§ 80.554 What compliance options are available to NRLM diesel fuel small refiners?

(a) Option 1: A refiner that has been approved by EPA as a NRLM diesel fuel small refiner under §80.551(g) may produce NRLM diesel fuel from crude oil from June 1, 2007 through May 31, 2010, that is exempt from the standards under §80.510(a), but only for a refinery located outside the areas specified under §80.510(g)(1).

(1) The volume of NRLM diesel fuel that is exempt from §80.510(a) must be less than or equal to 105 percent of BNRLM as defined under §80.533, less any volume of heating oil produced.

(2) Any volume of NRLM diesel fuel in excess of the volume allowed under paragraph (a)(1) of this section will be subject to the 500 ppm sulfur standard under §80.510(a).

(3) High-sulfur NRLM produced under this paragraph must—
   (i) Be dyed red pursuant to the provisions of §80.520 at the point of production or importation;
   (ii) Be associated with a product transfer document that bears a unique product code as specified under §80.590; and
   (iii) Not be delivered into areas specified under §80.510(g)(1).

(4) From June 1, 2007 through May 31, 2010, a refiner that has been approved by EPA as a NRLM diesel fuel small refiner under §80.551(g) may produce at a refinery located in 80.510(g)(2) NRLM diesel fuel that is exempt from the standards under §80.510(a) only if the refiner first obtains approval from the Administrator for a compliance plan. The compliance plan must detail how the refiner will segregate any fuel produced that does not meet the standards under §80.510(a) from the refinery through to the ultimate consumer from fuel having any other designations and from fuel produced by any other refiner. The compliance plan must also identify all ultimate consumers to whom the refiner supplies the fuel that does not meet the standards under §80.510(a).

(b) Option 2: A refiner that has been approved by EPA as a NRLM diesel fuel small refiner under §80.551(g) may produce NR diesel fuel from crude oil from June 1, 2010, through May 31, 2014, and NRLM diesel fuel from crude oil from June 1, 2012 through May 31, 2014 that is subject to the standards under §80.510(a), but only for a refinery located outside the areas specified under §80.510(g)(1).

(1) The volume of NR diesel fuel that may be subject to the 500 ppm sulfur standard from June 1, 2010 through June 30, 2011 must be less than or equal to 113 percent of BNRLM, and from July 1, 2011 through May 31, 2012 must be less than or equal to 96 percent of BNRLM as defined under §80.533, less any volume of locomotive and marine diesel fuel produced.

(2) The volume of NRLM diesel fuel that may be subject to the 500 ppm sulfur standard from June 1, 2012 through June 30, 2013 must be less than or equal to 113 percent of BNRLM, and from July 1, 2013 through May 31, 2014 must be less than or equal to 96 percent of BNRLM as defined under §80.533.

(3) NR diesel fuel produced in excess of the volume allowed under paragraph (b)(1) of this section will be subject to the standards under §80.510(b) and (c).

(4) 500 ppm sulfur NRLM diesel fuel produced under this paragraph must—
   (i) Bear a unique product code as specified under §80.590; and
   (ii) Not be sold or delivered into areas specified under §80.510(g)(1).

(5) From June 1, 2010 through May 31, 2012, for NR diesel fuel, and from June 1, 2012 through May 31, 2014 for NRLM diesel fuel, a refiner that has been approved by EPA as a NRLM diesel fuel small refiner under §80.551(g) may...
(a) In the case of a refiner without approved small refiner status who acquires a refinery from a refiner with approved status as a motor vehicle diesel fuel small refiner under §80.550(a) but does not qualify as a NRLM diesel fuel small refiner under §80.550(b) and beginning June 1, 2012, all NRLM diesel fuel is subject to the standards under §80.510(c).

§ 80.555 What provisions are available to a large refiner that acquires a small refiner or one or more of its refineries?

(a) (1) If the refiner fails to produce the necessary volume of 15 ppm sulfur MVNRLM diesel fuel by June 1, 2006 and every year thereafter through the deadlines specified under paragraph (d)(1)(i) of this section, the refiner must report this in its annual report under §80.604, and the adjustment of gasoline sulfur standards under paragraph (d)(2)(i) of this section will be considered void as of January 1, 2004.

(2)(i) From June 1, 2006 until the expiration of the refiner’s small refiner gasoline sulfur standards (through December 31, 2007 or 2010) 95 percent of the total MVNRLM diesel fuel produced by the refiner must be accurately designated under §80.598(a) as meeting the 15 ppm sulfur standard of §80.510(b).

(ii) The refiner must produce MVNRLM diesel fuel each year or partial year under paragraph (d)(1)(i) of this section at a volume that is equal to or greater than 85 percent of \(B_{MVNRLM} \) as defined in §80.533, calculated on an annual basis.

(b)(i) For a refiner meeting the conditions of paragraph (d)(1)(i) of this section, beginning January 1, 2004, the applicable small refiner’s annual average and per-gallon cap gasoline sulfur standards will be the standards of §80.240(a) increased by a factor of 1.20 for the duration of the refiner’s small refiner gasoline sulfur standards under §80.240(a) or §80.553 (i.e., through calendar years 2007 or 2010).

(ii) In no case may the per-gallon cap exceed 450 ppm.