

Regulatory Announcement

Direct Final Rule and Notice of Proposed Rulemaking for Amendments to the Nonroad and Highway Diesel Fuel Regulations

The U.S. Environmental Protection Agency (EPA) is amending the Highway Diesel and Nonroad Diesel rules to provide a temporary increase in the sulfur testing tolerance and allow the use of biodiesel to ensure compliance with the diesel fuel regulations.

Background

In January 2001 and in June 2004, EPA finalized the Highway Diesel and Nonroad Diesel Rules, respectively, which will implement more stringent standards for new diesel engines and fuels. The rules mandate the use of lower sulfur fuels in diesel engines beginning in 2006 for highway diesel fuel, and 2007 for nonroad diesel fuel. These fuels will enable the use of aftertreatment technologies for new diesel engines, which can reduce harmful emissions by 90 percent or more. Aftertreatment technologies will start phasing into the diesel sector beginning in 2007 for highway and 2011 for nonroad. These programs will yield significant, long-term benefits for public health and the environment.

In addition to two subsequent amendments containing clarifications to the rules, we are publishing this Direct Final Rule to make minor changes to assist entities in complying with our diesel fuel rules. Ongoing discus-

sions with stakeholders during the program implementation phase identified the need for additional changes such as providing a temporary increase in the sulfur testing tolerance, amending the designate-and-track provisions to account for non-petroleum diesel fuels (i.e., biodiesel) and fuel that meets California's diesel fuel standards, and amending the alternative defense provisions to account for conductivity additives and red dye. This rule will make all of these modifications and help ensure compliance with EPA's diesel fuel regulations.

Amendments

EPA intends to finalize the following items:

- A temporary increase in the sulfur testing tolerance.
- Modification of the designate-and-track provisions text to account for biodiesel and other non-petroleum diesel fuels and fuel that meets California's standards
- Amendments to the alternative defense provisions to account for red dye and conductivity additives.
- Corrections and other minor changes to ensure that the regulations are consistent, which will help to clarify portions of the regulations to better facilitate compliance-- including the allowance for some cross-CTA credit trading for early diesel credits.

Benefits of the Technical Amendments

The temporary increase in the sulfur testing tolerance and the amendments to the alternative defense provisions will provide for an additional compliance assurance margin for regulated entities.

- The modification of the designate-and-track provisions will decrease the burden on some regulated entities and also will allow for the use of biodiesel (and other non-petroleum diesel fuels).
- The correction of errors and omissions will help to clarify portions of the regulations to better facilitate compliance with the Highway and Nonroad Diesel rules.

Costs

EPA anticipates that costs associated with these technical amendments will be negligible, if there are any costs at all. (The reduction in the reporting burden for some entities may actually reduce costs for these entities.)

Public Participation Opportunities

We do not anticipate adverse comments on this rule nor do we currently plan to hold a hearing, as the technical amendments are generally minor clarifications and corrections. These technical amendments will assist parties throughout the fuel refining and distribution system in complying with the diesel regulations. Further, we have worked with regulated entities and interested parties regarding these amendments. None of the technical amendments in this rule will adversely affect regulated entities or the environment; they will merely clarify, and help to facilitate compliance with, the regulations. However, we have published a parallel Notice of Proposed Rulemaking along with the Direct Final Rulemaking in the event that we receive adverse comments. (If we receive adverse comment on one or more distinct amendments, paragraphs, or sections of the technical amendments being finalized in this rulemaking, or receive a request for hearing, we will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment.)

For More Information

You can access this Direct Final Rule and related documents on EPA's Office of Transportation and Air Quality Web site at:

www.epa.gov/otaq/regs/fuels/diesel/diesel.htm

Additional information on the Highway Diesel and Nonroad Diesel Rules is available at the following Web sites:

- **Highway Diesel Rule:**
Web site: www.epa.gov/otaq/diesel.htm
Preamble: <http://www.epa.gov/otaq/regs/hd2007/frm/frdslpre.pdf>
Regulations: <http://www.epa.gov/otaq/regs/hd2007/frm/frdslreg.pdf>
- **Nonroad Diesel Rule:**
Web site: www.epa.gov/nonroad-diesel/2004fr.htm
Preamble and Regulations: <http://www.epa.gov/otaq/url-fr/fr29jn04.pdf>
- **July 2005 Technical Amendment to the Highway and Nonroad Diesel Rules (*published July 15, 2005*):**
Web site: www.epa.gov/otaq/regs/fuels/diesel/diesel.htm#amend
Preamble & Regulations:
<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-13781.pdf>

- **November 2005 Technical Amendment to the Highway and Nonroad Diesel Rules (*published November 22, 2005*):**
Web site: www.epa.gov/otaq/regs/fuels/diesel/diesel.htm#dfr-concurrent
Preamble & Regulations:
<http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-22807.pdf>
- **Additional compliance help on diesel regulations:**
www.epa.gov/cleandiesel/comphelp.htm