

Environmental Protection Agency

§ 80.255

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, 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:

$$S_b = \frac{\sum_{i=1}^n (V_i \times S_i)}{\sum_{i=1}^n V_i}$$

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.

§ 80.260

40 CFR Ch. I (7-1-10 Edition)

(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 needed and any reasons for delay, potential equipment suppliers and history of negotiations, and any other relevant information. If unavailability of equipment is a factor, the report must include a discussion of other options considered and the reasons these other options are not feasible.

(2) By no later than June 1, 2006, the small refiner must submit to EPA evidence that on-site construction has begun and that, absent unforeseen difficulties, the small refiner will be producing complying gasoline by January 1, 2008. If construction has not begun, the refiner must demonstrate that it

has made all reasonable efforts to begin construction, that substantial progress is being made to begin construction as soon as possible, and that construction can be completed in time to begin production of gasoline that complies with the standards of § 80.195 by January 1, 2008.

(c) *Additional information.* The Administrator may request any additional information necessary to determine a refiner's commitment and/or progress toward meeting the standards in § 80.195 by 2008.

(d) *Failure to comply with requirements.* Any small refiner who fails to submit the progress reports required under this section will not be eligible for a hardship extension under § 80.260.

§ 80.260 What are the procedures and requirements for obtaining a hardship extension?

(a) An approved small refiner who has filed the reports specified in § 80.255 may apply to EPA for a hardship extension of the small refiner standards for calendar years 2008 and 2009. The application must be submitted in writing no later than January 1, 2007, to U.S. EPA, Attn: Sulfur Program (6406J), 1200 Pennsylvania Ave., NW., Washington, DC 20460. For commercial (non-postal) delivery: U.S. EPA, Attn: Sulfur Program, 501 3rd Street NW, Washington, DC 20001.

(b) The application must specify the factors that demonstrate a significant economic hardship and must provide a detailed discussion regarding the inability of the refinery to produce gasoline meeting the requirements of § 80.195. Such an application must include, at a minimum, the following information:

(1) Documentation of efforts made to obtain necessary financing, including:

(i) Copies of loan applications for the necessary financing of the construction of appropriate sulfur reduction technology and other equipment procurements or improvements; and

(ii) If financing has been disapproved or is otherwise unsuccessful, documents supporting the basis for that disapproval and evidence of efforts to pursue other means of financing;