

(9) The date the refiner anticipates compliance with the standards in § 80.195 can be achieved at its refinery;

(10) An analysis of the economic impact of compliance on the refiner's business (including financial statements from the last 5 years, or for any time period up to 10 years, at EPA's request); and

(11) Any other information regarding other strategies considered, including strategies or components of strategies that do not involve installation of equipment, and why meeting the standards in § 80.195 beginning in 2008 is infeasible.

(c) The hardship extension application must contain a letter signed by the president or the chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the application is true to the best of his/her knowledge.

§ 80.265 How will the EPA approve or disapprove a hardship extension application?

(a) EPA will evaluate each application for hardship extension on a case-by-case basis. The factors considered for a hardship extension may include: The refiner's financial position and efforts to obtain capital funding; the refiner's efforts to procure necessary equipment, obtain design and engineering services and construction contractors; the availability of desulfurization equipment; and any other relevant factor. An extension will be granted for a refinery for the 2008 averaging period if the small refiner who owns the refinery adequately demonstrates that severe economic hardship would result if compliance with the standards in § 80.195 is required in 2008, or that compliance with the standard in 2008 is not feasible for reasons beyond the refiner's control, and that the refiner has made the best efforts possible to achieve compliance with the national standards by January 1, 2008. Upon reapplication by the refiner, if EPA determines that further relief is appropriate, EPA may grant a further extension through the 2009 averaging period. In no case will a further extension for the 2009 averaging period be granted unless the refiner demonstrates conclusively that it has financing in place and that it will be

able to complete construction and meet the national gasoline sulfur standards no later than December 31, 2009.

(b) EPA may request more information, if necessary, for evaluation of the application. If requested information is not submitted within the time specified in EPA's request, or any extensions granted, the application may be denied.

(c) EPA will notify the refiner of approval or disapproval of hardship extension by letter.

(1) If approved, EPA will also notify the refiner of the date that full compliance with the standards specified at § 80.195 must be achieved or what interim sulfur levels or schedules apply, if any.

(2) If disapproved, beginning January 1, 2008, the refinery is subject to the requirements in § 80.195. Refiners who receive an extension for the 2008 averaging period shall meet the standards in § 80.195 beginning on January 1, 2009, unless EPA grants an extension of the hardship relief for an additional year. If such an additional extension is granted, the refiner shall meet the standards in § 80.195 on January 1, 2010.

(d) Refiners who receive a hardship extension may be required to meet more stringent standards than those which apply to them during 2007, and/or could be required to offset excess sulfur levels. EPA may impose reasonable conditions on an extension, such as requiring segregation of the small refiner's gasoline or requiring the gasoline to be sold for use in older vehicles only.

§ 80.270 Can a refiner seek temporary relief from the requirements of this subpart?

(a) EPA may permit a refiner to produce and distribute gasoline which does not meet the requirements of this subpart if the refiner demonstrates that:

(1) Unusual circumstances exist that impose extreme hardship and significantly affect ability to comply by the applicable date; and

(2) It has made best efforts to comply with the requirements of this subpart (including making efforts to obtain credits and/or allotments).

(b) Applications must be submitted to EPA by September 1, 2000. Relief may be granted from some or all of the requirements of this subpart, at EPA's discretion; however, EPA reserves the right to deny applications for appropriate reasons, including unacceptable environmental impact. Approval to distribute gasoline which does not meet the requirements of this subpart may be granted for such time period as EPA determines is appropriate, but shall not extend beyond January 1, 2008.

(c)(1) Applications must include a plan demonstrating how the refiner will comply with the requirements of this subpart as expeditiously as possible. The plan shall include a showing that contracts are or will be in place for engineering and construction of desulfurization equipment, a plan for applying for and obtaining any permits necessary for construction, a description of plans to obtain necessary capital, and a detailed estimate of when the requirements of this subpart will be met.

(2) Applications must include a detailed description of the refinery configuration and operations, including, at a minimum, the following information:

- (i) The portion of gasoline production that is produced using an FCC unit;
- (ii) The refinery's hydrotreating capacity;
- (iii) The refinery's total reformer unit throughput capacity;
- (iv) The refinery's total crude capacity;
- (v) Total crude capacity of any other refineries owned by the same entity;
- (vi) Total volume of gasoline production at the refinery;
- (vii) Total volume of other refinery products; and
- (viii) Geographic location(s) in which gasoline will be sold.

(3) Applications must include, at a minimum, the following information:

- (i) Detailed description of efforts to obtain capital for refinery investments;
- (ii) Bond rating of entity that owns the refinery; and
- (iii) Estimated capital investment needed to comply with the requirements of this subpart by the applicable date.

(4) Applicants must also provide any other relevant information requested by EPA.

(d) EPA may impose any reasonable conditions on waivers granted under this section.

ALLOTMENT TRADING PROGRAM

§ 80.271 How can a small refiner obtain an adjustment of its 2004–2007 per-gallon cap standard?

(a) EPA may in its discretion adjust the small refiner per-gallon cap sulfur standard established for a refinery under § 80.240(a) (the established small refiner per-gallon standard) if the refiner demonstrates that the burden of complying with the established small refiner per-gallon standard would effectively prevent the refiner from participating in the small refiner relief provided in § 80.240. No refiner will be eligible for an adjustment of its established per-gallon standard above 450 ppm. The refinery annual average sulfur standards in § 80.240(a) are not affected by this section.

(b) A refiner wishing to apply for such an adjustment of its established small refiner per-gallon sulfur standard under § 80.240(a) must send a letter to Gasoline Sulfur Program, U.S. EPA, Office of Transportation and Air Quality, 2000 Traverwood Dr., Ann Arbor, MI 48105 no later than January 1, 2003. Such application must include the following information:

- (1) A detailed description of the nature of the difficulty that the per-gallon cap creates;
- (2) The refiner's proposed adjusted per-gallon cap standard and the proposed duration for the adjustment, including an explanation of how a lower per-gallon cap standard or shorter duration would not address the hardship;
- (3) The refiner's expected actual annual average sulfur level (i.e., prior to the use of any credits or allotments) for each year that the adjustment would be in effect;
- (4) The refiner's estimate of the number of gallons of gasoline it produces that will exceed the established small refiner per-gallon standard under § 80.240(a) for each year that the adjusted per-gallon cap would apply; and
- (5) The number of sulfur credits or allotments that the refiner estimates