

(2) For any refiner owned by a governmental entity, the number of employees and total crude capacity as specified in paragraph (a) of this section shall include all employees and crude production of the government to which the governmental entity is a part.

(3) Any refiner owned and controlled by an Alaska Regional or Village Corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601—1629) is not considered an affiliate of such entity, or with other concerns owned by such entity solely because of their common ownership.

(d) For the purpose of determining the number of employees and crude capacity under paragraph (b) of this section:

(1) The refiner shall include the employees and crude capacity of any subsidiary companies, any parent company and subsidiaries of the parent company in which the parent has 50% or greater ownership, and any joint venture partners.

(2) For any refiner owned by a governmental entity, the number of employees and total crude capacity as specified in paragraph (b) of this section shall include all employees and crude production of the government to which the governmental entity is a part.

(3) Any refiner owned and controlled by an Alaska Regional or Village Corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601—1629) is not considered an affiliate of such entity, or with other concerns owned by such entity solely because of their common ownership.

(e)(1) Notwithstanding the provisions of paragraph (a) of this section, a refiner that acquires a refinery after January 1, 2000, or reactivates a refinery that was shut down or was non-operational between January 1, 1999, and January 1, 2000, may apply for motor vehicle diesel fuel small refiner status in accordance with the provisions of § 80.551(c)(1)(ii).

(2) Notwithstanding the provisions of paragraph (b) of this section, a refiner that acquires a refinery after January 1, 2003, or reactivates a refinery that was shutdown or was non-operational between January 1, 2002, and January 1, 2003, may apply for NRLM diesel fuel small refiner status in accordance with the provisions of § 80.551(c)(2)(ii).

(f) *Ineligible parties.* The following are ineligible for the small refiner provisions:

(1)(i) For motor vehicle diesel fuel, refiners with refineries built or started up after January 1, 2000;

(ii) For NRLM diesel fuel, refiners with refineries built or started up after January 1, 2002;

(2)(i) For motor vehicle diesel fuel, persons who exceed the employee or crude oil capacity criteria under this section on January 1, 2000, but who meet these criteria after that date, regardless of whether the reduction in employees or crude oil capacity is due to operational changes at the refinery or a company sale or reorganization;

(ii) For NRLM diesel fuel, persons who exceed the employee or crude oil capacity criteria under this section on January 1, 2003, but who meet these criteria after that date, regardless of whether the reduction in employees or crude oil capacity is due to operational changes at the refinery or a company sale or reorganization;

(3) Importers; and

(4) Refiners who produce motor vehicle diesel fuel or NRLM diesel fuel other than by processing crude oil through refinery processing units.

(g)(1)(i) Refiners who qualify as motor vehicle diesel fuel small refiners under this section and subsequently employ more than 1,500 people as a result of merger with or acquisition of or by another entity, or exceed the 155,000 bpcd crude capacity limit as a result of merger with or acquisition of or by another entity after January 1, 2004, are disqualified as small refiners. If this occurs, the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(ii) Except as provided under paragraph (g)(3) of this section, any refiner whose status changes under this paragraph shall meet the applicable standards of § 80.520 within a period of up to 24 months of the disqualifying event for any of its refineries that were previously subject to the small refiner standards of § 80.552, but no later than May 31, 2010.

(2)(i) Refiners who qualify as NRLM diesel fuel small refiners under this section and subsequently employ more than 1,500 people as a result of merger with or acquisition of or by another entity, or exceed the 155,000 bpcd crude capacity limit as a result of merger with or acquisition of or by another entity after January 1, 2004, are disqualified as small refiners. If this occurs, the refiner shall notify EPA in writing no later than 20 days following this disqualifying event.

(ii) Except as provided under paragraph (g)(3) of this section, any refiner whose status changes under this paragraph shall meet the applicable standards of § 80.510 within a period of up to 24 months of the disqualifying event for any of its refineries that were previously subject to the small refiner standards of § 80.552, but no later than

the dates specified in §§ 80.554(a) or 80.554(b), as applicable.

(3) A refiner may apply to EPA for additional time to comply with the standards of §§ 80.520 or 80.510 if more than 24 months would be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time and a proposed amount of additional time. EPA will base a decision to approve additional time on information provided by the refiner and on other relevant information. In no case will EPA extend the compliance date beyond May 31, 2010 for a motor vehicle diesel fuel small refiner or beyond the dates specified in §§ 80.554(a) or 80.554(b), as applicable, for a NRLM diesel fuel small refiner.

27. Section 80.551 is revised to read as follows:

§ 80.551 How does a refiner obtain approval as a small refiner under this subpart?

(a)(1)(i) Applications for motor vehicle diesel fuel small refiner status must be submitted to EPA by December 31, 2001.

(ii) Applications for NRLM diesel fuel small refiner status must be submitted to EPA by December 31, 2004.

(2)(i) In the case of a refiner who acquires a refinery after January 1, 2000, or reactivates a refinery that was shutdown between January 1, 1999, and January 1, 2000, the application for motor vehicle diesel fuel small refiner status must be submitted to EPA by June 1, 2003.

(ii) In the case of a refiner who acquires a refinery after January 1, 2003, or reactivates a refinery that was shutdown between January 1, 2002, and January 1, 2003, the application for NRLM diesel fuel small refiner status must be submitted to EPA by June 1, 2006.

(b) Applications for small refiner status must be sent via certified mail with return receipt or express mail with return receipt to: U.S. EPA—Attn: Diesel Small Refiner Status (6406J), 1200 Pennsylvania Avenue, NW (6406J), Washington, DC 20460 (certified mail/return receipt) or Attn: Diesel Small Refiner Status, Transportation and Regional Programs Division (6406J), 501 3rd Street, NW, Washington, DC 20001 (express mail/return receipt).

(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 in