains.

4.24.15.17  
(04-22-2021)  
**Packing and Shipping  
Samples**

- (1) All samples must be secured following IRM 4.24.15.13 and labeled following IRM 4.24.15.15.
- (2) 49 CFR 173.4a and International Air Transport Association (IATA) regulations 2.6 cover the packing and shipping of excepted quantities of Hazard Class 3 liquids.
- (3) All taxable fuels, including gasoline, are Hazard Class 3 liquids and are eligible for shipping under 49 CFR 173.4a, as well as IATA 2.6.
- (4) The only documentation required on the outer box is the “excepted quantity” marking. The marking is pre-printed on the boxes provided.
- (5) Shipments under 49 CFR 173.4a and IATA 2.6 are accepted at shipping locations that ship dangerous goods.
- (6) Failure to follow procedures in 49 CFR 173.4a and IATA 2.6 may result in an unsafe shipping situation and may subject the Service employee to a fine.

4.24.15.17.1  
(04-22-2021)  
**Packing Instructions**

- (1) 49 CFR 173.4a and IATA 2.6 allow a maximum of 30 ml (approximately one fluid ounce) per “inner packaging.” An “inner packaging” is defined as one sample bottle.
- (2) The approved shipping box has two layers and can hold up 12 bottles per layer for a total of 24 bottles. Only “**approved**” shipping boxes should be used to ship the two ounce bottles.
- (3) The maximum number of sample bottles permitted in each box is dependent on the fuel product(s) to be shipped. Two or more products may be shipped in the same box but if jet fuel with a flash point less than 73 degrees, gasoline, undefined product, transmix or waste oil are shipped, no more than 15 total samples may be shipped in the box.
  - a. Diesel fuel and kerosene - maximum of 24 bottles.
  - b. Jet fuel with a flash point less than 73 degrees (Jet B, not typically used) - maximum of 15 bottles.
  - c. Jet fuel with a flash point greater than 73 degrees and less than 140 degrees (Jet A and Jet A-1) - maximum of 24 bottles.
  - d. Gasoline - maximum of 15 bottles.
  - e. Transmix - handle as gasoline with a maximum of 15 bottles. Transmix samples are only secured when directed by management, or as part of an examination.
  - f. Undefined product or waste oil - a maximum of 15 bottles.
- (4) Packing procedures:

- a. Construct an approved shipping box and tape the bottom.
- b. Construct the sample compartment divider for the bottom tier and place it into the plastic bag.
- c. Place the compartment divider and large plastic bag into the box.
- d. Ensure the outside of the sample bottle is clean, dry and labeled properly.
- e. The bottle should be sealed firmly with a cap, but do not over tighten, as that may cause the cap to crack. Check to ensure no leakage. Re-bottle and create new paperwork if the bottle is leaking. The Service employee must record all re-bottling actions taken in the IMS case file.
- f. Ensure the sample is listed on the chain of custody document(s) and wrap each two-ounce bottle with one piece of absorbent material.
- g. Insert the wrapped bottle into an individual plastic bag.
- h. Seal the individual sample bag (do not use tape to seal the bag).
- i. Place each sample into the box within one of the inner compartments in the bottom tier. Samples may only be placed in the inner compartments of the box.
- j. Place the flat cardboard tier divider on top of the bottom tier.  
**Note:** Only one flat cardboard tier divider is needed per shipping box and it should be placed between the bottom and top tiers.
- k. Construct the top level sample tier by placing the assembled sample compartment divider directly on top of the flat compartment divider. The bottom level sample tier, the tier divider, and the top level sample tier must all be in the shipping box, regardless of the number of samples in the box.
- l. Seal the large plastic bag with tape or a twist tie supplied with the shipping box.

4.24.15.17.2  
(04-22-2021)  
**Shipping Instructions**

- (1) All samples shall be shipped overnight using the current approved contract carrier and transportation mode.
- (2) All air bills must be completed electronically.
- (3) No Saturday or Sunday deliveries should be requested. Samples may be shipped on Friday, but do not indicate on the air bill for the package to be delivered during the weekend.

(4) Ship samples to:

IRS Excise Forensics Laboratory

2400 Stevens Drive

Richland, WA 99354

Attention: Tessa Oxford

Phone:(509) 371-6647

- (5) Samples must be shipped to the EFL within five business days of being taken. Extensions may be granted by the group manager, if warranted. The Service

employee will follow the agreement in the Memorandum of Understanding (MOU) between the IRS and the state agency for samples obtained by a state employee as part of an MOU.

- (6) Include in the box with the samples:
  - a. Form 13927 for all shipments.
  - b. Form 13926, if applicable. The Service employee must record the shipping company tracking number in the box entitled “air bill number” on the Form 13927.
  - c. See IRM 4.24.15.14.3 for more information on what should be included in the shipping box for Investigative samples.
  - d. See IRM 4.24.15.8.5 for more information on what should be included in the shipping box for Blitz samples.
- (7) Seal the shipping box with packaging tape.
- (8) The shipping box must contain the required excepted quantities marking in red or black. The marking must not be covered by any other labels or written on. The marking for excepted quantities is pre-printed on the box.
- (9) The identified shipping account should not be used for any purposes other than to ship fuel.
- (10) The shipping box must remain in the custody of the shipper until it is taken to a shipping company location that accepts dangerous goods. The box **must not** be left in the mail room, hotel front desk, or other location for pick-up. Failure to comply with these instructions will break the chain-of-custody.

Exhibit 4.24.15-1 (04-22-2021)

Blocked Pump Check Sheets

The following three check sheets must be completed to determine, if a blocked pump meets the regulatory requirements.

Data Fields	BLOCKED PUMP CHECK SHEET
Taxpayer:	
EIN:	
Registration Number:	
City:	
State and Zip Code:	
Contact Name and Title	
Phone:	
Date of Inspection:	
Person conducting the inspection:	
Pass/Fail:	

<i>Treas. Reg. 48.6427-10; Kerosene; claims by registered ultimate vendors (blocked pumps) for a Blocked Pump</i>	A physical inspection of the Blocked Pump must be conducted and the criteria below addressed to make a determination.
Is it used to dispense undyed kerosene that is sold at retail for use by the buyer in any nontaxable use?	YES or NO
Is it at a fixed location?	YES or NO
Is it identified with a legible and conspicuous notice stating: "Undyed Untaxed Kerosene, Nontaxable Use Only"?	YES or NO
Is it true it cannot reasonably be used to dispense fuel directly into the fuel supply tank of a diesel powered highway vehicle? <b>OR</b>	YES or NO
Is it locked by the vendor after each sale and unlocked by the vendor only at the request of a buyer for use other than as a fuel in a diesel powered highway vehicle?	YES or NO

Reason for Blocked Pump Failure	Comments

