

Environmental Protection Agency

§ 80.607

(1) On forms and following procedures specified by the Administrator of EPA;

(2) Signed and certified as meeting all the applicable requirements of this subpart by the owner or a responsible corporate officer of the refiner or importer; and

(3) Except for small refiners subject to § 80.554(d), submitted to EPA no later than August 31 each year for the prior annual compliance period. Small refiners subject to the provisions of § 80.554(d), reports must be submitted August 31 for the previous reporting period.

(4) With the exception of reports required under paragraph (b)(3) of this section, no reports will be required under this section after August 31, 2014.

[69 FR 39200, June 29, 2004, as amended at 70 FR 40899, July 15, 2005]

EXEMPTIONS

§ 80.605 [Reserved]

§ 80.606 What national security exemption applies to fuels covered under this subpart?

(a) The standards of all the fuels listed in paragraph (b) of this section do not apply to fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in any of the following:

(1) Tactical military motor vehicles or tactical military nonroad engines, vehicles or equipment, including locomotive and marine, having an EPA national security exemption from the motor vehicle emission standards under 40 CFR 85.1708, or from the nonroad engine emission standards under 40 CFR part 89, 92, 94, 1042, or 1068.

(2) Tactical military motor vehicles or tactical military nonroad engines, vehicles or equipment, including locomotive and marine, that are not subject to a national security exemption from vehicle or engine emissions standards as described in paragraph (a)(1) of this section but, for national security purposes (for purposes of readiness for deployment overseas), need to be fueled on the same fuel as the vehicles, engines, or equipment for which EPA has

granted such a national security exemption.

(b) The exempt fuel must meet any of the following:

(1) The motor vehicle diesel fuel standards of § 80.520(a)(1), (a)(2), and (c).

(2) The nonroad, locomotive, and marine diesel fuel standards of § 80.510(a), (b), and (c).

(3) The 1,000 ppm ECA marine fuel standards of § 80.510(k).

(c) The exempt fuel must meet all the following conditions:

(1) It must be accompanied by product transfer documents as required under § 80.590.

(2) It must be segregated from non-exempt MVNRLM diesel fuel and ECA marine fuel at all points in the distribution system.

(3) It must be dispensed from a fuel pump stand, fueling truck or tank that is labeled with the appropriate designation of the fuel, such as “JP-5” or “JP-8”.

(4) It may not be used in any motor vehicles or nonroad engines, equipment or vehicles, including locomotive and marine, other than the vehicles, engines, and equipment referred to in paragraph (a) of this section.

[69 FR 39201, June 29, 2004, as amended at 75 FR 22975, Apr. 30, 2010]

§ 80.607 What are the requirements for obtaining an exemption for diesel fuel or ECA marine fuel used for research, development or testing purposes?

(a) *Written request for a research and development exemption.* Any person may receive an exemption from the provisions of this subpart for diesel fuel or ECA marine fuel used for research, development, or testing purposes by submitting the information listed in paragraph (c) of this section to: Director, Transportation and Regional Programs Division (6406J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (postal mail); or Director, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 1310 L Street, NW., 6th floor, Washington, DC 20005 (express mail/courier); and Director, Air Enforcement Division (2242A), U.S. Environmental Protection Agency, Ariel Rios

Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) *Criteria for a research and development exemption.* For a research and development exemption to be granted, the person requesting an exemption must—

(1) Demonstrate a purpose that constitutes an appropriate basis for exemption;

(2) Demonstrate that an exemption is necessary;

(3) Design a research and development program to be reasonable in scope; and

(4) Exercise a degree of control consistent with the purpose of the program and EPA's monitoring requirements.

(c) *Information required to be submitted.* To demonstrate each of the elements in paragraphs (b)(1) through (4) of this section, the person requesting an exemption must include the following information in the written request required under paragraph (a) of this section:

(1) A concise statement of the purpose of the program demonstrating that the program has an appropriate research and development purpose.

(2) An explanation of why the stated purpose of the program cannot be achieved in a practicable manner without performing one or more of the prohibited acts under this subpart.

(3) To demonstrate the reasonableness of the scope of the program:

(i) An estimate of the program's duration in time and, if appropriate, mileage;

(ii) An estimate of the maximum number of vehicles or engines involved in the program;

(iii) The manner in which the information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request; and

(iv) The quantity of fuel which does not comply with the requirements of §§ 80.520 and 80.521 for motor vehicle diesel fuel, or § 80.510 for NRLM diesel fuel or ECA marine fuel.

(4) With regard to control, a demonstration that the program affords EPA a monitoring capability, including all the following:

(i) The site(s) of the program (including facility name, street address, city, county, State, and zip code).

(ii) The manner in which information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request.

(iii) The manner in which information on the fuel used in the program (including quantity, fuel properties, name, address, telephone number and contact person of the supplier, and the date received from the supplier), will be recorded and made available to the Administrator upon request.

(iv) The manner in which the party will ensure that the research and development fuel will be segregated from motor vehicle diesel fuel, NRLM diesel fuel, or ECA marine fuel, as applicable, and how fuel pumps will be labeled to ensure proper use of the research and development fuel.

(v) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the application may be obtained.

(vi) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who is responsible for recording and making available the information specified in this paragraph (c), and the location where such information will be maintained.

(d) *Additional requirements.* (1) The product transfer documents associated with research and development motor vehicle diesel fuel must comply with requirements of § 80.590(b)(3).

(2) The research and development fuel must be designated by the refiner or supplier, as applicable, as research and development fuel.

(3) The research and development fuel must be kept segregated from non-exempt MVNRLM diesel fuel and ECA marine fuel at all points in the distribution system.

(4) The research and development fuel must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a fuel retail outlet, or by a wholesale purchaser-consumer facility, unless the wholesale purchaser-consumer facility

is associated with the research and development program that uses the fuel.

(5) At the completion of the program, any emission control systems or elements of design which are damaged or rendered inoperative shall be replaced on vehicles remaining in service, or the responsible person will be liable for a violation of the Clean Air Act section 203(a)(3) (42 U.S.C. 7522 (a)(3)) unless sufficient evidence is supplied that the emission controls or elements of design were not damaged.

(e) *Mechanism for granting of an exemption.* A request for a research and development exemption will be deemed approved by the earlier of 60 days from the date on which EPA receives the request for exemption, (provided that EPA has not notified the applicant of potential disapproval by that time), or the date on which the applicant receives a written approval letter from EPA.

(1) The volume of fuel subject to the approval shall not exceed the estimated amount under paragraph (c)(3)(iv) of this section, unless EPA grants a greater amount in writing.

(2) Any exemption granted under this section will expire at the completion of the test program or three years from the date of approval, whichever occurs first, and may only be extended upon re-application consistent with all requirements of this section.

(3) The passage of 60 days will not signify the acceptance by EPA of the validity of the information in the request for an exemption. EPA may elect at any time to review the information contained in the request, and where appropriate may notify the responsible person of disapproval of the exemption.

(4) In granting an exemption the Administrator may include terms and conditions, including replacement of emission control devices or elements of design, that the Administrator determines are necessary for monitoring the exemption and for assuring that the purposes of this subpart are met.

(5) Any violation of a term or condition of the exemption, or of any requirement of this section, will cause the exemption to be void *ab initio*.

(6) If any information required under paragraph (c) of this section should change after approval of the exemp-

tion, the responsible person must notify EPA in writing immediately. Failure to do so may result in disapproval of the exemption or may make it void *ab initio*, and may make the party liable for a violation of this subpart.

(f) *Effects of exemption.* Motor vehicle diesel fuel, NRLM diesel fuel, or ECA marine fuel that is subject to a research and development exemption under this section is exempt from other provisions of this subpart provided that the fuel is used in a manner that complies with the purpose of the program under paragraph (c) of this section and the requirements of this section.

(g) *Notification of completion.* The party shall notify EPA in writing within 30 days after completion of the research and development program.

[69 FR 39202, June 29, 2004, as amended at 75 FR 22976, Apr. 30, 2010]

§ 80.608 What requirements apply to diesel fuel and ECA marine fuel for use in the Territories?

The sulfur standards of § 80.520(a)(1) and (c) related to motor vehicle diesel fuel, of § 80.510(a), (b), and (c) related to NRLM diesel fuel, and of § 80.510(k) related to ECA marine fuel, do not apply to fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in the Territories of Guam, American Samoa or the Commonwealth of the Northern Mariana Islands, provided that such diesel fuel is all the following:

(a) Designated by the refiner or importer as high sulfur diesel fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(b) Used only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(c) Accompanied by documentation that complies with the product transfer document requirements of § 80.590(b)(1).

(d) Segregated from non-exempt MVNRLM diesel fuel and/or non-exempt ECA marine fuel at all points in the distribution system from the point the fuel is designated as exempt fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, while the