

§ 80.595. The calendar year period shall be from January 1st through December 31st. For the period June 1, 2006 through December 31, 2006, the volume limits shall only apply to that volume  $V_{V500}$  that exceeds 60% of the baseline volume.

(b) A refiner that has been approved by EPA as a small refiner under § 80.551(g) may generate motor vehicle diesel fuel credits pursuant to the provisions of § 80.531, except that for purposes of § 80.531(a) the term Credit shall equal  $V_{V15}$ , without further adjustment.

(c) A refiner that has been approved by EPA as a small refiner under § 80.551(g) may apply for an extension of the duration of its small refiner gasoline sulfur standards pursuant to § 80.553.

(d) A refiner that produces motor vehicle diesel fuel under the provisions of paragraph (a) of this section or generates credits under the provisions of paragraph (b) of this section may not receive an extension of its small refiner gasoline sulfur standard under the provisions of paragraph (c) of this section. A refiner that receives an extension of its small refiner gasoline sulfur standard under the provisions of paragraph (c) of this section may not produce motor vehicle diesel fuel under the provisions of paragraph (a) of this section and may not generate credits under the provisions of paragraph (b) of this section.

(e) The provisions of this section shall apply separately for each refinery owned or operated by a small refiner.

EFFECTIVE DATE NOTE: At 69 FR 39179, June 29, 2004, § 80.552 was amended by revising the section heading and paragraphs (a), (b), (c), and (e), effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

**§ 80.552 What compliance options are available to motor vehicle diesel fuel small refiners?**

(a) A refiner that has been approved by EPA as a motor vehicle diesel fuel small refiner under § 80.551(g) may produce motor vehicle diesel fuel subject to the 500 ppm sulfur standard pursuant to the provisions of § 80.530, except that the volume limits of § 80.530(a)(3) shall only apply to that volume of diesel fuel that is produced or imported during an annual compliance period that exceeds 105 percent of the baseline volume es-

tablished under § 80.595 ( $V_{500}$ ). The annual compliance period shall be from July 1 through June 30. For the year 2006, the compliance period shall be from June 1, 2006 through June 30, 2007, and the volume limits shall only apply to that volume  $V_{500}$  that exceeds 113 percent of the baseline volume.

(b) A refiner that has been approved by EPA as a motor vehicle diesel fuel small refiner under § 80.551(g) may generate motor vehicle diesel fuel credits pursuant to the provisions of § 80.531, except that for purposes of § 80.531(a), the term "Credit" shall equal  $V_{15}$ , without further adjustment.

(c) A refiner that has been approved by EPA as a motor vehicle diesel fuel small refiner under § 80.551(g) may apply for an extension of the duration of its small refiner gasoline sulfur standards pursuant to § 80.553.

\* \* \* \* \*

(e) The provisions of this section shall apply separately for each refinery owned or operated by a motor vehicle diesel fuel small refiner.

**§ 80.553 Under what conditions may the small refiner gasoline sulfur standards be extended for a small refiner of motor vehicle diesel fuel?**

(a) A refiner that has been approved by EPA for small refiner gasoline sulfur standards under § 80.240 may apply, under § 80.551, for an extension of the duration of its small refiner gasoline sulfur standards through the calendar year 2010 annual averaging period.

(b) As part of its application, the refiner must submit an application for a motor vehicle diesel fuel baseline in accordance with the provisions of §§ 80.595 and 80.596. The application must also include information, as provided in § 80.594, demonstrating that starting no later than June 1, 2006, all motor vehicle diesel fuel produced by the refiner will comply with the 15 ppm sulfur content standard under § 80.520(a)(1), and that the volume of motor vehicle diesel fuel produced will comply with the volume requirements of paragraph (e) of this section.

(c) The Administrator may approve an application for extension of the small refiner gasoline sulfur standards if the provisions of paragraph (b) of this section and §§ 80.595 and 80.596 are satisfied. In approving an application for extension, the Administrator shall establish a motor vehicle diesel fuel

§ 80.553

40 CFR Ch. I (7-1-04 Edition)

volume baseline under §§80.595 and 80.596.

(d) Beginning June 1, 2006, and continuing through December 31, 2010, all motor vehicle diesel fuel produced by a refiner that has received an extension of its small refiner gasoline sulfur standards under this section must be accurately designated under §80.523 as meeting the 15 ppm sulfur content standard under §80.520(a)(1).

(e) The total volume of motor vehicle diesel fuel produced for use in the United States and designated as meeting the 15 ppm sulfur content standard under paragraph (d) of this section must meet or exceed 85% of the baseline volume established under paragraph (c) of this section, except that for the year 2006, the total volume must meet or exceed 50% of the baseline volume.

(f) Compliance with the volume requirements in paragraph (e) of this section shall be determined on a calendar year basis, except that for the year 2006 compliance shall be determined for the period June 1, 2006 through December 31, 2006.

(g) If a refiner fails to comply with the requirements of paragraph (d) of this section, or if approval of the application, including the baseline, was based on false or inaccurate information, the extension of the applicable small refiner gasoline sulfur standards under this section shall be void ab initio, and all gasoline produced by the refinery must meet the gasoline sulfur standards under subpart H of this Part as if there had been no extension of the small refiner gasoline sulfur standards.

(h) If for any compliance period a refiner fails to meet the volume requirements in paragraph (e) of this section, the extension of the small refiner gasoline sulfur standards shall be void for that compliance period and for all succeeding compliance periods and all gasoline produced by the refinery must meet the gasoline sulfur standards under subpart H of this part as if there had been no extension of the small refiner gasoline sulfur standards under this section for such compliance periods.

(i) A refiner that is approved for an extension of the interim small refiner gasoline sulfur standards under this

section must meet all applicable recordkeeping and reporting requirements of §§80.592, 80.593, and 80.594, and shall meet all the recordkeeping and reporting requirements under §§80.210, 80.365 and 80.370. Any foreign refiner shall meet all additional requirements under §§80.620 and 80.410.

(j) A refiner approved for the small refiner gasoline sulfur standards extension under this section may not generate or use credits under §80.531(a) or (e), or §80.532.

(k) A refiner may petition the Administrator to vacate an extension of the small refiner gasoline sulfur content standards. EPA may grant such a petition, effective January 1 of the compliance period following receipt of such petition (or effective June 1, 2006, if applicable). Upon such effective date, all gasoline produced by the refiner must meet the gasoline sulfur content standards under subpart H of this Part as if there had been no extension of the small refiner gasoline sulfur content standards under this section. Upon such effective date, the refiner shall not be subject to the requirements of this section.

(l) The provisions of this section shall apply separately for each refinery of a refiner.

EFFECTIVE DATE NOTE: At 69 FR 39179, June 29, 2004, §80.553 was amended by revising paragraphs (d), (e), (f), and (k), effective Aug. 30, 2004. For the convenience of the user, the revised text is set forth as follows:

**§ 80.553 Under what conditions may the small refiner gasoline sulfur standards be extended for a small refiner of motor vehicle diesel fuel?**

\* \* \* \* \*

(d) Beginning June 1, 2006, and continuing through December 31, 2010, all motor vehicle diesel fuel produced by a refiner that has received an extension of its small refiner gasoline sulfur standards under this section must be accurately designated under §80.598 as meeting the 15 ppm sulfur content standard under §80.520(a)(1).

(e) The total volume of motor vehicle diesel fuel produced for use in the United States and designated as meeting the 15 ppm sulfur content standard under paragraph (d) of this section must meet or exceed 85 percent of the baseline volume established under paragraph (c) of this section, except that for the first compliance period from June 1, 2006 through June 30, 2007, the total volume must

meet or exceed 92 percent of the baseline volume.

(f) Compliance with the volume requirements in paragraph (e) of this section shall be determined each compliance period. Annual compliance periods shall be from July 1 through June 30. For the year 2006, the compliance period shall be from June 1, 2006 through June 30, 2007 and for the year 2009 the compliance period shall be from July 1, 2009 through May 31, 2010.

\* \* \* \* \*

(k) A refiner may petition the Administrator to vacate an extension of the small refiner gasoline sulfur content standards. EPA may grant such a petition, effective July 1 of the compliance period following receipt of such petition (or effective June 1, 2006, if applicable). Upon such effective date, all gasoline produced by the refiner must meet the gasoline sulfur content standards under subpart H of this part as if there had been no extension of the small refiner gasoline sulfur content standards under this section. Upon such effective date, the refiner shall not be subject to the requirements of this section.

\* \* \* \* \*

**§ 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  $B_{NRLM}$  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 (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  $B_{NRLM}$ , and from July 1, 2011 through May 31, 2012 must be less than or equal to 96 percent of  $B_{NRLM}$ , 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  $B_{NRLM}$ , and from July 1, 2013 through May 31, 2014 must be less than or equal to 96 percent of  $B_{NRLM}$ , as defined under § 80.533.

(3) NRLM 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—