

**§ 80.270**

**40 CFR Ch. I (7-1-00 Edition)**

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 dis-

tribute 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.

**Environmental Protection Agency**

**§ 80.275**

ALLOTMENT TRADING PROGRAM

**§ 80.275 How are allotments generated and used?**

(a) *Generation of allotments and credits in 2003.* (1) During 2003 only, any domestic or foreign refiner may have the option to generate credits in accordance with the provisions of §80.305 or generate allotments and credits under paragraph (a)(2) of this section.

(2) If the average sulfur content of the gasoline produced at a refinery is less than the refinery's baseline as determined under §80.295 and is 60 ppm or less, allotments and credits may be generated using the following procedures. This paragraph (a) does not apply to importers.

(i) If the average sulfur content of the gasoline produced at a refinery is less than or equal to 30, and the refinery's sulfur baseline is greater than 120, the following procedures apply:

$$SA_{TypeB} = (30 - S_{a_a}) \times V$$

$$SA_{TypeA} = (V \times 90) \times 0.8$$

$$CR = (S_{Base} - 120) \times V$$

(ii) If the average sulfur content of the gasoline produced at a refinery is less than or equal to 30, and the refinery's sulfur baseline is greater than 30 but less than or equal to 120, the following procedures apply:

$$SA_{TypeB} = (30 - S_a) \times V$$

$$SA_{TypeA} = ((S_{Base} - 30) \times V) \times 0.8$$

(iii) If the average sulfur content of the gasoline produced at a refinery is less than or equal to 30, and the refinery's sulfur baseline is less than or equal to 30, the following procedures apply:

$$SA_{TypeB} = (S_{Base} - S_a) \times V$$

(iv) If the average sulfur content of the gasoline produced at a refinery is greater than 30, and the refinery's sulfur baseline is greater than 120, the following procedures apply:

$$SA_{TypeA} = ((120 - S_a) \times V) \times 0.8$$

$$CR = (S_{Base} - 120) \times V$$

(v) If the average sulfur content of the gasoline produced at a refinery is greater than 30, and the refinery's sulfur baseline is less than or equal to 120, the following procedures apply:

$$SA_{TypeA} = ((S_{Base} - S_a) \times V) \times 0.8$$

(vi) For purposes of the equations under paragraphs (a)(2)(i) through (v)

of this section, the following definitions apply:

$SA_{TypeB}$  = Type B sulfur allotments generated.

$SA_{TypeA}$  = Type A sulfur allotments generated.

CR = Credits generated.

$S_{Base}$  = Refinery's sulfur baseline value under §80.295.

$S_a$  = Average sulfur content of the gasoline produced at the refinery during 2003 (or for a foreign refinery, all gasoline produced during 2003 that was imported into the U.S.).

V = Volume of gasoline produced at the refinery during 2003 (or for a foreign refinery, all gasoline produced during 2003 that was imported into the U.S.).

(b) *Generation of allotments in 2004 and 2005.* During 2004 and 2005 only, refiners and importers that have corporate pool average sulfur levels below the corporate pool average standards under §80.195 may generate sulfur allotments separately for each year using the following procedures.

(1) If the average sulfur content of the gasoline produced or imported is less than 30 the following procedures apply:

$$SA_{TypeB} = (30 - S_a) \times V_a$$

$$SA_{TypeA} = (S_{PS} - 30) \times V_a$$

(2) If the average sulfur content of the gasoline produced or imported is equal to or greater than 30 the following procedures apply:

$$SA_{TypeA} = (S_{PS} - S_a) \times V_a$$

(3) For purposes of the equations under paragraphs (b)(1) and (2) of this section, the following definitions apply:

$SA_{TypeB}$  = Type B sulfur allotments generated.

$SA_{TypeA}$  = Type A sulfur allotments generated.

$S_a$  = Corporate pool average sulfur level for the year.

$S_{PS}$  = Corporate pool average standard (120 in 2004; 90 in 2005).

$V_a$  = Total volume of gasoline produced and/or imported during the year.

(c) *Use of sulfur allotments to meet standards.* (1) Refiners and importers may use Type A and Type B sulfur allotments to meet the corporate pool average standards under §80.195, except that if allotments generated in 2003 or