

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 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 a refinery for which the Administrator has approved an extension of the small refiner gasoline sulfur standards under § 80.553(c), December 31, 2010.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 5136, Jan. 18, 2001; 69 FR 39167, June 29, 2004]

§ 80.245 How does a small refiner apply for a sulfur baseline?

(a) Any refiner seeking small refiner status must apply for a refinery sulfur baseline by the deadline under § 80.235 for each of the refiner's refineries by providing the following information:

(1) A sulfur baseline and baseline volume for every refinery calculated in accordance with § 80.250.

(2) The following information for each batch of gasoline produced in 1997-1998:

- (i) Batch number assigned to the batch under § 80.65(d) or § 80.101(i);
- (ii) Volume; and
- (iii) Sulfur content.

(3) For any refiner that acquires and/or reactivates a refinery that was shut down or non-operational between January 1, 1997, and December 31, 1998, the average sulfur level and average volume of gasoline produced during each annual averaging period that the refinery was in operation after the refinery was acquired and/or reactivated. EPA will evaluate all of the information and data submitted by the refiner in determining the appropriate sulfur baseline for the refinery. Where EPA concludes that the data submitted reasonably reflects current sulfur levels, the refinery's baseline will be determined based on the average sulfur content of gasoline produced by the refinery during the most recent annual averaging period in which the refinery was in operation.

(b) The sulfur baseline application must be submitted to the address specified in § 80.235(b).

(c)(1) Foreign refiners who do not have an approved individual refinery baseline under § 80.94 must follow the procedures specified in § 80.410(b).

(2) Foreign refiners who have an approved individual refinery baseline under § 80.94, but one that was not in effect for purposes of anti-dumping compliance during the 1997-1998 annual averaging periods, must comply with the requirements of this section for the gasoline produced at the refinery and imported into the United States during each of the annual averaging periods in which the refinery was subject to its individual anti-dumping baseline. EPA will evaluate all of the information and data submitted under this section in determining the foreign refinery's sulfur baseline pursuant to this paragraph. Where EPA concludes that the data submitted reasonably reflects current sulfur levels, the refinery's baseline will be determined based on the annual average sulfur level and volume of gasoline produced by the foreign refinery and imported into the U.S. during the most recent annual averaging period in which the refinery was subject to its individual anti-dumping baseline.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19307, Apr. 13, 2001]

§ 80.250 How is the small refiner sulfur baseline and volume determined?

(a)(1) The small refiner baseline volume is determined for each refinery as follows:

$$V_b = \frac{\sum_{i=1}^n (V_i)}{2}$$

Where:

V_b = Baseline volume.

V_i = Volume of gasoline batch i .

n = Total number of batches of gasoline produced from January 1, 1997, through December 31, 1998 (or the total number of batches of gasoline pursuant to § 80.245(a)(3); or, for a foreign refinery, the total number of batches of gasoline produced and imported into the U.S. from January 1, 1997, through December 31, 1998,

§ 80.255

40 CFR Ch. I (7-1-08 Edition)

or the total number of batches of gasoline produced and imported into the U.S. pursuant to §80.245(c)(2)).

i = Individual batch of gasoline produced from January 1, 1997, through December 31, 1998 (or individual batch of gasoline pursuant to §80.245(a)(3); or, for a foreign refinery, individual batch of gasoline produced and imported into the U.S. from January 1, 1997, through December 31, 1998, or individual batch of gasoline produced and imported into the U.S. pursuant to §80.245(c)(2)).

(2) The small refiner sulfur baseline is determined for each refinery as follows:

S_b = (sum from i=1 to n of (V_i x S_i)) / (sum from i=1 to n of V_i)

Where:

S_b=Small refiner sulfur baseline.

V_i=Volume of gasoline batch i.

S_i=Sulfur content of batch i.

n=Total number of batches of gasoline produced from January 1, 1997, through December 31, 1998 (or the total number of batches of gasoline pursuant to §80.245(a)(3); or, for a foreign refinery, the total number of batches of gasoline produced and imported into the U.S. from January 1, 1997, through December 31, 1998, or the total number of batches of gasoline produced and imported into the U.S. pursuant to §80.245(c)(2)).

i=Individual batch of gasoline produced from January 1, 1997, through December 31, 1998 (or individual batch of gasoline produced pursuant to §80.245(a)(3); or, for a foreign refinery, individual batch of gasoline produced and imported into the U.S. from January 1, 1997, through December 31, 1998, or individual batch of gasoline produced and imported into the U.S. pursuant to §80.245(c)(2)).

(3) Any refiner who, under §80.69 or §80.101(d)(4), included oxygenate blended downstream in compliance calculations for 1997-1998 must include this oxygenate in the baseline calculations for sulfur content under this section.

(4) Sulfur baseline calculations under this section shall be conducted to two decimal places.

(b) [Reserved]

(c) If at any time a small refinery baseline is determined to be incorrect, the corrected baseline applies ab initio and the annual average standards and

cap standards are deemed to be those applicable under the corrected information.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19307, Apr. 13, 2001]

§ 80.255 Compliance plans and demonstration of commitment to produce low sulfur gasoline.

The requirements of this section apply to any refiner approved for small refiner standards who wishes to be eligible for a hardship extension under §80.260.

(a) Compliance commitment. By no later than June 1, 2004, any refiner who is approved for small refinery standards must submit a preliminary report to EPA which outlines the refiner's timeline for compliance and a project plan which discusses permits, capital commitments and engineering plans for making the necessary modifications to produce gasoline that meets the 30 ppm refinery average and 80 ppm per-gallon cap sulfur standards under §80.195 on or before January 1, 2008. Documents showing activities and progress in these areas should be provided, if available.

(b) Demonstration of Progress. (1)(i) By no later than June 1, 2005, the small refiner must submit a report to EPA that states in detail the progress toward compliance with the 30 ppm refinery average and 80 ppm cap sulfur standards to date based on their timeline and project plan. The report must include:

(A) Copies of approved permits for construction of the equipment, or the permit application if approval is still pending;

(B) Copies of contracts for design and construction; and

(C) Any available evidence of having secured the necessary financing to complete the required construction;

(ii) If the refiner anticipates any difficulties in meeting its compliance commitments under this section, the refiner must submit a detailed report of all efforts made to date and the factors that may cause delay, including costs, specification of engineering or other design work needed and reasons for delay, specification of equipment