§ 80.531  How are motor vehicle diesel fuel credits generated?

(a) Generation of credits from June 1, 2006 through December 31, 2009. (1) A refiner or importer may generate credits during the period June 1, 2006 through December 31, 2009, for motor vehicle diesel fuel produced or imported that is designated as subject to the 15 ppm sulfur content standard under §80.520(a)(1). Credits may be generated only if the volume of motor vehicle diesel fuel designated under §80.598(a) as subject to the 15 ppm sulfur standard of §80.520(a) exceeds 80 percent of the total volume of motor vehicle diesel fuel produced or imported as described in paragraph (a)(2) of this section.

(b) After May 31, 2010, no refiner or importer may produce or import motor vehicle diesel fuel subject to the 500 ppm sulfur content standard pursuant to this section.

[69 FR 39172, June 29, 2004]

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(b) After May 31, 2010, no refiner or importer may produce or import motor vehicle diesel fuel subject to the 500 ppm sulfur content standard pursuant to this section.

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(iv) Credits may not be generated by both a foreign refiner and by an importer for the same motor vehicle diesel fuel.

(4) Credits shall be generated by a foreign refiner as provided in §80.620(c) and this section.

(5) For purposes of this subpart, the CTAs are:

(i) PADDs I, II, III and IV, as described in §80.502(f) except as provided in paragraph (a)(5)(iv) of this section. The CTAs shall be designated as CTA 1, 2, 3, and 4, respectively, and correspond to PADDs I, II, III, and IV, respectively;

(ii) CTA 5 shall correspond to PADD V, as described in §80.502(f), except as provided in paragraphs (a)(5)(iii) and (iv) of this section;

(iii) The states of Hawaii and Alaska shall each be treated as a separate CTA and not a part of CTA 5. Alaska shall be CTA 6. Hawaii shall be CTA 7;

(iv) If any state (through a waiver of federal preemption under Section 211(c)(4) of the Clean Air Act, 42 U.S.C. 7545(c)(4)) implements a law or regulation that requires a greater volume of motor vehicle diesel fuel to meet a sulfur standard of less than or equal to 15 ppm than the volume that is required under this subpart, no motor vehicle diesel fuel produced in that state or imported directly into that state may generate credits under this subpart under this subpart, effective on the implementation date of the state statute or regulation that implements the more stringent state requirements.

(v) The U.S. territories specified in §80.502(f)(6) shall be included in CTA 1.

(6) No credits may be generated under this paragraph (a) after December 31, 2009.

(b) Generation of early credits from June 1, 2001 through May 31, 2005.

(1) Beginning June 1, 2001, a refiner or importer may generate one credit for each gallon of motor vehicle diesel fuel meeting the sulfur content standard in §80.520(a)(1) that is used in vehicles with engines that are certified to meet the model year 2007 heavy duty engine PM standard under 40 CFR 86.007–11 or in vehicles with retrofit technologies that achieve emission levels equivalent to the 2007 NOX or PM emission standard verified as part of a retrofit program administered by EPA or a state. Such refiners and importers must comply with the requirements of paragraphs (b) and (d) of this section.

(2)(i) Any refiner or importer planning to generate credits under this paragraph must provide notice of intent to generate early credits at least 120 calendar days prior to the date it begins generating credits under this paragraph by submitting such notice to Attn: Early Diesel Credits Notice, at the address in §80.595.

(ii) The notice shall include a detailed plan that demonstrates that the motor vehicle diesel fuel meeting the 15 ppm sulfur standard of §80.520(a)(1) for which credits are generated under this paragraph will be used in vehicles with engines that are certified to meet the model year 2007 heavy duty engine PM standard under 40 CFR 86.007–11 or in vehicles with retrofit technologies that achieve emission levels equivalent to the 2007 NOX or PM emission standard verified as part of a retrofit program administered by EPA or a state. The notice must include the refiner’s or importer’s detailed plan for ensuring that all motor vehicle diesel fuel that generates early credits under this paragraph will be segregated from all other motor vehicle diesel fuel not meeting the sulfur standard under §80.520(a)(1), from the refinery or import facility to its ultimate use in motor vehicles.

(3) No credits may be generated under this paragraph (b) after May 31, 2005.

(4) A refiner or importer may generate credits under this paragraph and also generate credits under paragraph (a) of this section, and a small refiner, as defined under §80.550, may generate credits under this paragraph (b) and paragraph (e) of this section.

(c) Generation of early credits from June 1, 2005 through May 31, 2006.

(1) Beginning June 1, 2005, a refiner or importer may generate one credit for each gallon of motor vehicle diesel fuel produced or imported that meets the 15 ppm sulfur standard in §80.520(a)(1) that is delivered into the distribution system. Such refiners and importers must comply with the requirements of
§ 80.532 How are motor vehicle diesel fuel credits used and transferred?

(a) Credit use stipulations. Motor vehicle diesel fuel credits generated under §80.531 may be used to meet the volume limit of §80.530(a)(3) provided that:

(b) Credit transfers for early credits. For early credits generated under §80.531(c), credits may be used in any of the CTAs 1 through 7 that were generated in any of the CTAs 1 through 7 to achieve compliance with the volume limit in §80.503(a)(3);

(d) Additional requirements for early credits. Early credits generated under paragraphs (b) and (c) of this section are subject to the following additional requirements:

(1) The designation requirements of §80.598, and all recordkeeping and reporting requirements of §§80.592 (except for paragraph (a)(3)), 80.593, 80.594, 80.600, and 80.601.

(2) Credits generated under paragraphs (b) and (c) of this section shall be generated separately by CTA as defined in paragraph (a)(5) of this section and must be designated by CTA of generation, and by the refiner and refinery, or by importer and port of import, as applicable, except as provided under paragraph (c)(5) of this section.

(3) Credits may not be generated for the same fuel by both a foreign refiner and an importer.

(4) [Reserved]

(5) In addition to the reporting requirements under paragraph (d)(1) of this section, the refiner or importer must submit a report to the Administrator no later than August 31, 2005 for the period from June 1, 2004 through May 31, 2005, or August 31, 2006 for the period from June 1, 2005 through May 31, 2006, demonstrating that all the motor vehicle diesel fuel produced or imported for which credits were generated met the applicable requirements of paragraph (b), (c), or (d)(4) of this section. If the Administrator finds that such credits did not in fact meet the requirements of paragraphs (b)(1) and (c)(1) of this section, as applicable, or if the Administrator determines that there is insufficient information to determine the validity of such credits, the Administrator may deny the credits submitted in whole or in part.

(e) Credits generated by small refineries.

(1) Notwithstanding the provisions of this section, a small refiner that is approved by the EPA as a small refiner under §80.551(g) may generate credits under §80.552(b). Such a small refiner may generate one credit for each gallon of motor vehicle diesel fuel produced that is designated under §80.598 as motor vehicle diesel fuel subject to the 15 ppm sulfur standard under §80.520(a)(1).

(2) Credits may be generated under this paragraph (e) and §80.552(b) only during the compliance periods beginning June 1, 2006 and ending on May 31, 2010, however diesel fuel produced after December 31, 2009 shall not generate credits. Credits shall be designated separately by refinery, separately by CTA of generation, and separately by annual compliance period. The annual compliance period for 2006 shall be June 1, 2006 through June 30, 2007. The annual compliance period for 2010 shall be July 1, 2009 through May 31, 2010.

(i) The small refiner must meet the requirements of paragraphs (d)(1), (d)(2) and (d)(3) of this section, and the recordkeeping and reporting requirements of §§80.592, 80.593 and 80.594.

(ii) In addition, a foreign refiner that is approved by the Administrator to generate credits under §80.552(b) shall comply with the requirements of §80.620.