

Environmental Protection Agency

§ 80.530

takes custody of any diesel fuel designated or classified as #2D 15 ppm sulfur motor vehicle diesel fuel and delivers any diesel fuel designated or classified as #2D 500 ppm motor vehicle diesel fuel.

(c) *Downgrading limitation.* The provisions of this section apply beginning October 15, 2006.

(1) Except as provided in paragraphs (d) and (e) of this section, a person described in paragraph (b) of this section may not downgrade a total of more than 20 percent of the #2D motor vehicle diesel fuel (by volume) that is subject to the 15 ppm sulfur standard of § 80.520(a)(1) to #2D motor vehicle diesel fuel subject to the sulfur standard of § 80.520(c) while such person has custody of such fuel.

(2) The limitation of paragraph (c)(1) of this section applies separately to each facility as defined under § 80.502 where there is custody of the fuel when it is downgraded.

(3) Compliance with the limitation of paragraph (c)(1) of this section applies separately for the compliance periods of October 15, 2006 through May 31, 2007; June 1, 2007 through June 30, 2008; July 1, 2008 through June 30, 2009; July 1, 2009 through May 31, 2010.

(4) Except as provided in paragraph (e) of this section, compliance with the limitation of paragraph (c)(1) of this section shall be as calculated under § 80.599(e).

(d) *Diesel fuel in violation of the 15 ppm standard.* Where motor vehicle diesel fuel subject to the 15 ppm sulfur standard of § 80.520(a)(1) is found to be in violation of any standard under § 80.520(a) and is consequently downgraded to 500 ppm sulfur motor vehicle diesel fuel, the person having custody of the fuel at the time it is found to be in violation must include the volume of such downgraded fuel toward its 20 percent volume limitation under paragraph (c)(1) of this section, unless the person demonstrates that it did not cause the violation.

(e) *Special provisions for retail outlets and wholesale purchaser-consumer facilities.* Notwithstanding the provisions of paragraph (c)(1) of this section, retailers and wholesale purchaser-consumers shall comply with the downgrading limitation as follows:

(1) Retailers and wholesale purchaser-consumers who sell, offer for sale, or dispense motor vehicle diesel fuel that is subject to the 15 ppm sulfur standard under § 80.520(a)(1) are exempt from the volume limitations of paragraph (c)(1) of this section.

(2) A retailer or wholesale purchaser-consumer who does not sell, offer for sale, or dispense motor vehicle diesel fuel subject to the 15 ppm sulfur standard under § 80.520(a)(1) must comply with the downgrading limitations of paragraph (c) of this section, such that it may not downgrade a volume of motor vehicle diesel fuel, designated as subject to the 15 ppm sulfur standard, for more than 20% of the total volume of motor vehicle diesel fuel that it sells, offers for sale, or dispenses in any compliance period.

(f) *Termination of downgrading limitations.* The provisions of this section shall not apply after May 31, 2010.

[69 FR 39172, June 29, 2004, as amended at 71 FR 25717, May 1, 2006]

§§ 80.528–80.529 [Reserved]

TEMPORARY COMPLIANCE OPTION

§ 80.530 Under what conditions can 500 ppm motor vehicle diesel fuel be produced or imported after May 31, 2006?

(a) Beginning June 1, 2006, a refiner or importer may produce or import motor vehicle diesel fuel subject to the 500 ppm sulfur content standard of § 80.520(c) if all of the following requirements are met:

(1) Each batch of motor vehicle diesel fuel subject to the 500 ppm sulfur content standard must be designated by the refiner or importer as subject to such standard, pursuant to § 80.598(a).

(2) The refiner or importer must meet the requirements for product transfer documents in § 80.590 for each batch subject to the 500 ppm sulfur content standard.

(3)(i) The volume of motor vehicle diesel fuel that is produced or imported during a compliance period (V_{500} , as provided in paragraph (a)(5) of this section, may not exceed the following volume limit:

(A) For the compliance periods prior to the period from July 1, 2009 through May 31, 2010, 20 percent of the volume

§ 80.531

40 CFR Ch. I (7-1-07 Edition)

of motor vehicle diesel fuel that is produced or imported during a compliance period (V_i) plus an additional volume of motor vehicle diesel fuel represented by credits properly generated and used pursuant to the requirements of §§ 80.531 and 80.532.

(B) For the compliance period from July 1, 2009 through May 31, 2010, 20 percent of the volume of motor vehicle diesel fuel that is produced or imported prior to January 1, 2010 during the compliance period (V_i), plus an additional volume of motor vehicle diesel fuel represented by credits properly generated and used pursuant to the requirements of §§ 80.531 and 80.532. From January 1, 2010 through May 31, 2010, the volume of motor vehicle diesel fuel that is produced or imported shall not exceed the volume represented by credits used pursuant to § 80.532.

(ii) The terms V_{500} and V_i have the meaning specified in § 80.531(a)(2).

(4) Compliance with the volume limit in paragraph (a)(3) of this section must be determined separately for each refinery. For an importer, such compliance must be determined separately for each Credit Trading Area (as defined in § 80.531) into which motor vehicle diesel fuel is imported. If a party is both a refiner and an importer, such compliance shall be determined separately for the refining and importation activities.

(5) Compliance with the volume limit in paragraph (a)(3) of this section shall be determined on an annual basis, where the annual compliance period is from July 1 through June 30. For the year 2006, compliance shall be determined for the period June 1, 2006 through June 30, 2007. For the year 2010, compliance shall be determined for the period of July 1, 2009 through May 31, 2010.

(6) Any motor vehicle diesel fuel produced or imported above the volume limit in paragraph (a)(3) of this section shall be subject to the 15 ppm sulfur content standard. However, for any compliance period prior to the compliance period July 1, 2009 through May 31, 2010, a refiner or importer may exceed the volume limit in paragraph (a)(3) of this section by no more than 5 percent of the volume of diesel fuel produced or imported during the compliance period (V_i), provided that for

the immediately following compliance period:

(i) The refiner or importer complies with the volume limit in paragraph (a)(3) of this section; and

(ii) The refiner or importer produces or imports a volume of motor vehicle diesel fuel subject to the 15 ppm sulfur standard, or obtains credits properly generated and used pursuant to the requirements of §§ 80.531 and 80.532 that represent a volume of motor vehicle diesel fuel, equal to the volume of the exceedance for the prior compliance period.

(b) After May 31, 2010, no refiner or importer may produce or import motor vehicle diesel fuel subject to the 500 ppm sulfur content standard pursuant to this section.

[69 FR 39172, June 29, 2004]

§ 80.531 How are motor vehicle diesel fuel credits generated?

(a) *Generation of credits from June 1, 2006 through December 31, 2009.* (1) A refiner or importer may generate credits during the period June 1, 2006 through December 31, 2009, for motor vehicle diesel fuel produced or imported that is designated as subject to the 15 ppm sulfur content standard under § 80.520(a)(1). Credits may be generated only if the volume of motor vehicle diesel fuel designated under § 80.598(a) as subject to the 15 ppm sulfur standard of § 80.520(a) exceeds 80 percent of the total volume of motor vehicle diesel fuel produced or imported as described in paragraph (a)(2) of this section.

(2) The number of motor vehicle diesel fuel credits generated shall be calculated for each compliance period (as specified in § 80.530(a)(5)) as follows:

$$C = V_{15} - (0.80 \times V_i)$$

Where:

C = the positive number of motor vehicle diesel fuel credits generated, in gallons.

V_{15} = the total volume in gallons of diesel fuel produced or imported that is designated under § 80.598 as motor vehicle diesel fuel and subject to the standards of § 80.520(a) during the compliance period.

$$V_{in} = V_{15} + V_{500}$$

V_{500} = the total volume in gallons of diesel fuel produced or imported that is designated under § 80.598(a) as motor vehicle