

false or inaccurate information under this section, upon notice from the Administrator, the qualification shall be void *ab initio*.

(iv) The qualification of any test method under this paragraph (c) shall be valid for the duration of the period during which the fuel marker requirements remain applicable under this subpart.

(d) *Quality control procedures for fuel marker measurement instrumentation.* A test shall not be considered a test using a qualified test method unless the following quality control procedures are performed separately for each instrument used to make measurements:

(1) Follow all mandatory provisions of ASTM D 6299-02 and construct control charts from the mandatory quality control testing prescribed in paragraph 7.1 of the reference method, following guidelines under A 1.5.1 for individual observation charts and A 1.5.2 for moving range charts. The Director of the Federal Register approved the incorporation by reference of ASTM D 6299-02, Standard Practice for Applying Statistical Quality Assurance Techniques to Evaluate Analytical Measurement System Performance, as prescribed in 5 U.S.C. 552(a) and 1 CFR part 51. Anyone may purchase copies of this standard from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428. Anyone may inspect copies at the U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW., Room B102, EPA West Building, Washington, DC 20460 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(2) Follow paragraph 7.3.1 of ASTM D 6299-02 to check standards using a reference material at least monthly or following any major change to the laboratory equipment or test procedure. Any deviation from the accepted reference value of a check standard greater than 0.10 milligrams per liter must be investigated.

(3) Samples of tested batches must be retained for 30 days or the period equal to the interval between quality control sample tests, whichever is longer.

(4) Upon discovery of any quality control testing violation of paragraph A 1.5.1.3 or A 1.5.2.1 of ASTM D 6299-02, or any check standard deviation greater than 0.10 milligrams per liter, conduct an investigation into the cause of such violation or deviation and, after restoring method performance to statistical control, retest retained samples from batches originally tested since the last satisfactory quality control material or check standard testing occasion.

(5) Retain results of quality control testing and retesting of retained samples under paragraph (d)(3) of this section for five years.

[69 FR 39185, June 29, 2004]

EFFECTIVE DATE NOTE: At 69 FR 39185, June 29, 2004, §80.582 was added, effective Aug. 30, 2004.

§ 80.583 What alternative sampling and testing requirements apply to importers who transport motor vehicle diesel fuel or NRLM diesel fuel by truck or rail car?

Importers who import diesel fuel subject to the 15 ppm sulfur standard under §80.510(b) or (c) or 80.520(a) into the United States by truck or by rail car may comply with the following requirements instead of the requirements to sample and test each batch of fuel designated as subject to the 15 ppm sulfur standard under §80.581 otherwise applicable to importers:

(a) *Terminal testing.* For purposes of determining compliance with the 15 ppm sulfur standard, the importer may use test results for sulfur content testing conducted by the foreign truck-loading or rail car-loading terminal operator for diesel fuel contained in the storage tank from which trucks or rail cars used to transport diesel fuel designated as subject to the 15 ppm sulfur content standard into the United States are loaded, provided the following conditions are met:

(1) The sampling and testing shall be performed after each receipt of diesel fuel into the storage tank, or immediately before each transfer of diesel fuel to the importer's truck or rail car.

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(2) The sampling and testing shall be performed according to § 80.580.

(3) At the time of each transfer of diesel fuel to the importer's truck or rail car for import to the U.S., the importer must obtain a copy of the terminal test result that indicates the sulfur content of the truck or rail car load, or truck or rail car compartment load, as applicable.

(b) *Quality assurance program.* The importer must conduct a quality assurance program, as specified in this paragraph (b), for each truck or rail car loading terminal.

(1) Quality assurance samples must be obtained from the truck-loading or rail car loading terminal and tested by the importer, or by an independent laboratory, and the terminal operator must not know in advance when samples are to be collected.

(2) The sampling and testing must be performed using the methods specified in § 80.580.

(3) The frequency of the quality assurance sampling and testing must be at least one sample for each 50 of an importer's trucks or rail cars that are loaded at a terminal, or one sample per month, whichever is more frequent.

(c) *Party required to conduct quality assurance testing.* The quality assurance program under paragraph (b) of this section shall be conducted by the importer. In the alternative, this testing may be conducted by an independent laboratory that meets the criteria under § 80.65(f)(2)(iii), provided the importer receives copies of all results of tests conducted no later than 21 days after the sample was taken.

(d) *Alternative batch designations.* For purposes of maintaining batch records under §§ 80.592, 80.600, and 80.602, designation of batches under § 80.598, and reporting under §§ 80.593, 80.601, and 80.604:

(1) In lieu of treating each portion of a tank truck compartment delivered to a different facility as a different batch, a truck importer may treat each compartment as a batch, if all the fuel in the compartment is delivered only to retail outlets, wholesale purchaser-consumers or other end users. Where different compartments contain homogeneous product of identical designations, the total volume of those com-

partments may be treated as a single batch, if the entire volume is delivered only to retail outlets, wholesale purchaser-consumers or other ultimate consumers.

(2) Each portion of a rail car (or rail cars) delivery of a different designation or each delivery to a different facility is considered to be a separate batch.

(e) *EPA inspections of terminals.* EPA inspectors or auditors must be given full and immediate access to the truck or rail car-loading terminal and any laboratory at which samples of diesel fuel collected at the terminal are analyzed, and must be allowed to conduct inspections, review records, collect diesel fuel samples and perform audits. These inspections or audits may be either announced or unannounced.

(f) *Certified DFR-Diesel.* This section does not apply to Certified DFR-Diesel as defined in § 80.620.

(g) *Effect of noncompliance.* If any of the requirements of this section are not met, all motor vehicle diesel fuel and NRLM diesel fuel imported by the truck or rail car importer during the time the requirements are not met is deemed in violation of the 15 ppm sulfur diesel fuel standards in § 80.510(b) or (c) or § 80.520(a), as applicable. Additionally, if any requirement is not met, EPA may notify the importer of the violation, and, if the requirement is not fulfilled within 10 days of notification, the truck importer may not in the future use the sampling and testing provisions in this section in lieu of the provisions in § 80.581.

[69 FR 39186, June 29, 2004]

EFFECTIVE DATE NOTE: At 69 FR 39186, June 29, 2004, § 80.583 was added, effective Aug. 30, 2004.

§ 80.584 What are the precision and accuracy criteria for approval of test methods for determining the sulfur content of motor vehicle and NRLM diesel fuel?

(a) *Precision.* (1) For motor vehicle diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.520(a)(1) and NRLM diesel fuel and diesel fuel additives subject to the 15 ppm sulfur standard of § 80.510(b) and (c), a standard deviation less than 0.72 ppm, computed from the results of a minimum of 20 repeat tests made over