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compliance dates under §80.510(a), (b), and (c) as applicable.

(1) If EPA finds that a refiner provided false or inaccurate information on its application for hardship relief, EPA's approval of the refiners application will be void *ab initio*.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39181, June 29, 2004]

§80.561 How can a refiner or importer seek temporary relief from the requirements of this subpart in case of extreme unforeseen circumstances?

In appropriate extreme, unusual, and unforeseen circumstances (for example, natural disaster or refinery fire) which are clearly outside the control of the refiner or importer and which could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refiner or importer, for a brief period, to distribute motor vehicle diesel fuel or NRLM diesel fuel which does not meet the requirements of this subpart if:

(a) It is in the public interest to do so (e.g., distribution of the nonconforming diesel fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for);

(b) The refiner or importer exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(c) The refiner or importer can show how the requirements for motor vehicle diesel fuel or NRLM diesel fuel will be expeditiously achieved;

(d) The refiner or importer agrees to make up any air quality detriment associated with the nonconforming motor vehicle diesel fuel or NRLM diesel fuel, where practicable;

(e) The refiner or importer pays to the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount expended pursuant to paragraph (d) of this section, in making up the air quality detriment; and

(f)(1) In the case of motor vehicle diesel fuel distributed under this section that does not meet the 15 ppm sulfur standard under §80.520(a)(1), such diesel fuel shall not be distributed for use in model year 2007 or later motor vehi-

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cles, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under §80.520(c), or to diesel fuel that is not motor vehicle diesel fuel, as applicable.

(2) In the case of NRLM diesel fuel distributed under this section from June 1, 2007 through May 31, 2010 that does not meet the 500 ppm sulfur standard under §80.510(a), such diesel fuel must meet the requirements and prohibitions applicable to high sulfur NRLM credit fuel under §80.536(f)(1)(i) and (ii).

(3) In the case of NR diesel fuel distributed under this section after May 31, 2010 that does not meet the 15 ppm sulfur standard under §80.510(b), such diesel fuel shall not be distributed for use in model year 2011 or later nonroad engines, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under §80.510(a) for NRLM diesel fuel.

(4) In the case of NRLM diesel fuel distributed under this section after May 31, 2012 that does not meet the 15 ppm sulfur standard under §80.510(c), such diesel fuel shall not be distributed for use in model year 2011 or later nonroad engines, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under §80.510(a) for NRLM diesel fuel.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39181, June 29, 2004; 75 FR 22970, Apr. 30, 2010]

§§ 80.562-80.569 [Reserved]

LABELING REQUIREMENTS

§80.570 What labeling requirements apply to retailers and wholesale purchaser-consumers of diesel fuel beginning June 1, 2006?

(a) From June 1, 2006 through November 30, 2010, any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, motor vehicle diesel fuel subject to the 15 ppm sulfur standard of §80.520(a)(1), must affix the following conspicuous and legible label, in block letters of no less than 24-point bold type, and printed in a color contrasting with the background, to each pump stand:

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ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2007 and later highway diesel vehicles and engines.

Recommended for use in all diesel vehicles and engines.

(b) From June 1, 2006, through November 30, 2010, any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, motor vehicle diesel fuel subject to the 500 ppm sulfur standard of §80.520(c), must prominently and conspicuously display in the immediate area of each pump stand from which motor vehicle fuel subject to the 500 ppm sulfur standard is offered for sale or dispensing, the following legible label, in block letters of no less than 24-point bold type, printed in a color contrasting with the background:

LOW SULFUR HIGHWAY DIESEL FUEL (500 ppm Sulfur Maximum)

WARNING

Federal law prohibits use in model year 2007 and later highway vehicles and engines.

Its use may damage these vehicles and engines.

(c) From June 1, 2006 through May 31, 2007, any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, diesel fuel for non-motor vehicle equipment that does not meet the standards for motor vehicle diesel fuel, must affix the following conspicuous and legible label, in block letters of no less than 24-point bold type, and printed in a color contrasting with the background, to each pump stand:

NON-HIGHWAY DIESEL FUEL (MAY EXCEED 500 PPM SULFUR)

WARNING

Federal law *prohibits* use in highway vehicles or engines.

Its use may damage these vehicles and engines.

(d) The labels required by paragraphs (a) through (c) of this section must be placed on the vertical surface of each pump housing and on each side that has gallon and price meters. The labels

shall be on the upper two-thirds of the pump, in a location where they are clearly visible.

(e) Alternative labels to those specified in paragraphs (a) through (c) of this section may be used as approved by EPA.

[69 FR 39182, June 29, 2004, as amended at 71 FR 25718, May 1, 2006; 75 FR 22970, Apr. 30, 2010]

§80.571 What labeling requirements apply to retailers and wholesale purchaser-consumers of NRLM diesel fuel or heating oil beginning June 1, 2007?

Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing nonroad, locomotive or marine (NRLM) diesel fuel (including nonroad (NR) and locomotive or marine (LM)), or heating oil, must prominently and conspicuously display in the immediate area of each pump stand from which non-highway diesel fuel is offered for sale or dispensing, one of the following legible labels, as applicable, in block letters of no less than 24-point bold type, printed in a color contrasting with the background:

(a) From June 1, 2007 through May 31, 2010, for pumps dispensing NRLM diesel fuel meeting the 15 ppm sulfur standard of §80.510(b):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 PPM SULFUR MAXIMUM)

Required for use in all model year 2011 and newer nonroad diesel engines.

Recommended for use in all nonroad, locomotive, and marine diesel engines.

WARNING

Federal Law *prohibits* use in highway vehicles or engines.

(b) From June 1, 2007, through September 30, 2010, for pumps dispensing NRLM diesel fuel meeting the 500 ppm sulfur standard of §80.510(a):

LOW SULFUR NON-HIGHWAY DIESEL FUEL (500 ppm Sulfur Maximum)

WARNING

Federal Law *prohibits* use in highway vehicles or engines.

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(c) From June 1, 2007 through September 30, 2010, for pumps dispensing NRLM diesel fuel not meeting, or not offered as meeting, the 500 ppm sulfur standard of § 80.510(a) or the 15 ppm sulfur standard of § 80.510(b):

HIGH SULFUR NON-HIGHWAY DIESEL FUEL (MAY EXCEED 500 PPM SULFUR)

WARNING

Federal law prohibits use in highway vehicles or engines.

May damage nonroad diesel engines required to use low-sulfur or ultra-low sulfur diesel fuel.

(d) From June 1, 2007, and beyond, for pumps dispensing non-motor vehicle diesel fuel for use other than in nonroad, locomotive, or marine engines, such as for use as heating oil:

HEATING OIL (May Exceed 500 ppm Sulfur)

WARNING

Federal law prohibits use in highway vehicles or engines, or in nonroad, locomotive, or marine diesel engines.

Its use may damage these diesel engines.

(e) The labels required by paragraphs (a) through (d) of this section must be placed on the vertical surface of each pump housing and on each side that has gallon and price meters. The labels shall be on the upper two-thirds of the pump, in a location where they are clearly visible.

(f) Alternative labels to those specified in paragraphs (a) through (d) of this section may be used as approved by EPA.

[69 FR 39182, June 29, 2004, as amended at 71 FR 25718, May 1, 2006; 75 FR 22970, Apr. 30, 2010]

§ 80.572 What labeling requirements apply to retailers and wholesale purchaser-consumers of Motor Vehicle, NR, LM and NRLM diesel fuel and heating oil beginning June 1, 2010?

Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing nonroad, locomotive or marine (NRLM) diesel fuel (including nonroad (NR) and locomotive or marine (LM)), or heating oil, must prominently and conspicuously

display in the immediate area of each pump stand from which non-highway diesel fuel is offered for sale or dispensing, one of the following legible labels, as applicable, in block letters of no less than 24-point bold type, printed in a color contrasting with the background:

(a) From June 1, 2010, through September 31, 2014, any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, motor vehicle diesel fuel subject to the 15 ppm sulfur standard of § 80.520(a)(1), must affix the following conspicuous and legible label, in block letters of no less than 24-point bold type, and printed in a color contrasting with the background, to each pump stand:

ULTRA-LOW SULFUR HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all highway diesel vehicles and engines.

Recommended for use in all diesel vehicles and engines.

(b) From June 1, 2010, through September 30, 2012, for pumps dispensing NR diesel fuel subject to the 15 ppm sulfur standard of § 80.510(b):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and later nonroad diesel engines.

Recommended for use in all other non-highway diesel engines.

WARNING

Federal law prohibits use in highway vehicles or engines.

(c) From June 1, 2010 through September 30, 2014, for pumps dispensing NRLM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a):

LOW SULFUR NON-HIGHWAY DIESEL FUEL (500 PPM SULFUR MAXIMUM)

WARNING

Federal law prohibits use in all model year 2011 and newer nonroad engines.

May damage model year 2011 and newer nonroad engines.

Federal law prohibits use in highway vehicles or engines.

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(d) From June 1, 2010 through September 30, 2012 and from February 25, 2013 and thereafter, for pumps dispensing LM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a):

LOW SULFUR LOCOMOTIVE AND MARINE DIESEL FUEL (500 PPM SULFUR MAXIMUM)

WARNING

Federal law prohibits use in nonroad engines or in highway vehicles or engines.

(e) The labels required by paragraphs (a) through (d) of this section must be placed on the vertical surface of each pump housing and on each side that has gallon and price meters. The labels shall be on the upper two-thirds of the pump, in a location where they are clearly visible.

(f) Alternative labels to those specified in paragraphs (a) through (d) of this section may be used as approved by EPA.

[69 FR 39183, June 29, 2004, as amended at 71 FR 25718, May 1, 2006; 75 FR 22970, Apr. 30, 2010; 77 FR 75880, Dec. 26, 2012]

§ 80.573 What labeling requirements apply to retailers and wholesale purchaser-consumers of NRLM diesel fuel and heating oil beginning June 1, 2012?

Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing nonroad, locomotive or marine (NRLM) diesel fuel (including nonroad (NR) and locomotive or marine (LM)), or heating oil, must prominently and conspicuously display in the immediate area of each pump stand from which non-highway diesel fuel is offered for sale or dispensing, one of the following legible labels, as applicable, in block letters of no less than 24-point bold type, printed in a color contrasting with the background:

(a) From June 1, 2012, through September 30, 2014, for pumps dispensing NRLM diesel fuel subject to the 15 ppm sulfur standard of § 80.510(c):

ULTRA-LOW SULFUR NON-HIGHWAY DIESEL FUEL (15 ppm Sulfur Maximum)

Required for use in all model year 2011 and later nonroad diesel engines.

Recommended for use in all other non-highway diesel engines.

WARNING

Federal law prohibits use in highway vehicles or engines.

(b) The labels required by paragraph (a) of this section must be placed on the vertical surface of each pump housing and on each side that has gallon and price meters. The labels shall be on the upper two-thirds of the pump, in a location where they are clearly visible.

(c) Alternative labels to those specified in paragraph (a) of this section may be used as approved by EPA.

[69 FR 39183, June 29, 2004, as amended at 71 FR 25718, May 1, 2006; 75 FR 22970, Apr. 30, 2010]

§ 80.574 What labeling requirements apply to retailers and wholesale purchaser-consumers of ECA marine fuel beginning June 1, 2014?

(a) Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing ECA marine fuel must prominently and conspicuously display in the immediate area of each pump stand from which ECA marine fuel is offered for sale or dispensing, one of the following legible labels, as applicable, in block letters of no less than 24-point bold type, printed in a color contrasting with the background:

(1) From June 1, 2014, and beyond, for pumps dispensing ECA marine fuel subject to the 1,000 ppm sulfur standard of § 80.510(k):

1,000 ppm SULFUR ECA MARINE FUEL (1,000 ppm Sulfur Maximum)

For use in Category 3 (C3) marine vessels only.

WARNING

Federal law prohibits use in any engine that is not installed on a C3 marine vessel; use of fuel oil with a sulfur content greater than 1,000 ppm in an ECA is prohibited except as allowed by 40 CFR Part 1043.

(2) The labels required by paragraph (a)(1) of this section must be placed on the vertical surface of each pump housing and on each side that has gallon and price meters. The labels shall be on

the upper two-thirds of the pump, in a location where they are clearly visible.

(b) Alternative labels to those specified in paragraph (a) of this section may be used as approved by EPA.

(1) *For U.S. Mail:* U.S. EPA, Attn: Diesel Sulfur Alternative Label Request, 6406J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(2) *For overnight or courier services:* U.S. EPA, Attn: Diesel Sulfur Alternative Label Request, 6406J, 1310 L Street, NW., 6th Floor, Washington, DC 20005. (202) 343-9038.

[75 FR 22971, Apr. 30, 2010]

§§ 80.575–80.579 [Reserved]

SAMPLING AND TESTING

§ 80.580 What are the sampling and testing methods for sulfur?

The sulfur content of diesel fuel and diesel fuel additives is to be determined in accordance with this section.

(a) *Sampling method.* The applicable sampling methodology is provided in § 80.330(b).

(b) *Test method for sulfur—*(1) For ECA marine fuel subject to the 1,000 ppm sulfur standard of § 80.510(k), sulfur content may be determined using ASTM D2622 (incorporated by reference, see paragraph (e) of this section).

(2) For motor vehicle diesel fuel and diesel fuel additives subject to the 500 ppm sulfur standard of § 80.520(c), and NRLM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a)(1), sulfur content may be determined using ASTM D2622 (incorporated by reference, see paragraph (e) of this section).

(3) Beginning August 30, 2004, for motor vehicle diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.520(a)(1), sulfur content may be determined using any test method approved under § 80.585.

(4) Beginning August 30, 2004, for NRLM diesel fuel and diesel fuel additives subject to the 15 ppm standard of § 80.510(b), sulfur content may be determined using any test method approved under § 80.585.

(c) *Alternative test methods for sulfur—*(1) *Options for testing sulfur content of 1,000 ppm diesel fuel.* (i) For ECA marine

fuel subject to the 1,000 ppm sulfur standard of § 80.510(k), sulfur content may be determined using ASTM D4294, ASTM D5453, or ASTM D6920 (all incorporated by reference, see paragraph (e) of this section), provided that the refiner or importer test result is correlated with the appropriate method specified in paragraph (b)(1) of this section; or

(ii) For ECA marine fuel subject to the 1,000 ppm sulfur standard of § 80.510(k), sulfur content may be determined using any test method approved under § 80.585.

(2) *Options for testing sulfur content of 500 ppm diesel fuel.* (i) For motor vehicle diesel fuel and diesel fuel additives subject to the 500 ppm sulfur standard of § 80.520(c), and for NRLM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a), sulfur content may be determined using ASTM D4294, ASTM D5453, or ASTM D6920 (all incorporated by reference, see paragraph (e) of this section), provided that the refiner or importer test result is correlated with the appropriate method specified in paragraph (b)(2) of this section; or

(ii) For motor vehicle diesel fuel and diesel fuel additives subject to the 500 ppm sulfur standard of § 80.520(c), and for NRLM diesel fuel subject to the 500 ppm sulfur standard of § 80.510(a), sulfur content may be determined using any test method approved under § 80.585.

(d) *Adjustment factor for downstream test results.* (1) Except as specified in paragraph (d)(1)(i) of this section, an adjustment factor of negative two ppm sulfur shall be applied to the test results from any testing of motor vehicle diesel fuel or NRLM diesel fuel downstream of the refinery or import facility, to account for test variability, but only for testing of motor vehicle diesel fuel or NRLM diesel fuel identified as subject to the 15 ppm sulfur standard of § 80.510(b) or § 80.520(a)(1).

(i) Prior to October 15, 2008 an adjustment factor of negative three ppm sulfur shall be applied to the test results, to account for test variability, but only for testing of motor vehicle diesel fuel or NRLM diesel fuel identified as subject to the 15 ppm sulfur standard of § 80.510(b) or § 80.520(a)(1).

(ii) [Reserved]