

§ 80.3

fuel or other distillate fuel that is used, intended for use, or made available for use, as a fuel in any nonroad diesel engines, including locomotive and marine diesel engines, except the following: Distillate fuel with a T90 greater than 700 °F that is used only in Category 2 and 3 marine engines is not NRLM diesel fuel. Use the distillation test method specified in 40 CFR 1065.1010 to determine the T90 of the fuel. NR diesel fuel and LM diesel fuel are subcategories of NRLM diesel fuel.

(ooo) *Nonroad (NR) diesel fuel* means any NRLM diesel fuel that is not "locomotive or marine (LM) diesel fuel."

(ppp) *Locomotive or marine (LM) diesel fuel* means any diesel fuel or other distillate fuel that is used, intended for use, or made available for use, as a fuel in locomotive or marine diesel engines, except for the following fuels:

(1) Fuel that is also used, intended for use, or made available for use in motor vehicle engines or nonroad engines other than locomotive and marine diesel engines is not LM diesel fuel.

(2) Distillate fuel with a T90 greater than 700 °F that is used only in Category 2 and 3 marine engines is not LM diesel fuel. Use the distillation test method specified in 40 CFR 1065.1010 to determine the T90 of the fuel.

(qqq) *MVNRLM diesel fuel* means any diesel fuel or other distillate fuel that meets the definition of motor vehicle (MV) or nonroad, locomotive, or marine (NRLM) diesel fuel. Motor vehicle diesel fuel, NRLM diesel fuel, NR diesel fuel, and LM diesel fuel are subcategories of MVNRLM diesel fuel.

(rrr) *Solvent yellow 124* means N-ethyl-N-[2-[1-(2-methylpropoxy)ethoxy]-4-phenylazo]-benzeneamine.

(sss) *Non-petroleum diesel (NP diesel)* means a diesel fuel that contains at least 80 percent mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats.

(Sec. 211, (Sec. 223, Pub. L. 95-95, 91 Stat. 764, 42 U.S.C. 7545(g)) and sec. 301(a) 42 U.S.C. 7602(a), formerly 42 U.S.C. 1857g(a)) of the Clean Air Act, as amended)

[38 FR 1255, Jan. 10, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 80.2, see the List of CFR Sections Affected, which appears in the

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

Finding Aids section of the printed volume and on GPO Access.

§ 80.3 Test methods.

The lead and phosphorus content of gasoline shall be determined in accordance with test methods set forth in the appendices to this part.

[47 FR 765, Jan. 7, 1982]

§ 80.4 Right of entry; tests and inspections.

The Administrator or his authorized representative, upon presentation of appropriate credentials, shall have a right to enter upon or through any refinery, retail outlet, wholesale purchaser-consumer facility, or detergent manufacturer facility; or the premises or property of any gasoline or detergent distributor, carrier, or importer; or any place where gasoline or detergent is stored; and shall have the right to make inspections, take samples, obtain information and records, and conduct tests to determine compliance with the requirements of this part.

[61 FR 35356, July 5, 1996]

§ 80.5 Penalties.

Any person who violates these regulations shall be liable to the United States for a civil penalty of not more than the sum of \$25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation proscribed under section 211(c), (k), (l) or (m) of the Act which establishes a regulatory standard based upon a multi-day averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with section 205(b) and (c) of the Act.

[58 FR 65554, Dec. 15, 1993]

§ 80.7 Requests for information.

(a) When the Administrator, the Regional Administrator, or their delegates have reason to believe that a violation of section 211(c) or section 211(n) of the Act and the regulations thereunder has occurred, they may require any refiner, distributor, wholesale purchaser-consumer, or retailer to report

the following information regarding receipt, transfer, delivery, or sale of gasoline represented to be unleaded gasoline and to allow the reproduction of such information at all reasonable times.

(1) For any bulk shipment of gasoline represented to be unleaded gasoline which is transferred, sold, or delivered within the previous 6 months by a refiner or a distributor to a distributor, wholesale purchaser-consumer or a retail outlet, the refiner or distributor shall maintain and provide the following information as applicable:

(i) Business or corporate name and address of distributors, wholesale purchaser-consumers or retail outlets to which the gasoline has been transferred, sold, or delivered.

(ii) Quantity of gasoline involved.

(iii) Date of delivery.

(iv) Storage location of gasoline prior to transit via delivery vessel (e.g., location of a bulk terminal).

(v) Business or corporate name and address of the person who delivered the gasoline.

(vi) Identification of delivery vessel (e.g., truck number). This information shall be supplied by the person in paragraph (a)(1)(v) of this section who performed the delivery, e.g., common or contract carrier.

(2) For any bulk shipment of gasoline represented to be unleaded gasoline received by a retail outlet or a wholesale-purchaser-consumer facility within the previous 6 months, whether by purchase or otherwise, the retailer or wholesale purchaser-consumer shall maintain accessibility to and provide the following information:

(i) Business or corporate name and address of the distributor.

(ii) Quantity of gasoline received.

(iii) Date of receipt.

(b) Upon request by the Administrator, the Regional Administrator, or their delegates, any retailer shall provide documentation of his annual total sales volume in gallons of gasoline for each retail outlet for each calendar year beginning with 1971.

(c) Any refiner, distributor, wholesale purchaser-consumer, retailer, or importer shall provide such other information as the Administrator or his authorized representative may reason-

ably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer, retailer, or importer has acted or is acting in compliance with sections 211(c) and 211(n) of the Act and the regulations thereunder and shall, upon request of the Administrator or his authorized representative, produce and allow reproduction of any relevant records at all reasonable times. Such information may include but is not limited to records of unleaded gasoline inventory at a wholesale purchaser-consumer facility or a retail outlet, unleaded pump meter readings at a wholesale purchaser-consumer facility or a retail outlet, and receipts providing the date of acquisition of signs, labels, and nozzles required by § 80.22. No person shall be required to furnish information requested under this paragraph if he can establish that such information is not maintained in the normal course of his business.

(Secs. 211, 301, Clean Air Act, as amended (42 U.S.C. 1857f-6c, 1857g))

[40 FR 36336, Aug. 20, 1975, as amended at 42 FR 45307, Sept. 9, 1977; 47 FR 49332, Oct. 29, 1982; 61 FR 3837, Feb. 2, 1996]

§ 80.8 Sampling methods for gasoline and diesel fuel.

The sampling methods specified in this section shall be used to collect samples of gasoline and diesel fuel for purposes of determining compliance with the requirements of this part.

(a) *Manual sampling.* Manual sampling of tanks and pipelines shall be performed according to the applicable procedures specified in American Society for Testing and Materials (ASTM) method D 4057-95(2000), entitled "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(b) *Automatic sampling.* Automatic sampling of petroleum products in pipelines shall be performed according to the applicable procedures specified in ASTM method D 4177-95(2000), entitled "Standard Practice for Automatic Sampling of Petroleum and Petroleum Products."

(c) *Sampling and sample handling for volatility measurement.* Samples to be analyzed for Reid Vapor Pressure (RVP) shall be collected and handled