is under review by the Under Secretary. The director will provide the individual who made the request written notice of the Under Secretary’s decision.

[Authority: 38 U.S.C. 501]
[FR Doc. 2010–11170 Filed 5–10–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FR Doc. 2010–11170 Filed 5–10–10; 8:45 am]

EPA is issuing a proposed rule to amend the diesel sulfur regulations to allow refiners, importers, distributors, and retailers of highway diesel fuel the option to use an alternative affirmative defense if the Agency finds highway diesel fuel samples above the specified sulfur standard at retail facilities. This rule also proposes to amend the gasoline benzene regulations to allow disqualified small refiners the same opportunity to generate gasoline benzene credits as that afforded to non-small refiners.

We have also published a direct final rule to make these same amendments in the “Rules and Regulations” section of this Federal Register because we view this as a non-controversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If EPA receives adverse comment on a distinct provision of this rulemaking, we will publish a timely withdrawal in the Federal Register indicating which provisions of the direct final rule we are withdrawing. The provisions that are not withdrawn will go into effect on the effective date noted in the DATES section of the direct final rule, notwithstanding adverse comment on any other provision. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on the action. Any parties interested in commenting must do so at this time.

The regulatory text for the proposal is identical to that for the direct final rule and is published in the “Rules and Regulations” section of this Federal Register.

II. Does this action apply to me?

Entities potentially affected by this action include those involved with the production, importation, distribution, marketing, or retailing of diesel fuel and production of gasoline. Categories and entities affected by this action include:

<table>
<thead>
<tr>
<th>Category</th>
<th>NAICS Codes a</th>
<th>SIC Codes b</th>
<th>Examples of potentially regulated entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industry</td>
<td>3241110</td>
<td>2911</td>
<td>Petroleum Refiners.</td>
</tr>
<tr>
<td>Industry</td>
<td>422710</td>
<td>5171</td>
<td>Diesel Fuel Marketers and Distributors.</td>
</tr>
<tr>
<td>Industry</td>
<td>484220</td>
<td>4212</td>
<td>Diesel Fuel Carriers.</td>
</tr>
</tbody>
</table>

a North American Industry Classification System (NAICS).
b Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action; however, other types of entities not listed in the table could also be affected. To determine whether your entity is affected by this action, you should examine the applicability criteria of Parts 79 and 80 of title 40 of the Code of Federal Regulations. If you have any questions regarding applicability of this action to a particular entity, consult the person in the preceding FOR FURTHER INFORMATION CONTACT section.
III. Statutory and Executive Order
Reviews

For a complete discussion of all the administrative requirements applicable to this action, see Section IV in the direct final rule amending the diesel sulfur regulations and gasoline benzene regulations in the “Rules and Regulations” section of this Federal Register. The following discussion is related to the information collection requirements under the Paperwork Reduction Act.

The modifications to the diesel sulfur information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The information collection requirements are not enforceable until OMB approves them.

This proposed rule provides refiners, importers and distributors of ULSD highway diesel fuel with additional flexibility to comply with the diesel sulfur regulations. The flexibility afforded under this rule is optional. Modest information collection requirements in the form of reports for noncompliant diesel sulfur samples are required for those parties who avail themselves of the flexibility provided in this rule.

The estimated hourly burden per respondent for the diesel surveys is 16 hours. The estimated annual hourly burden is 320 hours for all respondents (assuming 20 respondents per year). The estimated hourly cost is $71 per hour. The total estimated cost per respondent is $1,136. The total estimated cost for all respondents is $22,270.

The information under this rule will be collected by EPA’s Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA’s Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with the requirements under the diesel sulfur program. This oversight by EPA is necessary to ensure attainment of the air quality goals of the diesel sulfur program.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the Federal Register to display the OMB control number for the approved information collection requirements contained in this direct final rule.

Today’s rule also amends the gasoline benzene regulations to allow disqualified small refiners the same opportunity to generate gasoline benzene credits as that afforded to non-small refiners. The amendment to the gasoline benzene regulations does not impose any new information collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing gasoline benzene regulations at 40 CFR part 80, subpart L, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060–0277. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

IV. Statutory Provisions and Legal Authority

Statutory authority for the fuel controls set in this proposed rule comes from sections 211 and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Diesel, Gasoline, Imports, Incorporation by reference, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.


Lisa P. Jackson,
Administrator.

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