

§ 80.581 What are the batch testing and sample retention requirements for motor vehicle diesel fuel, NRLM diesel fuel, and ECA marine fuel?

(a) Beginning on June 1, 2006 (or earlier pursuant to § 80.531), for motor vehicle diesel fuel, and beginning June 1, 2010 (or earlier pursuant to § 80.535), for NRLM diesel fuel, and beginning June 1, 2014, for ECA marine fuel, each refiner and importer shall collect a representative sample from each batch of motor vehicle or NRLM diesel fuel produced or imported and subject to the 15 ppm sulfur content standard, or ECA marine fuel subject to the 1,000 ppm sulfur content standard. Batch, for the purposes of this section, means batch as defined under § 80.2 but without the reference to transfer of custody from one facility to another facility.

(b) Except as provided in paragraph (c) of this section, the refiner or importer shall test each sample collected pursuant to paragraph (a) of this section to determine its sulfur content for compliance with the requirements of this subpart prior to the diesel fuel leaving the refinery or import facility, using an appropriate sampling and testing method as specified in § 80.580.

(c)(1) Any refiner who produces motor vehicle, NRLM diesel fuel, or ECA marine fuel using computer-controlled in-line blending equipment, including the use of an on-line analyzer test method that is approved under the provisions of § 80.580, and who, subsequent to the production of the diesel fuel batch tests a composited sample of the batch under the provisions of § 80.580 for purposes of designation and reporting, is exempt from the requirement of paragraph (b) of this section to obtain the test result required under this section prior to the diesel fuel leaving the refinery, provided that the refiner obtains approval from EPA. The requirement of this paragraph (c)(1) that the in-line blending equipment must include an on-line analyzer test method that is approved under the provisions of § 80.580 is effective beginning June 1, 2006.

(2) To obtain an exemption from paragraph (b) of this section, the refiner must submit to EPA all the information required under § 80.65(f)(4)(i)(A). A letter signed by the president, chief

operating or chief executive officer of the company, or his/her designee, stating that the information contained in the submission is true to the best of his/her belief must accompany any submission under this paragraph (c)(2).

(3) Refiners who seek an exemption under paragraph (c)(2) of this section must comply with any request by EPA for additional information or any other requirements that EPA includes as part of the exemption.

(4) Within 60 days of EPA's receipt of a submission under paragraph (c)(2) of this section, EPA will notify the refiner if the exemption is not approved or of any deficiencies in the refiner's submission, or if any additional information is required or other requirements are included in the exemption pursuant to paragraph (c)(3) of this section. In the absence of such notification from EPA, the effective date of an exemption under this paragraph (c) is 60 days from EPA's receipt of the refiner's submission.

(5) EPA reserves the right to modify the requirements of an exemption under this paragraph (c), in whole or in part, at any time, if EPA determines that the refiner's operation does not effectively or adequately control, monitor or document the sulfur content of the refinery's diesel fuel production, or if EPA determines that any other circumstances exist which merit modification of the requirements of an exemption, such as advancements in the state of the art for in-line blending measurement which allow for additional control or more accurate monitoring or documentation of sulfur content. If EPA finds that a refiner provided false or inaccurate information in any submission required for an exemption under this section, upon notification from EPA, the refiner's exemption will be void *ab initio*.

(d) All test results under this section shall be retained for five years and must be provided to EPA upon request.

(e) Samples collected under this section must be retained for at least 30 days and provided to EPA upon request.

[69 FR 39184, June 29, 2004, as amended at 71 FR 25719, May 1, 2006; 75 FR 22971, Apr. 30, 2010]