

vehicle diesel fuel not subject to the 15 ppm sulfur standard may be granted for such time period as EPA determines is appropriate, but shall not extend beyond May 31, 2010.

(ii) For NRLM diesel fuel, applications must be submitted to EPA by June 1, 2005 to the following address: U.S. EPA—Attn: Diesel Hardship, 1200 Pennsylvania Avenue, NW (6406J), Washington, DC 20460 (certified mail/return receipt) or Attn: Diesel Hardship, Transportation and Regional Programs Division, 501 3rd Street, NW (6406J), Washington, DC 20001 (express mail/return receipt). EPA reserves the right to deny applications for appropriate reasons, including unacceptable environmental impact. Approval to distribute NRLM diesel fuel not subject to the 500 ppm sulfur standard may be granted for such time period as EPA determines is appropriate, but shall not extend beyond May 31, 2010. Approval to distribute NR diesel fuel not subject to the 500 ppm sulfur standard may be granted for such time period as EPA determines is appropriate, but shall not extend beyond May 31, 2014.

\* \* \* \* \*

(d) Applicants must provide, at a minimum, the following information:

(1) Detailed description of efforts to obtain capital for refinery investments and efforts made to obtain credits for compliance under § 80.531 for motor vehicle diesel fuel or §§ 80.535–80.536 for NRLM or NR diesel fuel;

(2) Bond rating of entity that owns the refinery (in the case of joint ventures, include the bond rating of the joint venture entity and the bond ratings of all partners; in the case of corporations, include the bond ratings of any parent or subsidiary corporations); and

(3) Estimated capital investment needed to comply with the requirements of this subpart by the applicable date.

(e) In addition to the application requirements of paragraph (b) of this section, a refiner's application for temporary relief under this paragraph must also include a compliance plan. Such compliance plan shall demonstrate how the refiner will engage in a quality assurance testing program to ensure that the following conditions are met:

(1) Its motor vehicle diesel fuel subject solely to the sulfur standards under § 80.520(c) has not caused motor vehicle diesel fuel subject to the 15 ppm standard § 80.520(a)(1) to fail to comply with that standard; or

(2) Its NR diesel fuel subject solely to the sulfur standards under § 80.510(a) has not caused NR diesel fuel subject to the 15 ppm standard under § 80.510(b) to fail to comply with that standard.

(3) The quality assurance program must at least include periodic sampling and testing at the party's own facilities and at downstream facilities in the refiner's or importer's diesel fuel distribution system, to determine compliance with the applicable sulfur standards for both categories of motor vehicle diesel fuel; examination at the party's own facilities and at applicable downstream facilities, of product transfer documents to confirm appropriate transfers and deliveries of both products; and inspection of retailer and wholesale purchaser-consumer pump stands for the presence of the labels and warning signs required under this section. Any violations that are discovered shall be reported to EPA within 48 hours of discovery.

\* \* \* \* \*

(h)(1) Refiners who are granted a hardship relief standard for any refinery, and importers of fuel subject to temporary refiner relief standards, may not distribute the diesel fuel subject to the sulfur standard under § 80.520(c) for use in model year 2007 and later vehicles and must comply with all applicable provisions of this subpart.

(2) Refiners who are granted a hardship relief standard for any refinery, and importers of fuel subject to temporary refiner relief standards, may not distribute the diesel fuel subject to the sulfur standard under § 80.510(a) for use in model year 2011 and later nonroad engines and must comply with all applicable provisions of this subpart.

(i) EPA may impose any reasonable conditions on waivers under this section, including limitations on the refinery's volume of motor vehicle diesel fuel and NRLM diesel fuel subject to temporary refiner relief standards.

\* \* \* \* \*

(k) The individual refinery sulfur standard and the compliance plan will be approved or disapproved by the Administrator, and approval will be effective when the refiner (or importer, as applicable, in the case of compliance plans) receives an approval letter from EPA. If disapproved, the refiner or importer must comply with the motor vehicle diesel fuel standard under § 80.520(a)(1) by the appropriate compliance date specified in § 80.500 or the NRLM standards and compliance dates under § 80.510(a) and (b) as applicable.

(l) If EPA finds that a refiner provided false or inaccurate information on its application for hardship relief, EPA's approval of the refiners application will be void ab initio.

32. Section 80.561 is amended by revising the introductory text and

paragraphs (c), (d) and (f) to read as follows:

**§ 80.561 How can a refiner or importer seek temporary relief from the requirements of this subpart in case of extreme unforeseen circumstances?**

In appropriate extreme, unusual, and unforeseen circumstances (e.g., natural disaster or refinery fire) which are clearly outside the control of the refiner or importer and which could not have been avoided by the exercise of prudence, diligence and due care, EPA may permit a refiner or importer, for a brief period, to distribute motor vehicle diesel fuel or NRLM diesel fuel which does not meet the requirements of this subpart if:

\* \* \* \* \*

(c) The refiner or importer can show how the requirements for motor vehicle diesel fuel or NRLM diesel fuel will be expeditiously achieved;

(d) The refiner or importer agrees to make up any air quality detriment associated with the nonconforming motor vehicle diesel fuel or NRLM diesel fuel, where practicable;

\* \* \* \* \*

(f)(1) In the case of motor vehicle diesel fuel distributed under this section that does not meet the 15 ppm sulfur standard under § 80.520(a)(1), such diesel fuel shall not be distributed for use in model year 2007 or later motor vehicles, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under § 80.520(c), or to diesel fuel that is not motor vehicle diesel fuel, as applicable.

(2) In the case of NR diesel fuel distributed under this section after May 31, 2010 that does not meet the 15 ppm sulfur standard under § 80.510(b), such diesel fuel shall not be distributed for use in model year 2011 or later nonroad engines, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under § 80.510(a) for NRLM fuel.

(3) In the case of NR diesel fuel distributed under this section during the period June 1, 2007 and May 31, 2010 that does not meet the 500 ppm sulfur standard under § 80.510(a), such diesel fuel must meet all the requirements and prohibitions applicable to high sulfur NRLM credit fuel under § 80.536(f).

33. Section 80.570 is revised to read as follows:

**§ 80.570 What labeling requirements apply to retailers and wholesale purchaser-consumers of diesel fuel beginning June 1, 2006?**

(a) Any retailer or wholesale purchaser-consumer who sells,