

Focus on Fuels

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DFE- A New Term in Tier 3

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Denatured fuel ethanol (DFE) is not new. However, it is a new term introduced in the tier 3 gasoline regulations. Some of the new rules are directed at the denaturant manufacturer/producer and the oxygenate blender; however, most of the new regulations focus on the DFE producer or importer.

DFE- A New Term in Tier 3 Gasoline Regulation

by Beth Hilbourn

Regulating DFE is also not new. It has been regulated, for years by the Treasury department to assure it cannot be used to produce distilled spirits, by the IRS to assure that there is no loss of distilled

TM&C Services in
Fuel Regulations

TM&C provides a full range of services in its fuels regulatory practice. Some of these services are listed below.

- Preparing, reviewing and submitting fuels reports, including CDX submissions.
- Facility audits for compliance with fuels programs.
- Interaction with EPA to pose fuels related questions.
- Industry specialist assistance for required gasoline attestations.
- Industry specialist assistance for in-line blending audits.
- Assistance in setting up a fuels compliance group/program.
- Personnel reviews of compliance related groups.
- Compliance status reviews and recommendations
- Negotiations/consultation during EPA enforcement actions.
- 3rd Party Engineering reviews.
- Due diligence reviews of facilities and companies in RFS RINs Program.

spirits' revenue from taxation, and by various energy related rules that require or limit the denaturant level in fuel ethanol.

DFE is currently regulated in several sections of the EPA's Title 40, Chapter I, Subchapter C, Part 80, Regulation of Fuels and Fuel Additives. Beginning in 2017, the following is also required of DFE producers:

Registration:

All DFE producers must register.

Annual Reporting:

All DFE producers must report the volume and sulfur level of each batch annually (due March 31st of the following year). The DFE producer must also report either the test method used to determine the sulfur content or the information used to calculate the sulfur content.

Determine Sulfur level:

1. Test each batch of DFE for sulfur content.
2. Alternatively, DFE sulfur may be calculated based on the contribution from a certified denaturant and from the neat ethanol. The sulfur in a certified denaturant is passed on to the DFE producer via a PTD with either a direct measurement or with a general statement of < 330 ppm. If the neat ethanol is assumed to have a specific value, the DFE producer must conduct production quality control which demonstrates that the assumption is valid. The calculation method cannot be used if the denaturant is not certified or if production quality control is not performed on the neat ethanol.

I expect an ethanol importer will test each DFE batch for sulfur while it is highly likely that a domestic producer will utilize certified denaturant and conduct production quality control.

Sampling and Sample Retention:

Each batch of DFE must be sampled, whether the sulfur of the batch is measured or calculated. Sample retention is required for up to 90 days.

Maximum 3.0 vol% Denaturant:

The denaturant must not exceed 3.05 vol% since that rounds to the 3.0% limit. Under RFS2, full RIN

generation is allowed for up to 2% denaturant (2.5% when rounding). There is no regulatory incentive for 2.51% to 3.05% denaturant since the producer would only be allowed to generate RINs on 2% of the DFE blended.

PTD Requirements:

On each occasion when any person transfers custody or title to DFE, the statement, "Denatured fuel ethanol, maximum 10 ppm sulfur" among other requirements must be on the PTD.

Recordkeeping:

There are also new recordkeeping requirements for DFE producers in §80.1653(d), including a record of the name and title of the person who calculated the sulfur content of the DFE batch along with the date the calculation was performed.

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