

including any diesel fuel tank bottoms, prior to the point of blending, sampling and testing in the importer company's refinery operation. The DTAB may, however, be added to a diesel fuel blending tank where the diesel fuel tank bottom is not included as part of the batch volume for the prior batch. In addition, the DTAB may be placed into a storage tank that contains other DTAB imported by that importer. The DTAB also may be discharged into a tank containing finished diesel fuel of the same category as the diesel fuel which will be produced using the DTAB (e.g., 15 ppm undyed or 15 ppm dyed diesel fuel) provided the blending process is performed in that same tank.

(e) The company must account for the volume of diesel fuel produced using DTAB in a manner that excludes the volume of any previously certified diesel fuel. The diesel fuel tank bottom may not be included in the company's refinery compliance calculations for that batch of diesel fuel. This exclusion of previously-accounted-for diesel fuel must be accomplished using the following approach:

(1) Determine the volume of any tank bottom that is previously certified diesel fuel before any diesel fuel production begins.

(2) Add the DTAB plus any blendstock to the storage tank, and completely mix the tank.

(3) Determine the volume and sulfur content of the diesel fuel contained in the storage tank after blending is complete. Mathematically subtract the volume of the tank bottom to determine the volume of the DTAB plus blendstock added, which is reported to EPA as a batch of diesel fuel produced.

(4) If previously certified diesel fuel having a sulfur content of 15 ppm or less is blended to DTAB, and the combined product after blending has a sulfur content that exceeds 15 ppm, the refiner must count the volume of previously certified diesel fuel against its downgrading limitation under § 80.527.

(5) As an alternative to paragraphs (e)(1) through (e)(4) of this section, where an importer company has a "blending" tank that is used only to combine DTAB and blending components, and no previously certified diesel fuel is added to the tank, the importer company, in its refiner capacity, may account for the diesel fuel produced in such a blending tank by sampling and testing for the sulfur content of the batch after DTAB and blendstock are added and mixed, and reporting the volume of diesel fuel shipped from that tank, up to the point

a new blend is produced by adding new DTAB and blendstock.

(f) The importer must include the volume and sulfur content of each batch of DTAB in the annual importer reports to EPA, but with a notation that the batch is not included in the importer compliance calculations because the product is DTAB. Any DTAB that ultimately is not used in the importer company's refinery operation (e.g., a tank bottom of DTAB at the conclusion of the refinery operation), must be treated as newly imported diesel fuel, for which all required sampling and testing, and recordkeeping must be accomplished, and included in the company's importer compliance calculations for the averaging period when this sampling and testing occurs.

(g) The importer must retain records that reflect the importation, sampling and testing, and physical movement of any DTAB, and must make these records available to EPA, on request.

13. A new § 80.513 is added to read as follows:

§ 80.513 What provisions apply to transmix processors?

(a) Beginning June 1, 2006, transmix processors may elect to utilize the provisions of § 80.552(a) in lieu of complying with the standards of this subpart.

(b) Beginning June 1, 2007, transmix processors may elect to use the provisions of § 80.554(a) in complying with the standards of this subpart.

(c) Beginning June 1, 2010, transmix processors may elect to use the provisions of § 80.554(b) in complying with the standards of this subpart.

(d) The provisions of paragraphs (a) through (c) apply only to that volume of fuel produced by transmix processors from previously certified diesel fuel (PCD) that no longer complies with the applicable standards (i.e., contaminated product).

14. Section 80.520 is revised to read as follows:

§ 80.520 What are the standards and dye requirements for motor vehicle diesel fuel?

(a) *Standards.* All motor vehicle diesel fuel is subject to the following per-gallon standards:

(1) *Sulfur content.* 15 parts per million (ppm) maximum, except as provided in paragraph (c) of this section;

(2) *Cetane index and aromatic content.* (i) A minimum cetane index of 40; or

(ii) A maximum aromatic content of 35 volume percent.

(b) *Dye requirements.* (1) All motor vehicle diesel fuel shall be free of

visible evidence of dye solvent red 164 (which has a characteristic red color in diesel fuel), except for motor vehicle diesel fuel that is used in a manner that is tax exempt under section 4082 of the Internal Revenue Code. All motor vehicle diesel fuel shall be free of yellow solvent 124.

(2) Except as provided in § 80.534 and until June 1, 2010 per § 80.510(c), any diesel fuel that does not show visible evidence of dye solvent red 164 shall be considered to be motor vehicle diesel fuel and subject to all the requirements of this subpart for motor vehicle diesel fuel, except for diesel fuel designated or classified for use only in:

(i) The State of Alaska as provided under 40 CFR 69.51; or

(ii) Jet aircraft, a research and development testing program exempted under § 80.600, or motor vehicles covered by an exemption under § 80.602.

(c) Pursuant and subject to the provisions of §§ 80.530–80.532, 80.552(a), 80.560–80.561, and 80.620, only motor vehicle diesel fuel produced or imported in full compliance with the requirements of those provisions is subject to the following per-gallon standard for sulfur content: 500 ppm maximum.

(d) Kerosene and any other distillate product, that meets the definition of motor vehicle diesel fuel, is subject to the standards and requirements under this section.

15. Section 80.521 is revised to read as follows:

§ 80.521 What are the standards and identification requirements for diesel fuel additives?

(a) Except as provided in paragraph (b) of this section, any diesel fuel additive that is added, intended for adding, used, or offered for use in diesel fuel subject to the 15 ppm sulfur content standards of §§ 80.510(b) or 80.520(a) at any downstream location must:

(1) Have a sulfur content not exceeding 15 ppm; and

(2) Be accompanied by a product transfer document pursuant to § 80.591 indicating that the additive complies with the 15 ppm standard for diesel fuel, except for those diesel fuel additives which are only sold in containers for use by the ultimate consumer of diesel fuel and which are subject to the requirements of § 80.591(d).

(b) Any diesel fuel additive that is added, intended for adding, used, or offered for use in diesel fuel subject to the 15 ppm sulfur content standards of § 80.510(b) or § 80.520(a) may have a