

refiner who has been granted small refiner status under § 80.235 and who meets the eligibility requirements in paragraph (k)(1) of this section may petition for an alternative compliance period that is greater than five years and/or that extends beyond January 1, 2006, provided that such application is submitted by January 1, 2004. No application under this paragraph (l) may result in an alternative compliance period that extends beyond January 1, 2008.

(2) *Application process.* Applications must be submitted to the Administrator by January 1, 2004, to the following address: U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), 1200 Pennsylvania Avenue, NW, Washington, DC 20460 (certified mail/return receipt) or U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), Transportation & Regional Programs Division, 501 3rd Street, NW, Washington, DC 20001 (express mail/return receipt).

(3) *Contents of the application petition.* Each petition must include:

(i) The information and signed statements specified for all petitioners under § 80.101(k)(2);

(ii) A description of the hardships that make it infeasible, on a cost and/or technological basis, for the refinery to comply with an alternative anti-dumping compliance baseline of five years or less, or that ends on or before January 1, 2006.

(iii) A quarterly timeline, from the date of the application, indicating the expected NO<sub>x</sub> emissions performance of the refinery's conventional gasoline, and the reasons for any expected non-compliance with the statutory baseline standard for NO<sub>x</sub> on a quarterly basis (for example, a particular gasoline blendstock-producing unit not yet installed). The timeline shall include the date by which the refinery will produce conventional gasoline that complies with the annual average statutory NO<sub>x</sub> baseline on a quarterly basis as determined according to § 80.101(k)(3)(ii).

(iv) A demonstration that the conditions for which the refinery was granted small refiner status under § 80.235 are still applicable.

(v) Information already submitted to the Administrator as part of a prior petition under paragraph (k) of this section, shall be updated if applicable.

(4) Approval or disapproval of petitions. The Administrator may approve a petition under this paragraph (l) if it includes information sufficient to demonstrate to the Administrator's satisfaction that cost and/or technological constraints make it

infeasible for the refinery to comply with an alternative anti-dumping compliance baseline of five years or less, or that ends on or before January 1, 2006. The Administrator will approve or deny the petition in writing within six months of receipt. An approval will include any conditions or requirements to which the approval is subject.

(5) *Cessation of extended alternative compliance period.* (i) Refineries that qualify as small under § 80.223, and that later are disqualified under § 80.230(b), will be subject to the statutory anti-dumping baseline on an annual average basis beginning the calendar year immediately following the refinery's change in status.

(ii) If the Administrator finds that a refiner provided false or inaccurate information on its application for small refiner status, upon notice from the Administrator, the refiner's extended alternative compliance period will be void ab initio.

(6) *Compliance requirements for qualifying small refiners.* (i) If the refiner's application for an extended compliance period under this paragraph (l) is approved, then the refinery must comply with the statutory baseline NO<sub>x</sub> standard, on average, for gasoline produced beginning by not later than the 19th quarter (for a six year compliance period) or by no later than the 22nd quarter (for a seven year compliance period).

(ii) The refinery must meet all other applicable requirements in paragraph (k) of this section, including the production of a net NO<sub>x</sub> benefit under paragraph (k)(3)(ii) of this section, except that the following provisions shall apply:

(A) For any cumulative NO<sub>x</sub> deficit remaining at the expiration of the fifth year, based on the NO<sub>x</sub> emission performance of gasoline actually produced at the refinery, and as calculated under paragraph (k)(3)(ii) of this section, the refiner shall provide an additional NO<sub>x</sub> benefit equal to one half ton of NO<sub>x</sub> emissions per ton of deficit remaining by the end of the refinery's alternative anti-dumping averaging period.

(B) For any cumulative NO<sub>x</sub> deficit remaining at the expiration of the sixth year, based on the NO<sub>x</sub> emission performance of gasoline actually produced at the refinery, and as calculated under paragraph (k)(3)(ii) of this section, the refiner shall provide an additional NO<sub>x</sub> benefit equal to one ton of NO<sub>x</sub> emissions per ton of deficit remaining by the end of the refinery's alternative anti-dumping averaging period.

(C) The additional NO<sub>x</sub> benefits required under this paragraph (l)(6)(ii) of this section may come from the production of gasoline at the refinery that is cleaner than the statutory baseline or from the purchase and retirement of stationary source NO<sub>x</sub> credits or allowances as provided in paragraph (k)(3)(iii) of this section. ■ 3. Paragraph (c) is added to § 80.855 to read as follows:

**§ 80.855 How is the compliance baseline determined?**

\* \* \* \* \*

(c)(1) *Eligibility to petition.* A refiner who has been granted an alternative anti-dumping averaging period under § 80.101(k) may petition the Administrator to have the statutory baseline exhaust toxics emissions, Phase II value specified in § 80.91(c)(5)(iv) as its compliance baseline for the purposes of this subpart J for one or more of the years of the refiner's approved alternative anti-dumping averaging period.

(2) *Application process.* Applications must be submitted to the Administrator by January 1, 2004 to the following address: U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (certified mail/return receipt) or U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), Transportation & Regional Programs Division, 501 3rd Street, NW., Washington, DC 20001 (express mail/return receipt).

(3) *Contents of the application petition.* Each petition must include:

(i) A copy of the refinery's approval for an alternative averaging period under section 80.101(k).

(ii) A description of the hardships that make it infeasible, on a cost and/or technological basis, for the refinery to comply with the compliance baseline specified in paragraph (b) of this section.

(iii) A quarterly timeline, from the date of the application, indicating the expected exhaust toxics emissions performance of the refinery's conventional gasoline, and the reasons for any expected non-compliance with the compliance baseline specified in paragraph (b) of this section (for example, a particular gasoline blendstock-producing unit not yet installed). The timeline shall include the date by which the refinery will produce conventional gasoline that complies with the baseline specified in paragraph (b) of this section on an annual average basis.

(4) *Approval or disapproval of petitions.* (i) The Administrator may