

specified in paragraph (2)(ii) of this section; or

(B) For motor vehicle diesel fuel and diesel fuel additives subject to the 500 ppm standard of § 80.520(c), and for nonroad, locomotive and marine diesel fuel subject to the 500 ppm standard of § 80.510(a), sulfur content may be determined using any test method approved under § 80.585.

(4) *Adjustment Factor for downstream test results.* An adjustment factor of negative 2 ppm shall be applied to the test results, to account for test variability, but only for testing of motor vehicle diesel fuel or nonroad diesel fuel identified as subject to the 15 ppm sulfur standard of §§ 80.510(b) or 80.520(a)(1), at a downstream location as defined in § 80.500(f).

(b) *Incorporation by reference.* ASTM standard methods D 2622–98, entitled “Standard Test Method for Sulfur in Petroleum Products by X-Ray Spectrometry,” D 3120–96, entitled “Standard Test Method for Trace Quantities of Sulfur in Light Liquid Petroleum Hydrocarbons by Oxidative Microcoulometry,” D 4294–02, entitled “Standard Test Method for Sulfur in Petroleum Products by Energy Dispersive X-Ray Fluorescence Spectrometry,” D 5453–00e1, entitled “Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence,” and D 6299–02, entitled “Standard Practice for Applying Statistical Quality Assurance Techniques to Evaluate Analytical Measurement System Performance,” D 6428–99, entitled “Test Method for Total Sulfur in Light Aromatic Hydrocarbons and their Derivatives by Oxidative Combustion and Electrochemical Detection,” are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–99–06, 401 M Street, SW., Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

38. A new § 80.581 is added to read as follows:

§ 80.581 What are the batch testing and sample retention requirements for motor vehicle and nonroad, locomotive and marine diesel fuel?

(a) Beginning on June 1, 2006 or earlier pursuant to § 80.531 for motor vehicle diesel fuel and June 1, 2010 or earlier pursuant to § 80.535 for NR, LM, or NRLM diesel fuel, each refiner and importer shall collect a representative sample from each batch of motor vehicle, NR, LM, or NRLM diesel fuel produced or imported and subject to the 15 ppm sulfur content standard. The refiner or importer shall test each sample to determine its sulfur content for compliance with the requirements of this subpart prior to the diesel fuel leaving the refinery or import facility, using an appropriate sampling and testing method as specified in § 80.580.

(b) All test results under this paragraph shall be retained for five years and must be provided to EPA upon request.

39. A new § 80.582 is added to read as follows:

§ 80.582 What are the sampling and testing methods for the fuel marker?

(a) *Sampling and testing for methods for the fuel marker.* For heating oil and LM diesel fuel subject to the fuel marker requirement in § 80.510(c), the identification of the presence and concentration of the fuel marker in diesel fuel may be determined using the test procedures qualified in accordance with the requirements in this section. For NRLM or NR subject to the provisions of §§ 80.510(c)(1)(iv) or 80.510(c)(2)(iv) the identification of the presence and concentration of the fuel marker in diesel fuel may be determined using the test procedures qualified in accordance with the requirements in this section.

(1) The sampling, sample preparation, and testing methods qualified for use in accordance with the requirements of this section may involve the use of hazardous materials, operations and equipment. This section does not address the associated safety problems which may exist. It is the responsibility of the user of the procedures specified in this section to establish appropriate safety and health practices prior their use. It is also the responsibility of the user to dispose of any byproducts which might result from conducting these procedures in a manner consistent with applicable safety and health requirements.

(2) [Reserved]

(b) *What are the precision and accuracy criteria for qualification of fuel marker test methods?* (1) Precision means the consistency of a set of

measurements and is used to determine how closely analytical results can be duplicated based on repeat measurements of the same material under prescribed conditions. A precision of <0.1 mg per liter is required, as determined by performing a minimum of 20 repeat tests over a minimum of four days on samples taken from a homogeneous commercially available diesel fuel which meets the applicable industry consensus and federal regulatory specifications and which contains the fuel marker at a concentration in the range of 0.1 to 8 mg per liter. In order to qualify, the 20 results must be a series of tests on the same material and there must be a sequential record of the analysis with no omissions.

(2) Accuracy means the closeness of agreement between a measured or calculated value and the actual or specified value. An accuracy of ±0.05 mg per liter is required, as determined by performing a minimum of 10 repeat tests on each of at least two commercially available solvent yellow 124 standards, as follows:

(i) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available solvent yellow 124 standard in the range of 0.1 to 1 mg per liter; and

(ii) The arithmetic average of a continuous series of at least 10 tests performed on a commercially available solvent yellow 124 standard in the range of 4 to 10 mg per liter.

(iii) In applying the tests of paragraphs (b)(2)(i) and (b)(2)(ii) of this section, individual test results shall be compensated for any known chemical interferences.

(c) *What process must a test facility follow in order to qualify a test method for determining the fuel marker content of distillate fuels and how will EPA qualify or decline to qualify a test method?—*(1) *Qualification of test methods approved by voluntary consensus-based standards bodies.* Any standard test method developed by a Voluntary Consensus-Based Standards Body, such as the American Society for Testing and Materials (ASTM) or International Standards Organization (ISO), shall be considered a qualified test method for determining the fuel marker content of distillate fuel provided that it meets the precision and accuracy criteria under paragraph (b) of this section. The qualification 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