

Environmental Protection Agency

§ 80.1338

(ii) A detailed description of the refinery configuration and operations including, at minimum, the following information:

(A) The refinery's total reformer unit throughput capacity;

(B) The refinery's total crude capacity;

(C) Total crude capacity of any other refineries owned by the same entity;

(D) Total volume of gasoline production at the refinery;

(E) Total volume of other refinery products;

(F) Geographic location(s) where the refinery's gasoline will be sold;

(G) Detailed descriptions of efforts to obtain capital for refinery investments;

(H) Bond rating of entity that owns the refinery; and

(I) Estimated capital investment needed to comply with the requirements of this subpart.

(iii) For a hardship related to complying with the requirement at §80.1230(a), detailed descriptions of efforts to obtain credits, including the prices of credits available, but deemed uneconomical by the refiner.

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

(3) An application for relief from the requirements specified in §80.1230(b) must be submitted to EPA by January 1, 2008, or by January 1, 2013 for small refiners approved under §80.1340.

(c)(1) Approval of a hardship application under this section for relief from the annual average benzene standard at §80.1230(a) shall be in the form of an extended period of deficit carry-forward, per §80.1230(c), for such period of time as EPA determines is appropriate.

(2) Approval of a hardship application under this section for relief from the maximum average benzene standard at §80.1230(b) shall be in the form of a waiver of the standard for such period of time as EPA determines is appropriate.

(3) EPA may deny any application for appropriate reasons, including unacceptable environmental impact.

(d) EPA may impose any other reasonable conditions on relief provided under this section, including rescinding, or reducing the length of, the extended deficit carry-forward period if

conditions or situations change between approval of the hardship application and the end of the approved relief period.

§ 80.1336 What if a refiner or importer cannot produce gasoline conforming to the requirements of this subpart?

In extreme, unusual, and unforeseen circumstances (for example, a natural disaster or a refinery fire) that are clearly outside the control of the refiner or importer and that could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refinery or importer to exceed the allowable average benzene levels specified in §80.1230(a) or (b), as applicable, if—

(a) It is in the public interest to do so;

(b) The refiner or importer exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(c) The refiner or importer can show how the requirements at §80.1230(a) or (b), as applicable, will be achieved as expeditiously as possible;

(d) The refiner or importer agrees to make up any air quality detriment associated with the nonconformity, where practicable; and

(e) The refiner or importer pays to the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount expended making up the air quality detriment pursuant to paragraph (d) of this section.

SMALL REFINER PROVISIONS

§ 80.1338 What criteria must be met to qualify as a small refiner for the gasoline benzene requirements of this subpart?

(a) A small refiner is any person that demonstrates that it—

(1) Produced gasoline at a refinery by processing crude oil through refinery processing units from January 1, 2005 through December 31, 2005.

(2) Employed an average of no more than 1,500 people, based on the average number of employees for all pay periods from January 1, 2005 through December 31, 2005.