
**Small Entity Compliance Guide for
“Control of Air Pollution From Motor
Vehicles: Tier 3 Motor Vehicle Emission
and Fuel Standards”**

(79 FR 23414, April 28, 2014)

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Assessment and Standards Division
Office of Transportation and Air Quality
U.S. Environmental Protection Agency

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NOTICE

This guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Public Law 104-121. The statements in this document are intended solely to aid regulated entities in complying with the published national regulation “Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards” (79 FR 23414, April 28, 2014).

Final authority rests with the regulation and this guide is not intended to replace, and may not cover all parts of, the regulation. However, in any civil or administrative action against a small business, small government, or small non-profit organization for violation of any parts of the aforementioned regulation, the content of this guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. EPA may decide to revise this guide without public notice to reflect changes in EPA’s approach to the Tier 3 Program requirements or to clarify and update text. To determine whether EPA has revised this guide and/or to obtain copies, contact EPA’s Tia Sutton at (734) 214-4018, sutton.tia@epa.gov.

Acronyms used throughout this guide:

§	Section
BPCD	Barrels Per Calendar Day
CAA	Clean Air Act
CARB	California Air Resources Board
CBOB	Conventional Blendstock for Oxygenate Blending
CFR	Code of Federal Regulations
CG	Conventional Gasoline
DFE	Denatured Fuel Ethanol
E0	Ethanol-free gasoline
E10	Gasoline containing 10 percent ethanol by volume
E15	Gasoline containing 15 percent ethanol by volume
EPA	U.S. Environmental Protection Agency
FR	Federal Register
FTP	Federal Test Procedure
GHG	Greenhouse Gas
GVWR	Gross Vehicle Weight Rating
HDGV	Heavy-Duty Gasoline Vehicle
HDV	Heavy-Duty Vehicle
LDT	Light-Duty Truck
LDV	Light-Duty Vehicle
LEVIII	(California's) Low Emission Vehicle program
MDPV	Medium-Duty Passenger Vehicle
MVNRLM	Motor Vehicle, Nonroad, Locomotive, and Marine
MY	Model Year
NAICS	North American Industry Classification System
NMOG	Non-methane Organic Gases
NOx	Nitrogen Oxides
OBD	On-board Diagnostics
OMB	Office of Management and Budget
PADD	Petroleum Administration Districts for Defense
PM	Particulate Matter
ppm	Parts Per Million
PTD	Product Transfer Document
RBOB	Reformulated Blendstock for Oxygenate Blending
RFA	Regulatory Flexibility Act
RFG	Reformulated Gasoline
SBA	Small Business Administration
SBAR Panel	Small Business Advocacy Review Panel
SBREFA	Small Business Regulatory Enforcement Fairness Act of 1996
SER	Small Entity Representative
SFTP	Supplemental Federal Test Procedure

SIC	Standard Industrial Classification
SVM	Small Volume Manufacturer
WPC	Wholesale Purchaser-Consumer

1.0 Introduction

This document was published by the Environmental Protection Agency (EPA) as our official compliance guide for small entities subject to the Tier 3 Vehicle and Fuel Standards rule, as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Before you begin using the guide you should know that the information in this guide was compiled and published on April 28, 2014 (79 FR 23414). EPA is continually improving and updating its rules, policies, compliance programs, and outreach efforts. You can determine whether EPA has revised or supplemented the information in this guide by checking the Tier 3 program web page (www.epa.gov/otaq/tier3.htm) for the rule, any technical amendments, and related information.

The Tier 3 rulemaking establishes more stringent vehicle emissions standards and will reduce the sulfur content of gasoline beginning in 2017, as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The gasoline sulfur standard will make emission control systems more effective for both new and existing vehicles, and will enable vehicle emissions standards more stringent than today's Tier 2 standards. The vehicle standards will reduce both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. This will result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards. Motor vehicles are an important source of exposure to air pollution both regionally and near roads. These vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that will allow automakers to sell the same vehicles in all 50 states. The vehicle standards will be implemented over the same timeframe as the greenhouse gas/fuel efficiency standards for light-duty vehicles (issued by EPA and the National Highway Transportation Safety Administration in 2012), as part of a comprehensive approach toward regulating emissions from motor vehicles.

1.1 Who should use this guide?

This guide is mainly for those entities regulated by the Tier 3 vehicle and gasoline program that qualify as small entities under the small business size standards as stated in the rulemaking. If you are not sure whether or not you qualify as a small entity, or meet the small refinery or small volume producer/importer requirements, please refer to section 2 of this guide.

The Small Business Regulatory Enforcement Act (SBREFA) requires that EPA prepare Small Entity Compliance Guides to help small businesses comply with the regulation. The regulation also has flexibility provisions specific to small entities in the covered industries, and this guide should help to clarify those provisions.

1.2 How do I obtain a complete copy of the rule?

A complete copy of the rule can be found in the Federal Register Volume 79, p. 23414 (published April 28, 2014): www.gpo.gov/fdsys/pkg/FR-2014-04-28/pdf/2014-06954.pdf. A copy of the final rule can also be found on the Tier 3 Rule webpage (under "Regulations and Standards", "Final Rule"): www.epa.gov/otaq/tier3.htm.

1.3 How do I use this guide?

This guide is organized as follows:

1. Introduction and general information
2. Description of entities that are subject to the rule
3. Overview of the Tier 3 regulatory requirements
4. Specific provisions for small entities
5. Registration, reporting, recordkeeping, and other compliance requirements
6. More information for further assistance

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2.0 Entities Subject to the Rule

2.1 Entities subject to the Tier 3 regulations

Table 1, below, lists the NAICS and SIC codes of those entities that may be subject to the Tier 3 rule:

Table 1. NAICS and SIC Codes		
Industry	NAICS¹ Codes	SIC² Codes
Petroleum refineries (including importers)	324110	2911
Butane and pentane manufacturers	325110	2869
Ethyl alcohol manufacturing	325193	2869
Ethanol denaturant manufacturers	324110, 211112	2911, 1321
Natural gas liquids extraction and fractionation	211112	1321
Other basic organic chemical manufacturing	325199	2869
Natural gas liquids pipelines, refined petroleum products pipelines	486910	4613
Chemical and allied products merchant wholesalers	424690	5169
Manufacturers of gasoline additives	325199	2869
Petroleum bulk stations and terminals	424710	5171
Other warehousing and storage-bulk petroleum storage	493190	4226
Light-duty vehicle and light-duty truck manufacturers	336111, 336112	3711
Independent commercial importers	811111, 811112, 811198	7538, 7533, 7534
Alternative fuel converters	335312, 336312, 336322, 336399, 811198	3621, 3714, 3519, 3599, 7534
On-highway heavy-duty engine & vehicle (>8,500 lbs GVWR) manufacturers	333618, 336120, 36211, 336312	3699, 3711, 3713, 3714
¹ NAICS- North American Industry Classification System		
² SIC- Standard Industrial Classification		

2.2 Criteria for qualification as a small entity

Table 2 below lists the small business size standards SBA has established for each type of business activity under the SIC/NAICS system. For the small refinery and small volume producer criteria (as these are not SBA-defined sectors), please refer to Section 5 of this guide for the criteria.

3.0 What Does the Regulation Require?

Table 2. Small Business Definitions		
Industry	NAICS codes	Defined as small entity by SBA if less than or equal to:
Gasoline fuel refiners and importers	324110	1,500 employees ³
Ethanol producers	325193	1,000 employees
Gasoline additive manufacturers	325199	1,000 employees
	325998	500 employees
	424690	100 employees
Transmix processors	<i>Varied</i>	1,500 employees
Petroleum bulk stations and terminals	424710	100 employees
Other warehousing and storage-bulk petroleum storage	493190	\$25.5 million (annual receipts)
Light-duty vehicle and light-duty truck manufacturers	336111, 336112	1,000 employees
Independent commercial importers	811111, 811112, 811198	\$7 million (annual receipts)
Alternative fuel converters	335312	1,000 employees
	336312	750 employees
	336322	750 employees
	336399	750 employees
	811198	\$7 million (annual receipts)
On-highway heavy-duty engine & vehicle (>8,500 lbs GVWR) manufacturers	333618	1,000 employees
	336120	1,000 employees
	36211	1,000 employees
	336312	750 employees

3 EPA has included in past fuels rulemakings a provision that, in order to qualify for the small refiner flexibilities, a refiner must also produce no greater than 155,000 bpcd crude capacity

3.0 What Does the Regulation Require?

3.1 Gasoline Refiners

The final Tier 3 fuel program requires that all gasoline (and any ethanol-gasoline blend) must meet an average sulfur level of 10 ppm or less annually, beginning January 1, 2017. The 10 ppm average will apply to a refiner or importer's annual gasoline production. The existing Tier 2 per-gallon sulfur caps of 80 ppm at the refinery gate and 95 ppm downstream (e.g., at terminals, retail stations, etc.) will still apply in the Tier 3 program.

3.2 Gasoline Additive Manufacturers

Manufacturers of gasoline additives that are used downstream of the refinery at 1.0 volume percent or less must limit the additive's sulfur contribution to the finished gasoline to less than 3 ppm when used at the maximum recommended treatment rate. Parties that introduce additives to gasoline at over 1.0 volume percent will be required to meet all of the requirements and obligations of a refiner and fuel manufacturer, including demonstrating that the finished blend meets the applicable sulfur specification.

3.3 Producers of Denatured Fuel Ethanol and Other Gasoline Oxygenates

Denatured fuel ethanol (DFE) and other gasoline oxygenates are required to meet a 10 ppm sulfur cap beginning January 1, 2017. The Tier 3 program also requires a 3.0 volume percent limit on ethanol denaturant concentration. EPA also adopted the current ASTM International specifications that only natural gasoline, gasoline blendstocks, or gasoline may be used as denaturants for DFE. The final rule further requires that DFE must be composed solely of carbon, hydrogen, oxygen, and sulfur.

3.4 Butane and Pentane Blender Requirements

The Tier 3 program requires a 10 ppm sulfur cap for butane blended into gasoline, beginning January 1, 2017.

Additionally, effective June 27, 2014, the Tier 3 rule finalized provisions to allow pentane to be blended into gasoline downstream of the refinery (similar to the existing provisions for butane blending). With these provisions, a 30 ppm sulfur cap will apply to pentane blended into gasoline until December 31, 2016 (consistent with the existing sulfur cap for butane under the Tier 2 program), beginning January 1, 2017, a 10 ppm sulfur cap will apply for butane blending.

3.5 Tier 3 Tailpipe Emission Standards for Light-Duty Vehicles, Light-Duty Trucks, and Medium-Duty Passenger Vehicles

The Tier 3 program for vehicle manufacturers is a comprehensive program that includes new fleet-average standards for the sum of NMOG and NO_x tailpipe emissions (presented as NMOG+NO_x) as well as new per-vehicle standards for PM. These standards, when applied in conjunction with reduced gasoline sulfur content, will result in very significant improvements in vehicle emissions from the levels of the Tier 2 program. For these pollutants, the standards are measured on test procedures that represent a range of vehicle operation, including the Federal Test Procedure (or FTP, simulating typical driving) and the Supplemental Federal Test Procedure (or SFTP, a composite test simulating higher ambient temperatures, higher vehicle speeds, and quicker accelerations). In addition to the standards, we are extending the regulatory useful life period during which the standards apply (see Section IV.A.7.c of the preamble to the final rule, page 23475 of the April 28, 2014 Federal Register) and making test fuel more representative of expected real-world fuel (see Section I.B.2.e of the preamble, page 23424). The final standards are in most cases identical to those of California's LEVIII program, which provides the 50-state harmonization strongly supported by the auto industry.

The new Tier 3 FTP and SFTP NMOG+NO_x standards are fleet-average standards, meaning that a manufacturer calculates the average emissions of the vehicles it sells in each model year and compares that average to the applicable standard for that model year. The manufacturer certifies each of its vehicles to a per-vehicle "bin" standard (see Section IV.A.2, page 24450) and sales-weights these values to calculate its fleet-average NMOG+NO_x emissions for each model year. Table I-1 (page 23421) summarizes the fleet average standards for NMOG+NO_x evaluated over the FTP. The standards for light-duty vehicles begin in MY 2017 at a level representing a 46 percent reduction from the Tier 2 requirements. For the light-duty fleet over 6000 lbs gross vehicle weight rating (GVWR), and medium-duty passenger vehicles (MDPVs), the standards apply beginning in MY 2018. As shown in the table, these fleet-average standards decline during the first several years of the program, becoming increasingly stringent until ultimately reaching an 81 percent reduction when the transition is complete. The FTP NMOG+NO_x program includes two separate sets of declining fleet-average standards, with light-duty vehicles (LDVs) and small light trucks in one grouping and heavier light trucks and MDPVs in a second grouping, that converge at 30 milligrams per mile (mg/mi) in MY 2025 and later.

In addition to this primary schedule for the fleet-average standards, the program includes optional implementation schedules (Section IV.G, page 23534) that manufacturers that are small businesses or Small Volume Manufacturers (SVMs) may find preferable.

Similarly, the NMOG+NO_x standards measured over the SFTP are fleet-average standards, declining from MY 2017 until MY 2025, as shown in Table I-2 (also page 23421). In this case, the same standards apply to both lighter and heavier vehicles in

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the light-duty fleet. In MY 2025, the SFTP NMOG+NO_x standard reaches its final fleet average level of 50 mg/mi.

PM standards are also part of the Tier 3 program, for both the FTP and US06 cycles (US06 is a component of the SFTP test). Research has demonstrated that the level of PM from gasoline light-duty vehicles is more significant than previously thought. The new FTP PM standard ensures that all new vehicles perform at the level already being achieved by well-designed Tier 2 vehicles. The PM standards apply to each vehicle separately (i.e., not as a fleet average). Also, in contrast to the declining NMOG+NO_x standards, the PM standard on the FTP for certification testing is 3 mg/mi for all vehicles and for all model years. As for the NMOG+NO_x standards, for vehicles over 6000 lbs GVWR, the FTP PM standard applies beginning in MY 2018.

Manufacturers can phase in their vehicle models as a percent of U.S. sales through MY 2022. Most vehicles are already performing at this stringent PM level, and the primary intent of the standard is to bring all light-duty vehicles to the typical level of PM performance being demonstrated by many of today's vehicles. The Tier 3 program also includes a temporary in-use FTP PM standard of 6 mg/mi for the testing of in-use vehicles that applies during the percent phase-in period only. This in-use standard will address the in-use variability and durability uncertainties that accompany the introduction of new technologies. Table I-3 (page 23422) presents the FTP certification and in-use PM standards and the phase-in percentages.

Finally, the Tier 3 program includes PM standards evaluated over the US06 driving cycle of 10 mg/mi through MY 2018 and of 6 mg/mi for 2019 and later model years, for light-duty vehicles. As in the case of the FTP PM standards, the intent of the US06 PM standard is to bring the emission performance of all vehicles to that already being demonstrated by many vehicles in the current light-duty fleet.

3.6 Tailpipe Emissions Standards for Heavy-Duty Vehicles

Tier 3 also includes exhaust emissions standards for complete heavy-duty vehicles (HDVs) between 8,501 and 14,000 lbs GVWR. Vehicles in this GVWR range are often referred to as Class 2b (8,501–10,000 lbs) and Class 3 (10,001–14,000 lbs) vehicles, and are typically heavy-duty pickup trucks and work or shuttle vans.

The key elements of the Tier 3 program for HDVs parallel those being adopted for passenger cars and light-duty trucks (LDTs), with adjustments in standard levels, emission test requirements, and implementation schedules appropriate to this sector. These key elements include combined NMOG+NO_x declining fleet average standards, a phase-in of PM standards, adoption of a new emissions test fuel for gasoline-fueled vehicles, extension of the regulatory useful life to 150,000 miles or 15 years (whichever occurs first), and a first-ever requirement for HDVs to meet standards over an SFTP drive cycle that addresses real-world driving modes not well-represented by the FTP cycles. The Class 2b and Class 3 fleet average NMOG+NO_x standards are shown in

Table I-4, page 23422. The program is described in more detail in Section IV.B, page 23481.

3.7 Evaporative Emissions Standards

Gasoline vapor emissions from vehicle fuel systems occur when a vehicle is in operation, when it is parked, and when it is being refueled. These evaporative emissions, which occur on a daily basis from gasoline-powered vehicles, are primarily functions of temperature, fuel vapor pressure, and activity. Tier 3 establishes more stringent standards that will require covered vehicles to have essentially zero fuel vapor emissions in use. These include more stringent evaporative emissions standards, new test procedures, and a new fuel/evaporative system leak emission standard. The program also includes phase-in flexibilities as well as credit and allowance programs.

The level of the standard remains above zero to account for nonfuel background emissions from the vehicle hardware. Requirements to meet the Tier 3 evaporative emission regulations phase in over a six model year period. We are finalizing three options for the 2017 model year, but after that the sales percentage requirements are 60 percent for MYs 2018 and 2019, 80 percent for model years 2020 and 2021, and 100 percent for model years 2022 and later. Table I-5, page 23423, presents the Tier 3 evaporative hot soak plus diurnal emission standards by vehicle class.

3.8 In-Use Performance of Fuel Vapor Control Systems

Data from in-use evaporative emissions testing indicates that vapor leaks from vehicle fuel/evaporative systems are found in the fleet and that even very small leaks have the potential to make significant contributions to the mobile source VOC inventory. To help address this issue, Tier 3 also adds a new standard and test procedure to control vapor leaks from vehicle fuel and vapor control systems. The standard will prohibit leaks with a cumulative equivalent diameter of 0.02 inches or greater. This simple and inexpensive test and emission standard helps ensure vehicles maintain zero fuel vapor emissions over their full useful life. New LDV, LDT, MDPV, and heavy-duty gasoline vehicle (HDGV) equal to or less than 14,000 lbs GVWR meeting the Tier 3 evaporative emission regulations are also required to meet the leak standard beginning in the 2018 model year. Manufacturers must comply with the leak standard phase-in on the same percentage of sales schedule as that for the Tier 3 evaporative emission standards. Manufacturers will comply with the leak emission standard during certification and in use.

3.9 Onboard Diagnostic System (OBD)

In order to promote harmonization with the California Air Resources Board program, the final Tier 3 rule adopted and incorporated by reference the existing CARB OBD regulations, effective for the 2017 model year, with a few minor differences including phase-in flexibility provisions and specific additions to enhance the

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implementation of the leak standard. The rule also retained the provision that certifying with CARB's program would permit manufacturers to seek a separate EPA certificate on that basis.

3.10 Emissions Test Fuel

The Tier 3 final rule set E10 as the ethanol blend level in emissions test gasoline for Tier 3 light-duty and heavy-duty gasoline vehicles. EPA is also making additional changes that are consistent with CARB's LEV III emissions test fuel specifications, including new specifications for octane, distillation temperatures, aromatics, olefins, sulfur and benzene. (See Section IV.F of the preamble to the final Tier 3 rule, page 23525, for a detailed discussion of all the revised emission test fuel parameters.) Further, the rule requires (tailpipe emission testing and evaporative emission testing, preamble Sections IV.A.7.d (page 23476) and IV.C.6.b (page 23511), respectively) certification of all Tier 3 light-duty and chassis-certified heavy-duty gasoline vehicles on Federal E10 test fuel. These new test fuel specifications will apply to new vehicle certification, assembly line, and in-use testing. Manufacturers are also permitted to request approval for an alternative certification fuel, such as a high-octane 30 percent ethanol-by-volume blend (E30), for vehicles that may be optimized for such fuel.

4.0 Provisions for Small Entities

4.1 Small refiners and small volume refineries

What are the regulatory options that are available to small refiners and small volume refineries?

The following provisions were finalized in the Tier 3 final rule to assist small refiners and small volume refineries with compliance:

- **Small Refiner and Small Volume Refinery Delay.** The Tier 3 final rule allows small refiners and small refineries to postpone their compliance with the Tier 3 program for up to three years. Approved small refiners and small refineries will have from January 1, 2017 through December 31, 2019 to continue production of gasoline with an average sulfur level of 30 ppm (the Tier 2 gasoline sulfur standard). Compliance with the Tier 3 10 ppm sulfur standard will begin on January 1, 2020. Since small refiners and small refineries will still be subject to the 30 ppm sulfur standard when the Tier 3 program begins on January 1, 2017, we are finalizing that small refiners may continue to generate credits relative to 30 ppm through December 31, 2019—however, these credits may only be traded to and used by other small refiners or small refineries through December 31, 2019. Also, from January 1, 2017 through December 1, 2019, small refiners may split their credit generation between both the 10 ppm and 30 ppm standards, as long as there is no double-counting of credits. For example, during this time, a small refiner with an average gasoline sulfur level of 8 ppm could generate 20 credits relative to the Tier 2 sulfur standard (30 ppm minus 10 ppm) plus 2 credits relative to the Tier 3 sulfur standard (10 ppm minus 8 ppm).
- **Case-by-Case Hardship.** Similar to existing EPA fuel programs under 40 CFR Part 80, the Tier 3 program includes an extreme unforeseen circumstances hardship provision and an extreme hardship provision for all gasoline refiners and importers. Hardship relief will be granted on a case-by-case basis following a showing that a refiner is not able to comply especially through the use of credits. Any hardship waiver granted will not be a total waiver of compliance with the standards; rather, a hardship waiver will consist of short-term relief to help a refiner facing a hardship situation comply (for example by receiving additional time to comply, or an extended deficit carryforward for up to three years). If a hardship waiver is granted, EPA will determine appropriate hardship relief based on the refiner's hardship application and an assessment of the credit market at that time. The unforeseen circumstances hardship is intended to provide relief in circumstances, such as a refinery fire or a natural disaster, that could not be reasonably foreseen. The extreme hardship provision is intended to provide relief for situations of severe economic or physical

lead time limitations of a refiner to comply with the Tier 3 standards at the start of the program. For more information on the requirements of hardship applications, please see Section V.E.2 of the preamble (79 FR 23550) and 40 CFR 80.1625 in the regulations (79 FR 23663).

4.2 Vehicle small businesses and small volume manufacturers (SVMs)

What are the regulatory flexibility options available to vehicle small businesses and Small Volume Manufacturers?

The Tier 3 final rule includes the following special provisions designed to ease the compliance burden for small businesses certifying vehicles under the Tier 3 program and for SVMs. Eligibility for these provisions is covered in 40 CFR 86.8138-01 (page 23728).

- An alternative NMOG+NO_x light-duty fleet average standard phase-in schedule for small businesses and SVMs: 125 mg/mi for MYs 2017–2021, 51 mg/mi for MYs 2022–2027, and 30 mg/mi thereafter. Also, the program includes an optional delay of Tier 3 requirements until MY 2022 for small businesses and SVMs. Section IV.G, page 23534 of the preamble, has a full discussion of the implementation provisions available to manufacturers that are small businesses or Small Volume Manufacturers.
 - The regulatory language for these optional implementation provisions is at 40 CFR 86.1811-17(h).
- EPA-assigned deterioration factors for small businesses and SVMs (as well as for small volume test groups). 40 CFR 86.1826-01.
- Reduced in-use testing requirements for SVMs with annual sales under 15,000, including no required testing for those with annual sales under 5,000. 40 CFR 86.1837-01(b)(1)(B).
- A PM testing waiver for small businesses and SVMs. 40 CFR 86.1829-15(d)(2).
- An allowance for small alternative fuel vehicle converters to meet existing OBD requirements instead of new Tier 3 requirements. 40 CFR 86.1806-17.
- Provisions for small businesses and SVMs in hardship situations to apply for additional time to meet the Tier 3 standards. 40 CFR 86.1811-17(h) and 86.1813-17(h).
- An extension of eligibility for the Tier 3 SVM provisions to small manufacturers that are owned by large manufacturers but are able to demonstrate that they are operationally independent. 40 CFR 86.8138-01(d).

5. Registration, Reporting, Recordkeeping and Other Compliance Requirements

5.1 Requirements for Fuel-related Entities

5.1.1. Registration Requirements for Gasoline Refiners and Importers; Oxygenate Producers, Importers, and Blenders; and Producers or Importers of Certified Ethanol Denaturant

As stated in the regulations at 40 CFR 80.1650(a), any gasoline refiner/importer, oxygenate producer/importer/blender, or any producer/importer of certified ethanol denaturant must provide EPA with the information specified for registration under 40 CFR 80.76 (and listed in Table 5 below), if they are not already registered with EPA. Both a company ID number and a facility ID number will be issued, both of which shall be used in all reporting.

Registration deadlines:

- **Gasoline refiners and importers:** Must register by December 1, 2016, or at least 30 days before producing or importing reformulated gasoline (RFG), conventional gasoline (CG), RBOB, or CBOB, whichever is earlier. Previously unregistered refiners or importers who plan to generate credits before January 1, 2017 must register at least 90 days before submitting an annual compliance report with credit generation information.
- **Oxygenate producers and importers:** Must register by November 1, 2016, or at least 60 days before producing or importing oxygenate, whichever is earlier.
- **Oxygenate blenders:** Must register by November 1, 2016, or at least 90 days before blending oxygenate into RBOB, whichever is earlier.
- **Ethanol denaturant producers and importers:** Must register by November 1, 2016, or at least 60 days before producing or importing ethanol denaturant, whichever is earlier.

Table 5 Registration Requirements (40 CFR 80.1650 and 80.76)
Requirements for gasoline refiners, gasoline importers, oxygenate producers, oxygenate importers, oxygenate blenders, producers of certified ethanol denaturant, and importers of certified ethanol denaturant: <ul style="list-style-type: none"> ○ Name ○ Business address ○ Contact name ○ Telephone number ○ Email address
For each separate refinery, import facility, oxygenate production, import, or blending facility, and ethanol denaturant production or import facility: <ul style="list-style-type: none"> ○ Facility name

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<ul style="list-style-type: none">○ Physical location○ Contact name○ Telephone number○ Type of facility○ For oxygenate production, import, and blending facilities – the type and chemical composition of the oxygenate
<p>For each separate refinery/import facility that produces/imports RFG and/or RBOB, oxygenate blending facility, ethanol denaturant production facility, and for each gasoline, oxygenate, or ethanol denaturant importer's operations in a single PADD:</p> <ul style="list-style-type: none">○ Whether records are kept on-site or off-site of the refinery or facility○ If records are kept off-site, the primary off-site storage facility name, physical location, contact name, and telephone number○ The name, address, contact name and telephone number of the independent laboratory used to meet the independent analysis requirements of 40 CFR 80.65(f)
<p>If the registration information that was submitted becomes incomplete or inaccurate, updated registration information must be submitted within 30 days, except in the case of a change in the designated independent laboratory</p> <ul style="list-style-type: none">○ For gasoline refiners and importers, changes in designated independent laboratories must be submitted to EPA in writing at least 30 days prior to such change
<p>Registration must be submitted to:</p> <p>U.S. Environmental Protection Agency Fuels Programs Registration (6406J) 1200 Pennsylvania Avenue, NW</p>

5.1.2 Product Transfer Document Requirements

Product transfer documents (PTDs) are required at any time that custody or title to any gasoline, RBOB, CBOB or oxygenate is transferred (except when gasoline is sold or dispensed for use in a motor vehicle at a retail or wholesale purchaser-consumer (WPC) facility). The requirements for PTDs under the Tier 3 program are detailed in 40 CFR 80.1651, and summarized below in Table 6.

Table 6. PTD Requirements (40 CFR 80.1651)
<p>For transfers of custody or title to any gasoline, RBOB, CBOB, ethanol denaturant or oxygenate, PTDs must include all of the following information:</p> <ul style="list-style-type: none">○ The name and address of the transferor○ The name and address of the transferee○ The volume of gasoline, RBOB, CBOB, ethanol denaturant, or oxygenate being transferred○ The location of the gasoline, RBOB, CBOB, ethanol denaturant, or oxygenate at the time of the transfer○ The date of the transfer○

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Required PTD statements for export gasoline, California gasoline, or gasoline with an exemption: <ul style="list-style-type: none">○ <u>Gasoline with a national security exemption (40 CFR 80.1655)</u>: “This gasoline is for use in vehicles, engines, or equipment under an EPA-approved national security exemption only.”○ <u>Gasoline with a research, development, or testing exemption (40 CFR 80.1656)</u>: “This gasoline is for research, development, or testing purposes only.”○ <u>Gasoline for use in American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (40 CFR 80.1658)</u>: “This is gasoline for use only in Guam, American Samoa, or the Northern Mariana Islands.”○ <u>Gasoline for export purposes</u>: “This gasoline is for export only.”○ <u>Gasoline for racing purposes</u>: “This gasoline is for racing purposes only.”○ <u>California gasoline (40 CFR 80.1654)</u>: “California gasoline”
Gasoline additive PTD requirements: <ul style="list-style-type: none">○ Transfers of custody or title to any gasoline additive that is intended to be used at less than 1 volume percent (except when the additive is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility), the transferor must provide documents to the transferor that include information on the maximum recommended treatment level
Additional requirements for ethanol denaturant: <ul style="list-style-type: none">○ A statement identifying the batch as “Ethanol denaturant suitable for the manufacture of denatured fuel ethanol meeting federal quality requirements”, or another identifying statement as approved by EPA consistent with the requirements of 40 CFR 80.1611.○ Information on the sulfur content of the ethanol denaturant, as applicable (per the requirements of 40 CFR 80.1611)
Additional requirements for oxygenate: <ul style="list-style-type: none">○ For denatured fuel ethanol, a statement identifying the batch as “Denatured fuel ethanol, maximum 10 ppm sulfur” (alternative language may be used, with prior approval from EPA consistent with the requirements of 40 CFR 80.1610)○ For oxygenates other than DFE, the name of the specific oxygenate must be identified on the PTD, followed by “maximum 10 ppm sulfur” (alternative language may be used, with prior approval from EPA consistent with the requirements of 40 CFR 80.1610)

5.1.3 Reporting Requirements

Gasoline refiners and importers, and oxygenate producers and importers must submit annual reports to EPA containing all of the information listed in Table 7, below. Annual reports are required beginning with the 2017 annual averaging period (report deadline of March 31, 2018), or the first year that credits are generated. Please note that Table 7 merely provides a summary of the reporting requirements; see 40 CFR 80.1652 of the regulations for a complete list of reporting requirements for all regulated entities under the Tier 3 program.

Table 7. Reporting Requirements (40 CFR 80.1652)
General requirements: <ul style="list-style-type: none">○ Annual compliance reports are due by March 31 of each year for the previous calendar

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

<p>year (e.g., the 2017 annual compliance report is due by March 31, 2018)</p> <ul style="list-style-type: none">○ Annual reports must be signed and certified as meeting all of the applicable requirements of 40 CFR Part 80 Subpart O (the Tier 3 program) by the owner or a responsible corporate officer of the refiner, gasoline importer, oxygenate producer, oxygenate importer, denaturant producer, or denaturant importer○ All values measured or calculated must be in accordance with the rounding procedure specified in 40 CFR 80.9○ Attest reports for refiner and importer attest engagements (required under 40 CFR 80.1667) must be submitted by June 1 of each year for the prior calendar year
<p>Annual reporting requirements for gasoline refiners and importers:</p> <ul style="list-style-type: none">○ The EPA importer, or refiner and refinery facility registration numbers○ The average standard under 40 CFR 80.1603, reported to two decimal places○ The total volume of gasoline produced or imported, reported to the nearest whole number○ The annual average sulfur level of the gasoline produced or imported, reported to two decimal places○ The annual average sulfur level after inclusion of any credits, reported to two decimal places○ The following information for credits, separately by year of creation and reported to the nearest whole number:<ul style="list-style-type: none">• The number of credits at the beginning of the averaging period• The number of credits generated• The number of credits used• If any credits were obtained from or transferred to other parties; and for each other party, its name and EPA refiner or importer registration number, and the number of credits obtained from or transferred to the other party• The number of credits that expired at the end of the averaging period• The number of credits that will carry over into the subsequent averaging period○ The following information for each batch of gasoline produced or imported during the averaging period:<ul style="list-style-type: none">• The batch number assigned under 40 CFR 80.65(d)(3), except that if composite samples of conventional gasoline representing multiple batches produced subsequent to December 31, 2003, are tested under 40 CFR 80.101(i)(2) for anti-dumping compliance purposes, for purposes of this subpart a separate batch number must be assigned to each batch using the batch numbering procedures under 40 CFR 80.65(d)(3)• The date the batch was produced• The volume of the batch, reported to the nearest whole number• The sulfur content of the batch, reported to two decimal places, along with identification of the test method used to determine the sulfur content of the batch (as determined under 40 CFR 80.1630)○ When reports are submitted from January 1, 2017 through December 31, 2019, importers must exclude Certified Sulfur-FRGAS
<p>Additional reporting requirements for gasoline importers from January 1, 2017 through December 31, 2019, for Sulfur-FRGAS imported during an annual averaging period:</p> <ul style="list-style-type: none">○ The EPA refiner and refinery registration numbers of each foreign refiner and refinery where the Certified Sulfur-FRGAS was produced○ The total gallons of Certified Sulfur-FRGAS and Non-Certified Sulfur-FRGAS imported from each foreign refiner and refinery, reported to one decimal place

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Annual reporting requirements for oxygenate refiners and importers (for each production/import facility):

- The EPA oxygenate importer, or producer and producer facility registration numbers
- The total volume of oxygenate produced or imported, reported to the nearest whole number
- The following items for each batch of oxygenate produced or imported during the calendar year:
 - The batch number assigned under 40 CFR 80.1610(d)
 - The date the batch was produced
 - The volume of the batch, reported to the nearest whole number
 - The sulfur content of the batch, reported to two decimal places
 - For oxygenates other than DFE—identification of the test method used to determine the sulfur content of the batch, per the requirements of 40 CFR 80.1642(c)
 - For denatured fuel ethanol—either the identification of the test method used to determine the sulfur content of the batch per 40 CFR 80.1642, or the information used to calculate the sulfur content per 40 CFR 80.1642(c)

5.1.4 Recordkeeping Requirements

As with all existing EPA fuels programs, parties subject to the Tier 3 program are subject to recordkeeping requirements. Beginning January 1, 2017 or January 1 of the first year that credits are generated (whichever is earlier) all of the records listed in Table 8 below must be retained. Note that Table 8 merely provides a summary of the recordkeeping requirements; please see 40 CFR 80.1653 for an entire list of recordkeeping requirements for all regulated entities under the Tier 3 program.

Table 8. Recordkeeping Requirements (40 CFR 80.1653)
<p><i>General recordkeeping requirements:</i></p> <ul style="list-style-type: none">○ All records, including PTDs, must be kept for five years from the date of creation○ On request by EPA, all required records must be made available to EPA; for records that are electronically generated and/or maintained, the equipment or software necessary to read the records must be made available or electronic records shall be converted to paper documents if requested by EPA
<p><i>Records that must be kept by gasoline refiners, importers, and parties in the gasoline distribution system who produce, import, sell, offer for sale, dispense, distribute, supply, offer for supply, store, or transport gasoline:</i></p> <ul style="list-style-type: none">○ PTD information required under 40 CFR 80.1651○ The following sampling and testing-related information:<ul style="list-style-type: none">• Location, date, time, and storage tank or truck identification for each sample collected• Name and title of the person who collected the sample and the person who performed the test• The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test

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- Any record that contains a test result for the sample that is not identical to the result recorded under 40 CFR 80.1653(a)(2)(iii)
- The test methodology used

Additional recordkeeping requirements for refiners and importers (for each refinery/import facility):

- For each batch of gasoline produced or imported:
 - The batch volume
 - The batch number assigned under 40 CFR 80.65(d)(3) and the appropriate designation under 40 CFR 80.1653(b)(1)(iv); except that for composite samples of conventional gasoline representing multiple batches, that are tested under 40 CFR 80.101(i)(2), a separate batch number must be assigned to each batch using the batch numbering procedures under 40 CFR 80.65(d)(3)
 - The date of production or importation
 - When applicable: the designation of the batch as California gasoline (40 CFR 80.1654), exempt gasoline for national security purposes (40 CFR 80.1655), exempt gasoline for research and development (40 CFR 80.1656), or for export outside the United States
 - The test methodology used
- Information regarding credits, kept separately by year of generation (and for credit generation or use starting in 2014):
 - The number of credits in the refiner's or importer's possession at the beginning of the averaging period
 - The number of credits generated
 - The number of credits used
 - If any credits were obtained from or transferred to other parties, all the following for each other party: the party's name; the party's EPA refiner or importer registration number; the number of credits obtained from or transferred to the party
 - The number of credits that expired at the end of the averaging period
 - The number of credits in the refiner's or importer's possession that will carry over into the subsequent averaging period
 - Contracts or other commercial documents that establish each transfer of credits from the transferor to the transferee
- The calculations used to determine compliance with the applicable sulfur average standards of 40 CFR 80.1603 or 80.1604
- The calculations used to determine the number of credits generated
- A copy of all reports submitted to EPA under 40 CFR 80.1652
- For transmix processors, records of any sampling and testing required under 40 CFR 80.1607
- Gasoline importers must also keep records that identify and verify the source of each batch of certified Sulfur-FRGAS and non-certified Sulfur-FRGAS imported and demonstrate compliance with the requirements for importers under 40 CFR 80.1666

Recordkeeping requirements for producers and importers of denatured fuel ethanol and other oxygenates (beginning January 1, 2017, or the first date when DFE meeting the standards of 40 CFR 80.1610 is introduced into commerce (whichever is earlier)), for each batch of oxygenate produced or imported:

- The date the batch was produced
- The batch number
- The batch volume
- The product transfer document for the batch
- The sulfur content of the batch as determined per the requirements of 40 CFR 80.1642
- The following records shall be kept if the sulfur content of the batch was determined by

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analytical testing:

- The location, date, time, and storage tank or truck identification for each sample collected
- The name and title of the person who collected the sample and the person who performed the test
- The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test
- Any record that contains a test result for the sample that is not identical to the result recorded under 40 CFR 80.1653(d)(5)(iii)
- The test methodology used
- For DFE, if the sulfur content of the batch was determined by the alternative means of demonstrating compliance with the sulfur requirements per the requirements of 40 CFR 80.1642(c):
 - The name and title of the person who calculated the sulfur content of the batch
 - The date the calculation was performed
 - The calculated sulfur content
 - The sulfur content of the neat (un-denatured) ethanol
 - The date each batch of neat ethanol was produced
 - The neat ethanol batch number
 - The neat ethanol batch volume
 - As applicable, the neat ethanol production quality control records, or the test results on the neat ethanol including: location, date, time, and storage tank or truck identification for each sample collected; name and title of the person who collected the sample and the person who performed the test; results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test; any record that contains a test result for the sample that is not identical to the result recorded; test methodology used
 - The sulfur content of the denaturant(s) used, and the volume percent at which the denaturant(s) were added to neat (un-denatured) ethanol to produce denatured fuel ethanol
 - The product transfer documents for the denaturants used

Requirements for parties who take custody of oxygenates in the oxygenate distribution system:

- Beginning January 1, 2017, or the first date when a party takes custody of oxygenate that is represented on the PTD as meeting the standards in 40 CFR 80.1610 (whichever is earlier), all parties who take custody of oxygenate—from the oxygenate producer through to the oxygenate blender—must keep a copy of the PTD for each batch of oxygenate

Requirements for producers and importers of ethanol denaturant for each batch of denaturant produced or imported (beginning January 1, 2017, or the first date when a producer or importer of ethanol denaturant designated as suitable for use in the manufacturer of DFE meeting federal quality requirements under 40 CFR 80.1611 introduces such denaturant into commerce):

- The date each batch was produced
- The batch number
- The batch volume
- The product transfer document for the batch
- The sulfur content of the batch
- The location, date, time, and storage tank or truck identification for each sample collected

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<ul style="list-style-type: none">○ The name and title of the person who collected the sample and the person who performed the test○ The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test○ Any record that contains a test result for the sample that is not identical to the result recorded under 40 CFR 80.1653(f)(5)○ The test methodology used
<p><i>Requirements for parties who take custody of ethanol denaturants designated as suitable for use in the manufacture of DFE per 40 CFR 80.1611 (beginning January 1, 2017):</i></p> <ul style="list-style-type: none">○ The product transfer document for the denaturant○ As applicable, the volume percent at which the denaturant was added to neat ethanol
<p><i>Requirements for producers and importers of gasoline additives (as defined in 40 CFR 79.2(f)), beginning January 1, 2017:</i></p> <ul style="list-style-type: none">○ The date the batch was produced○ The volume of the batch○ The product transfer document for the batch○ The maximum recommended treatment rate○ Records of the additive manufacturer's control practices which demonstrate that the additive will contribute no more than 3 ppm on a per gallon basis to the sulfur content of gasoline when used at the maximum recommended treatment rate
<p><i>Requirements for parties who take custody of gasoline additives, beginning January 1, 2017 (for bulk addition to gasoline from the producer through to the party who adds the additive to gasoline):</i></p> <ul style="list-style-type: none">○ The product transfer document for each batch of gasoline additive○ As applicable, the treatment at which the additive was added to gasoline○ As applicable, the volume of gasoline that was treated with the additive; a new record shall be initiated in cases where a new batch of additives is mixed into a storage tank from which the additive is drawn to be injected into gasoline○ NOTE- these requirements do not apply for gasoline additives packaged for addition to gasoline in the vehicle fuel tank
<p><i>Records regarding credits:</i></p> <ul style="list-style-type: none">○ The records required by the Tier 3 program must be kept for 5 years from the date created; except in the following cases—○ Except as noted below, records relating to credit transfers shall be kept by the transferor for 5 years from the date the credits are transferred; and shall be kept by the transferee for 5 years from the date the credits were transferred, used, or terminated (whichever is later)○ Credits generated prior to January 1, 2017<ul style="list-style-type: none">• Where the party generating the credits does not transfer the credits, records must be kept for five years from the date of creation, use, or termination, whichever is later• When credits generated prior to January 1, 2017 are transferred, records relating to such credits shall be kept by the transferor for 5 years from the date the credits are transferred; and shall be kept by the transferee for 5 years from the date the credits were transferred, used, or terminated (whichever is later)

5.1.5 Attest Engagement Requirements

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The requirements regarding annual attest engagements in 40 CFR 80.125 through 80.130 also apply to any attest engagement procedures required under the Tier 3 program. In addition to any other applicable attest engagement procedures, such as the requirements in 40 CFR 80.1666 (requirements for foreign small refiners, foreign small volume refineries), the annual attest engagement procedures listed below in Table 9 are required by the Tier 3 program. Note that this is merely a summary of attest engagement requirements that apply to parties subject to the Tier 3 program. Please refer to the regulations for a complete description of the attest engagement requirements for all regulated entities under the Tier 3 program.

Table 9.
Attest Engagement Requirements (40 CFR 80.1667)

Requirements for refiners subject to national standards and Small Refiner and Small Volume Refinery Status:

- If the refiner asserts small refinery status or small volume refinery status for the refinery, obtain the EPA approval letter for the refinery to determine the refinery's applicable annual average standard and credit generation status
- Determine whether the refinery applied the correct annual average sulfur standard and whether it was eligible to generate credits and report the finding
- If the annual average sulfur standard is incorrect or credit generation was inappropriate, recalculate compliance using the appropriate sulfur standard and using appropriate credits and report as a finding

Requirements for refiners subject to national standards and Small Refiner and Small Volume Refinery Status:

- If the refiner asserts small refinery status or small volume refinery status for the refinery, obtain the EPA approval letter for the refinery to determine the refinery's applicable annual average standard and credit generation status
- Determine whether the refinery applied the correct annual average sulfur standard and whether it was eligible to generate credits and report the finding

If the annual average sulfur standard is incorrect or credit generation was inappropriate, recalculate compliance using the appropriate sulfur standard and using appropriate credits and report as a finding

EPA reports:

- Obtain and read a copy of the refinery's or importer's annual sulfur reports filed with EPA for the year
- Agree the yearly volume of gasoline reported to EPA in the sulfur reports with the inventory reconciliation analysis under the attest engagement provisions of 40 CFR 80.128
- Calculate the annual average sulfur level for all gasoline and agree that value with the value reported to EPA
- Obtain and read a copy of the refinery's or importer's sulfur credit report
- Agree the information in the refinery's or importer's batch reports filed with EPA under 40 CFR 80.75 and 80.105, and any laboratory test results, with the information contained in the annual sulfur report required under 40 CFR 80.1652

- Obtain documentation of any volumes of renewable fuel used in products listed in 40 CFR 80.1407(c) and (e) at the refinery or import facility or exported during the reporting year; compute and report the total volumes of renewable fuel represented in these

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documents
<p><i>Credit generation before 2017:</i></p> <ul style="list-style-type: none"> ○ Obtain a written representation from the company representative stating the refinery produces gasoline from crude oil ○ Obtain the annual average sulfur level from 40 CFR 80.1667(b)(3) ○ Compute and report as a finding the total number of sulfur credits generated, and agree this value with the value reported to EPA
<p><i>Credit generation in 2017 and after:</i></p> <ul style="list-style-type: none"> ○ Obtain the annual average sulfur level for gasoline from 40 CFR 80.1667(b)(3) ○ If the sulfur value under 40 CFR 80.1667(d)(1) is less than 10 ppm, compute and report as a finding the difference between the sulfur level under 40 CFR 80.1667(d)(1) and 10 ppm ○ Compute and report as a finding the total number of sulfur credits generated, and agree this number with the number reported to EPA
<p><i>Credit purchases and sales – must be completed for a refinery or importer that is a transferor or transferee of credits during an averaging period:</i></p> <ul style="list-style-type: none"> ○ Obtain contracts or other documents for all credits transferred to another refinery or importer during the year being reviewed; compute and report as a finding the number and year of creation of credits represented in these documents as being transferred away; and agree with the report to EPA ○ Obtain contracts or other documents for all credits received during the year being reviewed; compute and report as a finding the number and year of creation of credits represented in these documents as being received; and agree with the report to EPA
<p><i>Credit expiration requirements:</i></p> <ul style="list-style-type: none"> ○ A refinery or importer that possesses credits during an averaging period must obtain a list of all credits in the refiner's or importer's possession at any time during the year being reviewed, identified by the year of creation of the credits
<p><i>Credit reconciliation requirements – must be completed each year credits were in the refiner's or importer's possession at any time during the year:</i></p> <ul style="list-style-type: none"> ○ Obtain the credits remaining or the credit deficit from the previous year from the refiner's or importer's report to EPA for the previous year ○ Compute and report as a finding the net credits remaining at the conclusion of the year being reviewed by totaling: <ul style="list-style-type: none"> • Credits remaining from the previous year; plus • Credits generated under in an averaging period; plus • Credits purchased; minus • Credits sold; minus • Credits used; minus • Credits expiring; minus • Credit deficit from the previous year ○ Agree the credits remaining or the credit deficit at the conclusion of the year being reviewed with the report to EPA ○ If the refinery or importer had a credit deficit for both the previous year and the year being reviewed, report this fact as a finding

5.1.6 Small Refiner and Small Volume Refinery Applications

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Applications for small refiner and small volume refinery status must be submitted to EPA by January 1, 2015 and contain the information provided in Table 10.

Table 10. Small Refiner/Small Volume Refinery Application Requirements (40 CFR 80.1622)
<p><i>General:</i></p> <ul style="list-style-type: none">○ If EPA finds that a refiner provided false or inaccurate information in its small refiner status or small volume refinery status application under this subpart, the refiner's small refiner or small volume refinery status will be void as of the effective date of this subpart○ Small refiner and small volume refinery status applications, and any other correspondence required by 40 CFR 80.1620 through 80.1622 must be sent to the following address: U.S. EPA—Attn: Tier 3 Program (Small Refiner/Small Volume Refinery Application) 6406J 1200 Pennsylvania Avenue NW Washington, DC 20460
<p><i>Application requirements for small refiner status – submitted for the refiner and for all subsidiary companies, parent companies, subsidiaries of the parent companies, and joint venture partners:</i></p> <ul style="list-style-type: none">○ A listing of the name and address of all company locations for the period January 1, 2012 through December 31, 2012○ The average number of employees at each location, based on the number of employees for each pay period for the period January 1, 2012 through December 31, 2012○ The type of business activities carried out at each location○ For joint ventures, the total number of employees includes the combined employee count of all corporate entities in the venture○ For government-owned refiners, the total employee count includes all government employees○ The total corporate crude oil capacity of each refinery as reported to the Energy Information Administration (EIA) of the U.S. Department of Energy (DOE), for the period January 1, 2012 through December 31, 2012 (NOTE—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 when the company submits its application)<ul style="list-style-type: none">• Foreign small refiners applying for approval under this section must send the total corporate crude oil capacity of each refinery for the period January 1, 2012 through December 31, 2012, to the address listed in 40 CFR 80.1622(g)○ The application must be signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information is true to the best of his/her knowledge, and that the company owned the refinery as of December 31, 2012○ Name, address, phone number, facsimile number, and email address of a corporate contact person
<p><i>Application requirements for small volume refinery status – submitted for each refinery applying for small refinery status:</i></p> <ul style="list-style-type: none">○ A listing of the name and address of each small volume refinery owned by the company○ The total crude throughput of each small volume refinery, defined as the total crude oil feedstock input into the refinery less the volumes injected into the crude oil supply after refinery processing, as reported to EIA, for the period January 1, 2012 through December 31, 2012. The information submitted to EIA is presumed to be correct. In

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cases where a company disagrees with this information, the company may petition EPA with appropriate data to correct the record when the company submits its application.

- Foreign refiners applying for small volume refinery approval under this section must send the total crude throughput of each small volume refinery, defined as the total crude oil feedstock input into the refinery less the volumes injected into the crude oil supply after refinery processing of each refinery for the period January 1, 2012 through December 31, 2012, to the address listed in 40 CFR 80.1622(g)
- The application must be signed by the president, chief operating or chief executive officer of the company, or his/ her designee, stating that the information is true to the best of his/her knowledge, and that the company owned the refinery as of December 31, 2012
- Name, address, phone number, facsimile number, and email address of a corporate contact person. officer of the company, or his/her designee, stating that the information is true to the best of his/her knowledge, and that the company owned the refinery as of December 31, 2012

Additional application requirements for foreign refiners:

- Small refiner or small volume refinery status applications must:
 - Contain all of the elements required in 40 CFR 80.1622(b) or (c), as applicable
 - Demonstrate compliance with 40 CFR 80.1620
 - Be submitted by June 1, 2016

Small refiner qualification criteria

The criteria for consideration as a small business are listed in Table 2. In addition to the information in the table, entities eligible for qualification as a small refiner must demonstrate that they meet the following criteria:

- produced transportation fuel at its refineries by processing crude oil through refinery processing units from January 1, 2012 through December 31, 2012;
- had an average of no more than 1,500 employees corporate-wide, based on the average number of employees for all pay periods from January 1, 2012, to January 1, 2012 for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners¹; and
- had a corporate-average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 2012².

The following are not eligible for consideration as a small business under the rule: entities that do not own or operate a refinery; entities that do not produce gasoline from crude; and refiners who qualify as small refiners and who subsequently employ more than 1,500 people as a result of merger with, or acquisition of, another entity.

¹ As with all prior and existing 40 CFR part 80 fuel programs, the effective dates for the determination of employee count and for calculation of the crude capacity represent the most recent complete year prior to the issuing of the proposed rulemaking (2012, in this case).

² Ibid.

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In determining its total number of employees and crude oil capacity, a refiner must include the number of employees and crude oil capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners.

Small volume refinery qualification criteria

To be approved as a small refinery for the Tier 3 program, a refiner must show that the refinery meets the following criteria:

- net crude throughput threshold of no more than 75,000 bpcd, based on the highest throughput in calendar years 2011 or 2012 as the basis for receiving small volume refinery status;
- produced gasoline from crude oil during the 2012 calendar year;
- the refiner must have owned and operated the refinery during the period from January 1, 2012 through December 31, 2012.

In the case of small volume refineries, the application process for qualification is similar to that of a small refiner. A refiner that is both a small refiner and owns a small volume refinery need not apply for small volume refinery status; the small refiner application is all that is needed.

What is the difference between a small refiner and a small volume refinery?

A small *refinery* (per the Energy Policy Act of 2005, or EPAct) is "...a refinery for which the average aggregate daily crude oil throughput for a calendar year...does not exceed 75,000 barrels."³ As shown in Table 2 above, this term is different than SBA's small business category for refiners, which is what the Regulatory Flexibility Act (RFA) and SBREFA are concerned with. EPA is required under RFA to consider impacts on small entities meeting SBA's small business definition—these entities are referred to as "small *refiners*"—for our regulatory flexibility analysis under SBREFA. A small refinery, per EPAct, is a refinery where the annual crude throughput is less than or equal to 75,000 barrels (i.e., a small-capacity refinery), and could be owned by a larger refiner that exceeds SBA's small entity size standards. The small refinery definition is facility-based, whereas the small refiner definition is company-wide. The small business employee criteria were established for SBA's small business definition to set apart those companies which are most likely to be at an inherent economic disadvantage relative to larger businesses due to their size.

Loss of small refiner or small volume refinery status

If a refiner qualifies for small refiner or small volume refinery status, and subsequently fails to meet all the qualifying criteria as set out in 40 CFR 80.1620 through 80.1622, as applicable, the refiner will be disqualified as a small refiner/small volume refinery and will be subject to the general program requirements. In the event of a disqualification, the refiner must notify EPA in writing no later than 20 days following the disqualifying event. However, disqualification shall not apply:

³ As defined in 42 U.S.C. 7545(o)(1)(D) and 42 U.S.C. 7545(o)(1)(K).

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- In the case where a small refiner exceeds the employee count or crude capacity by normal business practice, rather than through merger or acquisition
- In the case of a merger between two approved small refiners

If a refinery that is owned by an approved small refiner, or that has approved small volume refinery status, is acquired by another refiner, the refinery will be given an additional 30 months from the purchase date to come into compliance with the Tier 3 standards. The refiner who acquired the refinery must also notify EPA in writing no later than 20 days following the acquisition.

5.2 Requirements for Small Certifiers of Tier 3 Vehicles

40 CFR 86.1860-17, 86.1861-17, and 86.1862-14 in the regulatory language associated with the Tier 3 final rule (pages 23734-23736) cover the exhaust and evaporative emissions compliance requirements and recordkeeping requirements for all certifiers of Tier 3 vehicles, including small entities and Small Volume Manufacturers.

6. For More Information

Where can I go if I have questions or need further assistance?

- For questions related to the Tier 3 program, please contact the EPA Fuels Support Line at:
support@epamts-support.com

Where can I find rulemaking documents?

- The final Tier 3 rulemaking (79 FR 23414, April 28, 2014) can be found on the Government Printing Office webpage at:
www.gpo.gov/fdsys/pkg/FR-2014-04-28/pdf/2014-06954.pdf
- All rulemaking documents and information regarding the Tier 3 rule can be found on the Tier 3 webpage at:
www.epa.gov/otaq/tier3.htm
- The Tier 3 regulations can be found via the Electronic Code of Federal Regulations, Title 40 (Parts 79, 80, 85, 86, 600, 1036, 1037, 1039, 1042, 1048, 1054, 1065, and 1066):
<http://www.ecfr.gov/cgi-bin/text-idx?SID=1b30dd64b37ca13b6378002afa0a5755&tpl=/ecfrbrowse/Title40/40tab02.tpl>