

500 ppm Sulfur NRLM Credit Calculation Guidance

Q: The preamble and the regulations in the nonroad diesel rule describe different methods for calculating how many 500 ppm sulfur NRLM credits may be generated at a refinery or import facility. In particular, the preamble says that “...refiners and importers may obtain credit for early production/importation of fuel meeting the 15 ppm sulfur standard and that they designate as NRLM from June 1, 2009 through May 31, 2010.” However, 40 CFR 80.535(c) contains no requirement to designate credit fuel as 15 ppm NRLM. Also, the credit generation equation in 80.535(c)(1)(iii) simply states that 500 ppm sulfur NRLM credits can be generated for all 15 ppm diesel fuel produced or imported that is designated as either motor vehicle diesel fuel or NRLM diesel fuel, in excess of a refinery or import facility’s baseline volume. Which method is correct?

A: Refiners and importers should use the method specified in the regulations at 40 CFR 80.535(c) to calculate how many 500 ppm sulfur NRLM credits they may generate. The baseline volume used to calculate credits generated equals the annual average volume of all (15 ppm and 500 ppm) motor vehicle diesel fuel produced or imported from January 1, 2006 through December 31, 2008. Thus, refiners and importers must produce a volume of 15 ppm diesel equivalent to their baseline volume as a first step toward generating 500 ppm sulfur NRLM credits. Refiners and importers may then generate 500 ppm sulfur NRLM credits for any 15 ppm diesel fuel produced in excess of a refinery’s or import facility’s baseline volume. The regulations do not require refiners and importers to designate 15 ppm diesel fuel as NRLM in order to generate 500 ppm sulfur NRLM credits. However, refiners and importers may not generate both motor vehicle diesel fuel credits and 500 ppm NRLM credits for the same 15 ppm diesel fuel.

