

[In percentages]

PADD 1	PADD 2	PADD 3	PADD 4	Oregon and Washington	Alaska	Hawaii i	California
41	20	26	13	21	68	40	0

(f)(1) Applications submitted under paragraph (c)(2)(i) of this section must be postmarked by February 28, 2006.

(2) Applications submitted under paragraph (c)(2)(ii) of this section must be postmarked by August 1, 2007.

(g)(1) For applications submitted under paragraph (c)(2)(i) of this section, EPA will notify refiners or importers by June 1, 2006 of approval of the baselines for each of the refiner's refineries or importer's import facilities or of any deficiencies in the refiner's or importer's application.

(2) For applications submitted under paragraph (c)(2)(ii) of this section, EPA will notify refiners by December 1, 2007 regarding approval of the baselines for each of the refiner's refineries or of any deficiencies in the refiner's application.

(g) If at any time the non-highway baseline percentage submitted in accordance with the requirements of this section is determined to be incorrect, EPA will notify the refiner of the corrected baseline.

23. A new § 80.534 is added to read as follows:

§ 80.534 Use of the non-highway baseline percentage.

(a) Beginning June 1, 2007—or June 1, 2006 pursuant to the provisions of § 80.535(a)—and until June 1, 2010, a refiner or importer may use the following provisions in lieu of the dye requirements of § 80.520(b) if it has an EPA-approved non-highway baseline percentage under § 80.533.

(1) A refiner or importer must notify EPA of its intention to use these provisions by April 1, 2006, or by April 1 of any subsequent year during which it intends to use the these provisions for the first time.

(2) A separate notification is required for each refinery or each importer by the CTA into which it imports NRLM diesel fuel.

(3) The decision to use or not use these provisions shall apply for the entire calculation period, as defined below, and for the refinery's entire production volume or for the importer's entire import volume by the CTA into which it imports NRLM fuel.

(4) EPA will presume no change from the previous year in the refiner's or importer's decision to use or not use these provisions unless the refiner or importer notifies EPA by April 1 of any

year during which such a change would apply.

(b) For purposes of this section:

(1) "Calculation period" means a 12-month period from June 1 through May 31 beginning in 2007, 2008, or 2009.

(2) "Vtotal" means the total volume of diesel fuel and heating oil produced or imported during a calculation period by a refinery or importer CTA, respectively.

(3) "Vmarked" means the total volume of heating oil produced or imported and marked with solvent yellow 124 by the refiner or importer pursuant to § 80.510(c) during a calculation period.

(4) "B%" is the non-highway baseline percentage approved by EPA for a refinery or importer CTA pursuant to § 80.533(d).

(5) " $V_{nrlm} = (V_{total} \times B\% / 100) - V_{marked}$).

(6) " $V_{motorvehicle} = V_{total} * (100\% - B\%) / 100$.

(c) For each calculation period:

(1) The total volume of diesel fuel designated as NRLM (including both 500 ppm diesel fuel and any high sulfur diesel fuel produced pursuant to the provisions of §§ 80.535 and 80.536) whether dyed or undyed may not be greater than V_{nrlm} .

(2) The volume of diesel fuel designated by a refiner or importer as motor vehicle diesel fuel pursuant to § 80.523 shall not be less than $V_{motorvehicle}$.

(d)(1) All the requirements of this subpart applicable to motor vehicle diesel fuel shall apply to diesel fuel designated as motor vehicle diesel fuel under the provisions of this section. Except for the provisions of § 80.510(c) concerning solvent red 164, all the requirements of this subpart applicable to nonroad, locomotive and marine diesel fuel shall apply to diesel fuel designated as NRLM diesel fuel under the provisions of this section.

(2) Diesel fuel designated as motor vehicle diesel fuel and diesel fuel designated as NRLM diesel fuel under the provisions of this section may be mixed after they have been designated, or may remain commingled if designated without the fuels being physically separated, as long as the resulting fuel or mixture of fuels complies with all of the requirements that were applicable to each batch contained in the mixture.

24. A new § 80.535 is added to read as follows.

§ 80.535 How are nonroad, locomotive and marine (NRLM) diesel fuel credits generated?

(a) *Generation of high sulfur NRLM credits from June 1, 2006 through May 31, 2007.* (1) During the period June 1, 2006 through May 31, 2007, a refiner or importers may generate credits pursuant to the provisions of this section if all of the following conditions are met:

(i) The refiner or importer notifies EPA of its intention to generate credits and the period during which it will generate credits. This notification must be received by EPA at least 120 calendar days prior to the date it begins generating credits under this section;

(ii) Each batch or partial batch of NRLM diesel fuel for which credits are claimed shall be subject to all of the provisions of this subpart for NRLM diesel fuel as if it had been produced after June 1, 2007 and before June 1, 2010.

(iii) The number of nonroad high-sulfur credits (HSC) in gallons that are generated shall be a positive number.

(2) The refiner or importer shall choose one of the following methods for calculating credits for each calculation period.

(i) For fuel that is dyed per the requirements of § 80.510(c)(1)(i), HSC equals the volume of fuel in gallons produced or imported during the period identified in paragraph (a)(1)(i) of this section that is designated as NRLM diesel fuel and that is subject to and complies with the provisions of § 80.510(a); or

(ii) For dyed or undyed fuel that complies with the provisions of § 80.534 for a calculation period of June 1, 2006 through May 31, 2007, determine HSC as follows:

$HSC = V_{510} + V_{520} - V_{motorvehicle}$

Where:

V_{510} = The total volume of fuel produced or imported during the period identified in paragraph (a)(1)(i) of this section that complies with the standards of § 80.510(a) or (b).

V_{520} = The total volume of fuel produced or imported during the period identified in paragraph (a)(1)(i) of this section that complies