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§ 80.510(h) and (j), there is no uniform downstream sulfur standard until the downstream dates identified in paragraphs (b)(3) through (b)(8) of this section.

(2) Except as provided in paragraphs (b)(5) and (b)(8) of this section, beginning December 1, 2010, all NRLM diesel fuel must comply with the cetane index or aromatics standard of § 80.510.

(3) Except as provided in paragraphs (b)(5) through (b)(8) of this section, the per-gallon sulfur standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2010 for all locations.

(4) Except as provided in paragraphs (b)(5) through (8) of this section, the per-gallon sulfur standard of § 80.510(c) shall apply to all NRLM diesel fuel beginning August 1, 2014, for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2014 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2014, for all locations.

(5) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard and the cetane index or aromatics standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2007 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2007 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2007 for all locations.

(6) For all NR diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(b) shall apply to all NR diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply

to all NR diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NR diesel fuel beginning December 1, 2010 for all locations.

(7) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(c) shall apply to all NRLM diesel fuel beginning August 1, 2012 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2012 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2012 for all locations.

(8) The provisions of paragraphs (b)(5) through (b)(7) of this section shall apply for all NRLM or NR diesel fuel that is sold or intended for sale in the area listed in § 80.510(g)(2), except for NRLM or NR diesel fuel that is produced in accordance with a compliance plan approved under § 80.554.

(9) The per-gallon sulfur standard of § 80.510(k) shall apply to all ECA marine fuel beginning August 1, 2014, for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all ECA marine fuel beginning October 1, 2014, for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all ECA marine fuel beginning December 1, 2014, for all locations.

(10) For the purposes of this section, distributors that have their own fuel storage tanks and deliver only to ultimate consumers shall be treated the same as retailers and their facilities treated the same as retail outlets.

[69 FR 39169, June 29, 2004, as amended at 75 FR 22969, Apr. 30, 2010]

§ 80.512 May an importer treat diesel fuel as blendstock?

An importer may exclude diesel fuel that it imports from the requirements under this subpart, and instead may designate such diesel fuel as diesel fuel treated as blendstock (DTAB), if all the following conditions are met:

(a) The DTAB must be included in all applicable designation, credit and compliance calculations for diesel fuel for a

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refinery operated by the same entity that is the importer. That entity must meet all refiner standards and requirements.

(b) The importer entity may not transfer title of the DTAB to another entity until the DTAB has been used to produce diesel fuel and all refiner standards and requirements have been met for the diesel fuel produced.

(c) The refinery at which the DTAB is used to produce diesel fuel must be physically located at either the same terminal at which the DTAB first arrives in the U.S., the import facility, or at a facility to which the DTAB is directly transported from the import facility.

(d) The DTAB must be completely segregated from any other diesel fuel, including any diesel fuel tank bottoms, prior to the point of blending, sampling and testing in the importer entity's refinery operation. The DTAB may, however, be added to a diesel fuel blending tank where the diesel fuel tank bottom is not included as part of the batch volume for a prior batch. In addition, the DTAB may be placed into a storage tank that contains other DTAB imported by that importer. The DTAB also may be discharged into a tank containing finished diesel fuel of the same category as the diesel fuel which will be produced using the DTAB (for example, 15 ppm sulfur undyed or 15 ppm sulfur dyed diesel fuel) provided the blending process is performed in that same tank.

(e) The entity must account for the volume of diesel fuel produced using DTAB in a manner that excludes the volume of any previously designated diesel fuel. The diesel fuel tank bottom may not be included in the company's refinery compliance calculations for that batch of diesel fuel if the fuel in that tank bottom has been previously designated by a refiner or importer. This exclusion of previously designated diesel fuel must be accomplished using the following approach:

(1) Determine the volume of any tank bottom that is previously designated diesel fuel before any diesel fuel production begins.

(2) Add the DTAB plus any blendstock to the storage tank, and completely mix the tank.

(3) Determine the volume and sulfur content of the diesel fuel contained in the storage tank after blending is complete. Mathematically subtract the volume of the tank bottom to determine the volume of the DTAB plus blendstock added, and subsequently transferred to another facility. Such fuel is reported to EPA as a batch of diesel fuel under §§ 80.593, 80.601, and 80.604.

(4) If previously designated motor vehicle diesel fuel having a sulfur content of 15 ppm or less is blended with DTAB, and the combined product after blending has a sulfur content that exceeds 15 ppm, the importer entity, in its capacity as a refiner, must redesignate all the diesel fuel as 500 ppm sulfur motor vehicle diesel fuel for purposes of the temporary compliance option under § 80.530, or other permissible redesignation under § 80.598. If #2D 15 ppm sulfur motor vehicle diesel fuel is redesignated as #2D 500 ppm sulfur motor vehicle diesel fuel, such entity must apply the volume of previously designated 15 ppm sulfur diesel fuel, for purposes of its operations as a distributor, to its downgrading limitation under § 80.527, if applicable, and for volume balancing purposes under § 80.599.

(5) As an alternative to paragraphs (e)(1) through (e)(4) of this section, where an importer has a blending tank that is used only to combine DTAB and blending components, and no previously designated diesel fuel is added to the tank, the importer entity, in its capacity as a refiner, may account for the diesel fuel produced in such a blending tank by sampling and testing for the sulfur content of the batch after DTAB and blendstock are added and mixed, and reporting the volume of diesel fuel transferred from that tank to a different facility, up to the point where a new blend is produced by adding new DTAB and blendstock.

(f) The importer must include the volume and sulfur content of each batch of DTAB in the annual importer reports to EPA, as prescribed under §§ 80.593, 80.601, and 80.604, but with a notation that the batch is not included in the importer compliance calculations because the product is DTAB. Any DTAB that ultimately is not used in the importer's refinery operation

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(for example, a tank bottom of DTAB at the conclusion of the refinery operation), must be treated as newly imported diesel fuel, for which all required sampling and testing, and recordkeeping must be accomplished, and included in the importer's compliance calculations for the averaging period when this sampling and testing occurs.

(g) The importer must retain records that reflect the importation, sampling and testing, and physical movement of any DTAB, and must make these records available to EPA on request.

[69 FR 39170, June 29, 2004]

§ 80.513 What provisions apply to transmix processing facilities?

For purposes of this section, transmix means a mixture of finished fuels that no longer meets the specifications for a fuel that can be used or sold without further processing. This section applies to refineries that produce diesel fuel from transmix by distillation or other refining processes but do not produce diesel fuel by processing crude oil. This section only applies to the volume of diesel fuel produced by such a transmix processor using these processes, and does not apply to any diesel fuel produced by the blending of blendstocks.

(a) From June 1, 2006 through May 31, 2010, motor vehicle diesel fuel produced by a transmix processor is subject to the 500 ppm sulfur standard under § 80.520(c).

(b) Beginning June 1, 2010, motor vehicle diesel fuel produced by a transmix processor is subject to the sulfur standard under § 80.520(a)(1).

(c) From June 1, 2007 through May 31, 2010, NRLM diesel fuel produced by a transmix processor is exempt from the standards of § 80.510(a). This paragraph (c) does not apply to NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1) or (g)(2).

(d) From June 1, 2010 through May 31, 2014, NRLM diesel fuel produced by a transmix processor is subject to the standards under § 80.510(a). This paragraph (d) does not apply to NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1) or (g)(2).

(e) From June 1, 2014 and beyond, NRLM diesel fuel produced by a

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transmix processor is subject to the standards of § 80.510(c).

[69 FR 39171, June 29, 2004, as amended at 75 FR 22969, Apr. 30, 2010]

§§ 80.514–80.519 [Reserved]

MOTOR VEHICLE DIESEL FUEL STANDARDS AND REQUIREMENTS

§ 80.520 What are the standards and dye requirements for motor vehicle diesel fuel?

(a) *Standards.* All motor vehicle diesel fuel is subject to the following per-gallon standards:

(1) *Sulfur content.* 15 parts per million (ppm) maximum, except as provided in paragraph (c) of this section;

(2) *Cetane index and aromatic content.*
(i) A minimum cetane index of 40; or
(ii) A maximum aromatic content of 35 volume percent.

(b) *Dye requirements.* (1) All motor vehicle diesel fuel shall be free of visible evidence of dye solvent red 164 (which has a characteristic red color in diesel fuel), except for motor vehicle diesel fuel that is used in a manner that is tax exempt under section 4082 of the Internal Revenue Code. All motor vehicle diesel fuel shall be free of yellow solvent 124.

(2) Until June 1, 2010, any #1D or #2D distillate, or NP diesel fuel that does not show visible evidence of dye solvent red 164 shall be considered to be motor vehicle diesel fuel and subject to all the requirements of this subpart for motor vehicle diesel fuel, except for distillate fuel designated or classified as any of the following:

(i) For use only in the State of Alaska, as provided under 40 CFR 69.51.

(ii) For use under a national security exemption under § 80.606 or for use only in a research and development testing program exempted under § 80.607.

(iii) For use in the U.S. Territories as provided under § 80.608.

(iv) Jet fuel meeting the definition under § 80.2.

(v) Kerosene meeting the definition under § 80.2.

(vi) Diesel fuel that is produced beginning June 1, 2006, with a sulfur level less than or equal to 500 ppm, and designated as NRLM or LM that has not