

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 80**

[FRL-7492-1]

**Extension of Alternative Compliance Periods Under the Anti-Dumping Program****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** Today's direct final rule will amend the provisions that EPA promulgated on September 8, 2000, when we published a direct final rule allowing start-up refineries to apply for a conventional gasoline anti-dumping compliance period of longer than one year. Alternative compliance periods are available only to start-up refineries that are facing significant hardship in complying with the anti-dumping statutory baseline oxides of nitrogen (NO<sub>x</sub>) standard. Today's direct final rule will amend the alternative anti-dumping compliance period provisions to permit an alternative compliance period of up to seven years for start-up refineries owned by small refiners (but in no case extending beyond calendar year 2007), while requiring refineries to provide additional environmental benefits for any cumulative NO<sub>x</sub> deficits remaining at the end of the fifth or sixth calendar years of any alternative compliance period.

A refinery with an alternative compliance period is allowed to produce gasoline that does not comply with the statutory anti-dumping NO<sub>x</sub> standard on an annual average basis, thereby generating a NO<sub>x</sub> emissions deficit in the early part of the alternative compliance period. However, the refinery must produce NO<sub>x</sub> emissions benefits before the end of the alternative compliance period that make up for these early deficits and that provide an additional environmental NO<sub>x</sub> benefit at least equivalent to the overall cumulative NO<sub>x</sub> deficit generated during the course of the alternative compliance period. To track its NO<sub>x</sub> compliance, the refinery must calculate its NO<sub>x</sub> emissions benefit or deficit on a quarterly basis using specified equations. This direct final rule would modify the method for determining a refiner's quarterly NO<sub>x</sub> emissions deficit or benefit for a refinery with an approved alternative compliance period, to account for ordinary seasonal variation in gasoline quality and use of

different seasonal versions of the Complex Model. The net determination of NO<sub>x</sub> deficit or benefit is unaffected. This action would also allow a refinery to meet all or some of the over-compliance requirement by purchasing and retiring NO<sub>x</sub> emissions credits instead of requiring the refinery to over-comply based on the actual performance of the gasoline it produces over the course of the alternative compliance period.

Additionally, this direct final rule would allow a start-up refinery to petition to receive the less stringent anti-dumping statutory baseline exhaust toxics value as its conventional gasoline mobile source air toxics (MSAT) standard for all or part of its alternative anti-dumping compliance period. Thereafter, the refinery's conventional gasoline MSAT standard would be the MSAT conventional gasoline default baseline value.

Finally, this direct final rule makes a correction to the quarterly reporting requirements for start-up refineries that have been granted an alternative anti-dumping compliance period. The existing regulation was accidentally promulgated without language requiring that quarterly reports be signed and certified by a responsible corporate officer. Today's action corrects that omission.

**DATES:** This direct final rule is effective July 7, 2003, unless we receive adverse comments or a request for a public hearing by June 5, 2003. In the "Proposed Rules" section of today's **Federal Register**, we are publishing a proposed rule that matches the substance of this direct final rule. If the Agency receives adverse comment or a request for public hearing by June 5, 2003, we will withdraw this direct final rule by publishing a timely withdrawal notice in the **Federal Register**.

**ADDRESSES:** To request a public hearing, please contact Anne Pastorkovich, Attorney/Advisor, Transportation & Regional Programs Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. (6406J), Washington, DC 20460 or by e-mail to [pastorkovich.anne-marie@epa.gov](mailto:pastorkovich.anne-marie@epa.gov). No confidential business information (CBI) should be submitted by e-mail.

EPA has established a public docket for this direct final rule under Docket ID No. OAR-2003-0007, which is available for public viewing at the Air and Radiation Docket and Information Center (EPA/DC) in the EPA Docket Center, EPA West, Room B102, 1301

Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listings of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to the direct final rule should be submitted to EPA within 30 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method) or by mail to EPA Docket Center, Environmental Protection Agency (6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

EPA's policy is the public comments, whether submitted electronically or in paper format, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

**FOR FURTHER INFORMATION CONTACT:** If you would like further information about this rule or to request a hearing, contact Anne Pastorkovich, Attorney/Advisor, Transportation & Regional Programs Division, (202) 564-8987, or by e-mail to [pastorkovich.anne-marie@epa.gov](mailto:pastorkovich.anne-marie@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Regulated Entities**

Entities potentially regulated by the action are parties that produce conventional gasoline. Regulated categories and entities include: