

following procedures established by the Administrator.

(2) *Qualification of test methods that have not been approved by a voluntary consensus-based standards body.* (i) A test method that has not been approved by a voluntary consensus-based standards body may be qualified upon approval by the Administrator. The following information must be submitted in the application for approval:

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

(B) Information demonstrating that the test method meets the accuracy and precision criteria under paragraph (b) of this section.

(C) If requested by the Administrator, test results utilizing the method and performed on a sample of commercially available distillate fuel which meets the applicable industry consensus and federal regulatory specifications and which contains the fuel marker.

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

(E) The qualification of a test method is limited to the single test facility that performed the testing for accuracy and precision and any other required testing.

(3)(i) Within 90 days of receipt of all materials required to be submitted under paragraph (c)(1) or (c)(2) of this section, the Administrator shall determine whether to qualify the test method under this section. The Administrator shall qualify the test method if all materials required under this section are received and the test method meets the accuracy and precision criteria of paragraph (b) of this section.

(ii) If the Administrator does not act within 90 days of receipt, the test method shall be deemed qualified until such time as the Administrator provides written notification declining to qualify the method.

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

(iv) The qualification of any test method under this paragraph (c) shall be valid for the duration of when the fuel marker requirements remain applicable under this subpart.

(d) *Quality control procedures for fuel marker measurement instrumentation.* A test shall not be considered a test using a qualified 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, “Standard Practice for Applying Statistical Quality Assurance Techniques to Evaluate Analytical Measurement System Performance,” and construct control charts from the mandatory quality control testing prescribed in paragraph 7.1 of the method, following guidelines under A 1.5.1 for individual observation charts and A 1.5.2 for moving range charts.

(2) Follow paragraph 7.3.1 of ASTM D 6299–02 (check standards) using a standard 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 0.1 mg per liter must be investigated.

(3) Retain batch samples for batches of diesel fuel subject to the fuel marker requirement for a period at least as long as the period between quality control material or check standard testing.

(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 0.1 mg per liter, conduct an investigation and retest retained samples for fuel batches tested since the last satisfactory quality control material or check standard testing.

(5) Retain results of quality control testing and retesting of retained samples under paragraph (d)(3) of this section for five years.

(e) *Incorporation by reference.* ASTM Standard Methods D 6299–02, entitled “Standard Practice for Applying Statistical Quality Assurance Techniques to Evaluate Analytical Measurement System Performance”. 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 Bar 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.

40. A new § 80.583 is added to read as follows:

§ 80.583 What alternative sampling and testing requirements apply to importers who transport motor vehicle diesel fuel or nonroad diesel fuel by truck?

Importers who import diesel fuel subject to the standard under § 80.510(b) or § 80.510(a) into the United States by truck may comply with the following requirements instead of the requirements to sample and test each batch of fuel designated as subject to the 15 ppm sulfur standard under § 80.581 otherwise applicable to importers:

(a) *Terminal testing.* For purposes of determining compliance with the 15 ppm sulfur standard, the importer may use test results for sulfur content testing conducted by the foreign truck-loading terminal operator for diesel fuel contained in the storage tank from which trucks used to transport diesel fuel designated as subject to the 15 ppm sulfur content standard into the United States are loaded, provided the following conditions are met:

(1) The sampling and testing shall be performed after each receipt of diesel fuel into the storage tank, or immediately before each transfer of diesel fuel to the importer's truck.

(2) The sampling and testing shall be performed according to § 80.580.

(3) At the time of each transfer of diesel fuel to the importer's truck for import to the U.S., the importer must obtain a copy of the terminal test result that indicates the sulfur content of the truck load, or truck compartment load, as applicable.

(b) *Quality assurance program.* The importer must conduct a quality assurance program, as specified in this paragraph, for each truck loading terminal.

(1) Quality assurance samples must be obtained from the truck-loading terminal and tested by the importer, or by an independent laboratory, and the terminal operator must not know in advance when samples are to be collected.

(2) The sampling and testing must be performed using the methods specified in § 80.580.

(3) The frequency of the quality assurance sampling and testing must be at least one sample for each 50 of an importer's trucks that are loaded at a terminal, or one sample per month, whichever is more frequent.

(c) *Party required to conduct quality assurance testing.* The quality assurance program under paragraph (b) of this section shall be conducted by the importer. In the alternative, this testing may be conducted by an independent laboratory that meets the criteria under § 80.65(f)(2)(iii), provided the importer receives copies of all results of tests