

§ 80.585 What is the process for approval of a test method for determining the sulfur content of diesel?

(a) *Approval of test methods approved by voluntary consensus-based standards bodies.* For such a method to be approved, the following information must be submitted to the Administrator by each test facility for each test method that it wishes to have approved: Any test method approved by a voluntary consensus-based standards body, such as the American Society for Testing and Materials (ASTM) or International Standards Organization (ISO), shall be approved as a test method for determining the sulfur content of diesel fuel if it meets the applicable accuracy and precision criteria under § 80.584. The approval of a test method is limited to the single test facility that performed the testing for accuracy and precision. The individual facility must submit the accuracy and precision results for each method, including information on the date and time of each test measurement used to demonstrate precision, following procedures established by the Administrator.

(b) *Approval of test methods not approved by a voluntary consensus-based standards body.* For such a method to be approved, the following information must be submitted to the Administrator by each test facility for each test method that it wishes to have approved:

(1) Full test method documentation, including a description of the technology and/or instrumentation that makes the method functional.

(2) Information demonstrating that the test method meets the applicable accuracy and precision criteria of § 80.584, including information on the date and time of each test measurement used to demonstrate precision.

(3) If requested by the Administrator, test results from use of the method to analyze samples of commercially available fuel provided by EPA.

(4) Any additional information requested by the Administrator and necessary to render a decision as to approval of the test method.

(c) *Sample retention.* Samples used for precision and accuracy determination must be retained for 90 days.

(d) *EPA approval.* (1) Within 90 days of receipt of all materials required to be submitted under paragraph (a) or (b) of this section, the Administrator shall determine whether the test method is approved under this section.

(2) If the Administrator denies approval of the test method, within 90 days of receipt of all materials required to be submitted under paragraph (a) or (b) of this section, the Administrator will notify the applicant of the reasons for not approving the method. If the Administrator does not notify the applicant within 90 days of receipt of the application, that the test method is not approved, then the test method shall be deemed approved.

(3) If the Administrator finds that an individual test facility has provided false or inaccurate information under this section, upon notice from the Administrator the approval shall be void *ab initio*.

(4) The approval of any test method under paragraph (b) of this section shall be valid for five years from the date of approval by the Administrator and shall not be extended. If the method is later approved by a voluntary consensus-based standards body, the approval shall remain valid as long as the conditions of paragraph (a) of this section are met.

(e) *Quality assurance procedures for sulfur measurement instrumentation.* A test shall not be considered a test using an approved 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

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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 1.44 ppm (for diesel fuel subject to the 15 ppm sulfur standard) or 19.36 ppm (for diesel fuel subject to the 500 ppm sulfur standard) 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 1.44 ppm (for diesel fuel subject to the 15 ppm sulfur standard) or 19.36 ppm (for diesel fuel subject to the 500 ppm sulfur standard), 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.

[69 FR 39187, June 29, 2004]

§ 80.586 What are the record retention requirements for test methods approved under this subpart?

Each individual test facility must retain records related to the establishment of accuracy and precision values, all test method documentation, and any quality control testing and analysis under §§ 80.582, 80.584 and 80.585, for five years.

[69 FR 39188, June 29, 2004]

§§ 80.587-80.589 [Reserved]

RECORDKEEPING AND REPORTING REQUIREMENTS

§ 80.590 What are the product transfer document requirements for motor vehicle diesel fuel, NRLM diesel fuel, heating oil and other distillates?

(a) On each occasion that any person transfers custody or title to MVNRLM diesel fuel or heating oil, including distillates used or intended to be used as MVNRLM diesel fuel or heating oil, except when such fuel is dispensed into motor vehicles or nonroad, locomotive, or marine equipment, the transferor must provide to the transferee documents which include the following information:

(1) The names and addresses of the transferor and transferee.

(2) The volume of diesel fuel or distillate which is being transferred.

(3) The location of the diesel fuel or distillate at the time of the transfer.

(4) The date of the transfer.

(5) For transfers of MVNRLM diesel fuel, the sulfur content standard the transferor represents the fuel to meet.

(6) Beginning June 1, 2006, when an entity transfers custody of a distillate fuel designated under § 80.598, the following information must also be included:

(i) The facility registration number of the transferor and transferee, for terminals and all parties upstream, under § 80.597, if any.

(ii) An accurate and clear statement of the applicable designation and/or classification under § 80.598, for example, 500 ppm sulfur NRLM diesel fuel; and whether the fuel is dyed or undyed, and for heating oil, whether marked or unmarked.

(7) For transfers of title or custody from one facility to another in the distribution system where diesel fuel or distillates are taxed, dyed or marked, and for any subsequent transfers (except when such fuel is dispensed into motor vehicles or nonroad, locomotive, or marine equipment), an accurate statement on the product transfer document of the applicable fuel uses and classifications, as follows (however, in instances where space is constrained,