

Environmental Protection Agency

§ 80.235

(b) The definition under paragraph (a) of this section applies to domestic and foreign refiners. For any refiner owned by a governmental entity, the number of employees as specified in paragraph (a) of this section shall include all employees of the governmental entity.

(c) If, without merger with, or acquisition of, another business unit, a company with approved small refiner status under §80.235 exceeds 1,500 employees, or a corporate crude capacity of 155,000 bpcd after January 1, 1999, it will be considered a small refiner for 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.

§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 of 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) Refiners who qualify as small under §80.225, and subsequently employ more than 1,500 people as a result of merger with or acquisition of or by another entity, are disqualified as small refiners. If this occurs the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(2) Any refiner who qualifies as small 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 the change will occur.

(3) Any refiner whose status changes under paragraph (b)(1) or (2) of this section shall meet the standards under §80.195 beginning with the first averaging period subsequent to the status change.

§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), 401 M Street, SW, Washington, DC 20460. For commercial delivery: U.S. EPA, Attn: Sulfur Program (6406J), 501 3rd Street, NW, Washington, DC 20001.

(c) The small refiner status application must contain the following information for the company seeking small refiner status, plus any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners:

(1)(i) A listing of the name and address of each location where any employee worked during the 12 months preceding January 1, 1999; the average number of employees at each location based upon the number of employees for each pay period for the 12 months preceding January 1, 1999; and the type of business activities carried out at each location; or

(ii) In the case of a refiner who acquires a refinery after January 1, 1999, or reactivates a refinery that was shutdown between January 1, 1998, and January 1, 1999, a listing of the name and address of each location where any employee of the refiner worked since the refiner acquired or reactivated the refinery; the average number of employees at any such acquired or reactivated refinery during each calendar year since the refiner acquired or reactivated the refinery; and the type of business activities carried out at each location.

(2) The total corporate crude capacity of each refinery as reported to the Energy Information Administration (EIA) of the U.S. Department of Energy

§ 80.240

40 CFR Ch. I (7-1-00 Edition)

(DOE). The information submitted to EIA is presumed to be correct. In cases where a company disagrees with this information, the company may petition EPA with appropriate data to correct the record within 60 days after the company submits its application for small refiner status.

(3) A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the application 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.

(d) For joint ventures, the total number of employees includes the combined employee count of all corporate entities in the venture.

(e) For government-owned refiners, the total employee count includes all government employees.

(f) Approval of small refiner status for refiners who apply under §80.225(d) will be based on all information submitted under paragraph (c) of this section. Where appropriate, the employee and crude oil capacity criteria for such

refiners will be based on the most recent 12 months of operation.

(g) EPA will notify a refiner of approval or disapproval of small refiner status by letter.

(1) If approved, EPA will notify the refiner of each refinery's applicable baseline standard and volume, and per-gallon cap under §80.240.

(2) If disapproved, the refiner must comply with the standards in §80.195.

(h) If EPA finds that a refiner provided false or inaccurate information on its application for small refiner status, upon notice from EPA the refiner's small refiner status will be void ab initio.

(i) Upon notification to EPA, an approved small refiner may withdraw its status as a small refiner. Effective on January 1 of the year following such notification, the small refiner will become subject to the standards at §80.195.

§ 80.240 What are the small refiner gasoline sulfur standards?

(a) The gasoline sulfur standards for an approved small refiner are as follows:

Refinery baseline sulfur level	Temporary sulfur standards for small refiners applicable from January 1, 2004 through December 31, 2007	
	Annual average	Per gallon cap
0 to 30	30.00	300
31 to 200	Baseline level	300
201 to 400	200.00	300
401 to 600	50% of baseline	Factor of 1.5 times the average standard.
601 and above	300.00	450

(b) The refinery annual average sulfur standards must be met on an annual calendar year basis for each refinery owned by a small refiner. The refinery annual average sulfur level is calculated in accordance with the provisions of §80.205.

(c)(1) The refinery annual average standards specified in paragraph (a) of this section apply to the volume of gasoline produced by a small refiner's refinery up to the lesser of:

(i) 105% of the baseline gasoline volume as determined under §80.250(a)(1); or

(ii) The volume of gasoline produced at that refinery during the averaging period by processing crude oil.

(2) If a refiner exceeds the volume limitation in paragraph (c)(1) of this section during any averaging period, the annual average sulfur standard applicable to the refiner for that averaging period is calculated as follows:

$$S_{sr} = \frac{(V_b \times S_b) + (AF \times (V_a - V_b))}{V_a}$$

Where:

S_{sr}=Small refiner annual average sulfur standard.