Environmental Protection Agency

§ 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.
§ 80.610 What acts are prohibited under the diesel fuel sulfur program?

No person shall—

(a) Standard, dye, marker or product violation. (1) Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel fuel, NRLM diesel fuel, ECA marine fuel or heating oil that does not comply with the applicable standards, dye, marking or any other product requirements under this subpart I and 40 CFR part 69, except as allowed by 40 CFR part 1043 for ECA marine fuel.

(2) Beginning June 1, 2007, produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport any diesel fuel for use in motor vehicle or nonroad engines that contains greater than 0.10 milligrams per liter of solvent yellow 124, except for 500 ppm sulfur diesel fuel sold, offered for sale, dispensed, supplied, offered for supply, stored, or transported for use in LM.

(3) Beginning June 1, 2007, produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport heating oil for use in any nonroad diesel engine, including any locomotive or marine diesel engine.

(b) Designation and volume balance violation. Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel fuel, NRLM diesel fuel, ECA marine fuel, heating oil or other fuel that does not comply with the applicable designation or volume balance requirements under §§80.598 and 80.599.

(c) Additive violation. (1) Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport heating oil that contains greater than 0.01 milligrams per liter of solvent yellow 124, except for 500 ppm sulfur diesel fuel sold, offered for sale, dispensed, supplied, offered for supply, stored, or transported for use in LM.

(2) Beginning June 1, 2010, produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport heating oil for use in any nonroad diesel engine, including any locomotive or marine diesel engine.