

§ 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.

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V_b=Applicable volume under paragraph (c)(1) of this section.

V_a=Averaging period gasoline volume.

S_b=Small refiner sulfur baseline as determined under § 80.250.

AF=Adjustment factor (120 in 2004; 90 in 2005; and 30 in 2006 and thereafter).

(3) The small refiner average standards under paragraph (a) of this section may be met using sulfur allotments or credits as provided under § 80.275 or § 80.315.

(4) The provisions for compliance deficits under § 80.205(e) do not apply to small refiners subject to the standards under this section.

(d) In the case of any refiner with small refiner status who generates sulfur allotments or credits pursuant to § 80.275(a) or § 80.305, the baseline applicable to that refiner's refinery for purposes of establishing the standard for the refinery under paragraph (a) of this section beginning in 2004 shall be the lowest annual average sulfur content for any year during the period in which the refiner generated allotments or credits.

§ 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 who acquires a refinery after January 1, 1999, or reactivates a refinery that was shut down or non-operational between January 1, 1998, and January 1, 1999, the average sulfur level and average volume of gasoline produced during each year the refinery was in operation after the refinery was acquired or reactivated. Where appropriate, the baseline sulfur level and volume for such refineries will be determined based on the annual aver-

age for the most recent year of operation.

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

§ 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.

i=Individual batch of gasoline produced from January 1, 1997, through December 31, 1998.

(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.

i=Individual batch of gasoline produced from January 1, 1997, through December 31, 1998.

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

(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.