

§ 80.561

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

and testing at the party's own facilities and at downstream facilities in the refiner's or importer's diesel fuel distribution system, to determine compliance with the applicable sulfur standards for both categories of motor vehicle diesel fuel; examination at the party's own facilities and at applicable downstream facilities, of product transfer documents to confirm appropriate transfers and deliveries of both products; and inspection of retailer and wholesale purchaser-consumer pump stands for the presence of the labels and warning signs required under this section. Any violations that are discovered shall be reported to EPA within 48 hours of discovery.

(f) Applications under this section must be accompanied by:

(1) A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the application is true to the best of his/her knowledge.

(2) The name, address, phone number, facsimile number and e-mail address of a corporate contact person.

(g) Applicants must also provide any other relevant information requested by EPA.

(h) Refiners who are granted a hardship relief standard for any refinery and importers of fuel subject to temporary foreign refiner relief standards, must comply with the requirements of § 80.561(f).

(i) EPA may impose any reasonable conditions on waivers under this section, including limitations on the refinery's volume of motor vehicle diesel fuel and NRLM diesel fuel subject to temporary refiner relief standards.

(j) The provisions of this section are available only to refineries that produce diesel fuel from crude.

(k) The individual refinery sulfur standard and the compliance plan will be approved or disapproved by the Administrator, and approval will be effective when the refiner receives an approval letter from EPA. Unless approved, the refiner or, where applicable, the importer must comply with the motor vehicle diesel fuel standard under § 80.520(a)(1) by the appropriate compliance date specified in § 80.500 or the NRLM diesel fuel standards and

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

(l) 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

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model year 2007 or later motor vehicles, 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]

§§ 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 May 31, 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:

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 September 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.