

Environmental Protection Agency

§ 80.595

EFFECTIVE DATE NOTE: At 69 FR 39190, June 29, 2004, §80.594 was amended by revising the section heading and paragraphs (a)(3), (a)(5), (b) introductory text, (b)(2), and (c), and adding paragraphs (a)(6), (a)(7), (a)(8), and (e), effective Aug. 30, 2004. For the convenience of the user, the added and revised text is set forth as follows:

§80.594 What are the pre-compliance reporting requirements for motor vehicle diesel fuel?

(a) Except as provided in paragraph (d) of this section, beginning on June 1, 2003, and on June 1, 2004 and June 1, 2005, all refiners and importers planning to produce or import motor vehicle diesel fuel subject to the provisions of this subpart, shall submit the following information to EPA:

* * * * *

(3) An estimate of the average daily volumes (in gallons) of each sulfur grade of motor vehicle diesel fuel produced (or imported) at each refinery (or import facility). These volume estimates must be provided both for fuel produced from crude oil, as well as any fuel produced from other sources, and must be provided for the periods of June 1, 2006 through December 31, 2006, January 1, 2007 through December 31, 2007, January 1, 2008 through December 31, 2008, January 1, 2009 through December 31, 2009, and January 1, 2010 through May 31, 2010, for each refinery and import facility;

* * * * *

(5) Information on project schedule by quarter of known or projected completion date by the stage of the project, for example, following the five project phases described in EPA's June 2002 Highway Diesel Progress Review report (EPA420-R-02-016, <http://www.epa.gov/otaq/regs/hd2007/420r02016.pdf>): Strategic planning, Planning and front-end engineering, Detailed engineering and permitting, Procurement and construction, and Commissioning and startup;

(6) Basic information regarding the selected technology pathway for compliance (e.g., conventional hydrotreating vs. other technologies, revamp vs. grassroots, etc.);

(7) Whether capital commitments have been made or are projected to be made; and

(8) The pre-compliance reports due 2004 and 2005 must provide an update of the progress in each of these areas.

(b) Beginning on June 1, 2003, all approved motor vehicle diesel fuel small refiners shall submit the following additional information to EPA, as applicable:

* * * * *

(2) In case of a refinery with an approved application under §80.552(c), a demonstration that by June 1, 2006 its motor vehicle diesel fuel will be at 15 ppm sulfur at a volume meeting the requirements of §80.553(e).

(c) For each refiner and importer approved under §80.540, a demonstration that by June 1, 2006, 95 percent of its motor vehicle diesel fuel will be at 15 ppm sulfur at a volume of meeting the requirements of §80.540(e).

* * * * *

(e) The pre-compliance reporting requirements of this section do not apply to refineries subject to the provisions of §80.513.

§ 80.595 How does a refiner apply for a motor vehicle diesel fuel volume baseline?

(a) Any small refiner applying for extension of the duration of its small refiner gasoline sulfur standards of §80.240, under §§80.552(c) and 80.553, or any refiner applying for an extension of the duration of the GPA standards under §80.540 must apply for a motor vehicle diesel fuel volume baseline by December 31, 2001. A separate volume baseline must be sought for each refinery for which application of the provisions of §80.553 or §80.540 is sought.

(b) The volume baseline must be sent via certified mail with return receipt or express mail with return receipt to: U.S. EPA-Attn: Diesel Baseline (6406J), 1200 Pennsylvania Avenue, NW (6406J), Washington, DC 20460 (certified mail/return receipt) or Attn: Diesel Baseline, Transportation and Regional Programs Division, 501 3rd Street, NW (6406J), Washington, DC 20001 (express mail/return receipt).

(c) The motor vehicle diesel fuel volume baseline application must include the following information:

(1) A listing of the names and addresses of all refineries owned by the refiner for which the refiner is applying for a motor vehicle diesel fuel volume baseline.

(2) The average annual volume (in gallons) of motor vehicle diesel fuel produced for U.S. use in 1998 and 1999, for each refinery for which the refiner is applying for such baseline, calculated in accordance with §80.596. The refiner shall follow the procedures, applicable to volume baselines and using motor vehicle diesel fuel instead of gasoline, specified in §§80.91 through

§ 80.596

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

80.93 to establish the volume of motor vehicle diesel fuel that was produced for U.S. use in 1998 and 1999 for purposes of establishing a volume baseline under this section.

(3) A letter signed by the president, chief operating, or chief executive officer of the company, or his/her delegate, stating that the information contained in the volume baseline determination is true to the best of his/her knowledge.

(4) Name, address, phone number, facsimile number, and e-mail address (if available) of a corporate contact person.

(5) The following information for each batch of motor vehicle diesel fuel produced for U.S. use in 1998 and 1999:

(i) Batch number assigned to the batch under procedures such as those in § 80.65(d) or § 80.101(i), or, if unavailable, such other identifying information as is available; and

(ii) Volume of the batch, in gallons.

(6) For a refinery that was not in operation during part or all of the period 1998 and 1999, the information required under this paragraph (c) for the motor vehicle diesel fuel produced for U.S. use during the most recent calendar year that the refinery was in operation after the refinery was reactivated.

(d) Within 120 days of receipt of an application under this section, EPA will notify the refiner of an approval of the refinery's baseline, or of any deficiencies in the application.

(e) If at any time the baseline submitted in accordance with the requirements of this section is determined to be incorrect, EPA will notify the refiner of the corrected baseline. The corrected baseline shall apply to all applicable compliance calculations under this subpart.

(f)(1) If insufficient information is available for the Administrator to establish a baseline under the provisions of paragraph (c) of this section and § 80.596(a), the refiner shall submit additional information sufficient for the Administrator to establish a baseline.

(2) To satisfy the requirements of paragraph (f)(1) of this section, the Administrator may require, and consider, any information pertinent to establish a baseline, including:

(i) Motor vehicle diesel fuel production volumes for other years;

(ii) Crude capacity of the refinery;

(iii) The ratio, or the typical ratio, for other similarly sized or configured refineries, between motor vehicle diesel fuel production and gasoline production.

§ 80.596 How is a refinery motor vehicle diesel fuel volume baseline calculated?

(a) For purposes of this subpart, a refinery's motor vehicle diesel fuel volume baseline is calculated using the following equation:

$$V_{\text{Base}} = \frac{\sum_{i=1}^n (V_i)}{m/12}$$

Where:

V_{Base} = Volume baseline value.

V_i = Volume of motor vehicle diesel fuel batch i .

n = Total number of batches of motor vehicle diesel fuel produced for U.S. use during January 1, 1998 through December 31, 1999 (or the total number of batches of motor vehicle diesel fuel produced during the most recent calendar year the refinery was in operation after being reactivated pursuant to § 80.595(c)(6)); or, for a foreign refinery, the total number of batches of motor vehicle diesel fuel produced and imported into the U.S. during January 1, 1998 through December 31, 1999 (or the total number of batches of motor vehicle diesel fuel produced and imported into the U.S. during the most recent calendar year the refinery was in operation after being reactivated pursuant to § 80.595(c)(6)).

i = Individual batch of motor vehicle diesel fuel produced during January 1, 1998 through December 31, 1999 (or individual batch of motor vehicle diesel fuel produced during the most recent calendar year the refinery was in operation after being reactivated pursuant to § 80.595(c)(6)); or, for a foreign refinery, individual batch of motor vehicle diesel fuel produced and imported into the U.S. during January 1, 1998 through December 31, 1999 (or individual batch of motor vehicle diesel fuel produced and imported into the U.S. during the most recent calendar year the refinery was in operation after being reactivated pursuant to § 80.595(c)(6)).

m = Number of months in the baseline period (24 except in the case of a startup or reactivation).

(b) If insufficient information is available for the Administrator to establish a baseline under paragraph (a)