

§ 80.230

the duration of the small refiner program.

(d) Notwithstanding the definition in paragraph (a) of this section, refiners who acquire a refinery after January 1, 1999, or reactivate a refinery that was shutdown or was non-operational between January 1, 1998, and January 1, 1999, may apply for small refiner status in accordance with the provisions of § 80.235.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19306, Apr. 13, 2001; 67 FR 38340, June 3, 2002; 67 FR 40182, June 12, 2002]

§ 80.230 Who is not eligible for the hardship provisions for small refiners?

(a) The following are not eligible for the hardship provisions for small refiners:

(1) Refiners with refineries built after January 1, 1999;

(2) Refiners who exceed the employee or crude oil capacity criteria under § 80.225(a) on January 1, 1999, but who meet these criteria after that date, regardless of whether the reduction in employees or crude capacity is due to operational changes at the refinery or a company sale or reorganization;

(3) Importers; and

(4) Refiners who produce gasoline other than by processing crude oil through refinery processing units.

(b)(1)(i) Refiners who qualify as small under § 80.225 and subsequently cease production of diesel fuel from processing crude oil through refinery processing units, or employ more than 1,500 people or exceed the 155,000 bpcd crude oil capacity limit after January 1, 2004 as a result of merger with or acquisition of or by another entity, are disqualified as small refiners, except this shall not apply in the case of a merger between two previously approved small refiners. If disqualification occurs, the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(ii) Except as provided under paragraph (b)(1)(iii) of this section, any refiner whose status changes under this paragraph shall meet the applicable standards of § 80.195 within a period of up to 30 months of the disqualifying event for any of its refineries that were previously subject to the small refiner

standards of § 80.240(a). However, such period shall not extend beyond December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(iii) A refiner may apply to EPA for an additional six months to comply with the standards of § 80.195 if more than 30 months will be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time. EPA will base its decision to approve additional time on the information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond December 31, 2007, or, for refineries for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

(iv) During the period of time up to 30 months provided under paragraph (b)(1)(ii) of this section, and any extension provided under paragraph (b)(1)(iii) of this section, the refiner may not generate gasoline sulfur credits under § 80.310.

(2) Any refiner who qualifies as a small refiner under § 80.225 may elect to meet the standards under § 80.195 by notifying EPA in writing no later than November 15 prior to the year that the change will occur. Any refiner whose status changes under this paragraph (b)(2) shall meet the standards under § 80.195 beginning with the first averaging period subsequent to the status change.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19307, Apr. 13, 2001; 69 FR 39167, June 29, 2004]

§ 80.235 How does a refiner obtain approval as a small refiner?

(a) Applications for small refiner status must be submitted to EPA by December 31, 2000, except for applications submitted pursuant to § 80.225(d), which must be submitted by June 1, 2002.

(b) Applications for small refiner status must be sent to: U.S. EPA, Attn: Sulfur Program (6406J), 1200 Pennsylvania Ave., NW., Washington, DC 20460.