

## Environmental Protection Agency

## § 80.380

gasoline designated by the refiner as for use in California.

(b) *California gasoline exemption.* California gasoline that complies with all the requirements of this section is exempt from all other provisions of this subpart.

(c) *Requirements for California gasoline.* The requirements are:

(1) Each batch of California gasoline must be designated as such by its refiner or importer;

(2) Designated California gasoline must be kept segregated from gasoline that is not California gasoline, at all points in the distribution system;

(3) Designated California gasoline must ultimately be used in the State of California and not used elsewhere;

(4) In the case of California gasoline produced outside the State of California, the transferors and transferees must meet the product transfer document requirements under § 80.81(g); and

(5) Gasoline that is ultimately used in any part of the United States outside of the State of California must comply with the standards and requirements of this subpart, regardless of any designation as California gasoline.

(d) *Use of California test methods and off site sampling procedures.* In the case of any gasoline that is not California gasoline and that is either produced at a refinery located in the State of California or is imported from outside the United States into the State of California, the refiner or importer may, with regard to such gasoline:

(1) Use the sampling and testing methods approved in Title 13 of the California Code of Regulations instead of the sampling and testing methods required under § 80.330; and

(2) Determine the sulfur content of gasoline at off site tankage as permitted in § 80.81(h)(2).

### **§ 80.380 What are the requirements for obtaining an exemption for gasoline used for research, development or testing purposes?**

Any person may request an exemption from the provisions of this subpart for gasoline used for research, development or testing ("R&D") purposes by submitting to EPA an application that includes all the information listed in paragraph (b) of this section.

(a) *Criteria for an R&D exemption.* For an R&D exemption to be granted, the proposed test program must:

(1) Have a purpose that constitutes an appropriate basis for exemption;

(2) Necessitate the granting of an exemption;

(3) Be reasonable in scope; and

(4) Have a degree of control consistent with the purpose of the program and EPA's monitoring requirements.

(b) *Information required to be submitted.* To demonstrate each of the four elements in paragraphs (a)(1) through (4) of this section, the application required under this section must include the following information:

(1) A statement of the purpose of the program demonstrating that the program has an appropriate R&D purpose.

(2) An explanation of why the stated purpose of the program cannot be achieved in a practicable manner without performing one or more of the prohibited acts under § 80.385.

(3) To demonstrate the reasonableness of the scope of the program:

(i) An estimate of the program's beginning and ending dates;

(ii) An estimate of the maximum number of vehicles and engines involved in the program, and the number of miles and engine hours that will be accumulated on each;

(iii) The sulfur content of the gasoline expected to be used in the program; and

(iv) The quantity of gasoline that exceeds the applicable sulfur standard that is expected to be used in the program.

(4) With regard to control, a demonstration that the program affords EPA a monitoring capability, including at a minimum:

(i) A description of the technical and operational aspects of the program;

(ii) The site(s) of the program (including street address, city, county, State, and ZIP code);

(iii) The manner in which information on vehicles and engines used in the program will be recorded and made available to EPA;

(iv) The manner in which results of the program will be recorded and made available to EPA;

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(v) The manner in which information on the gasoline used in the program (including quantity, sulfur content, name, address, telephone number and contact person of the supplier, and the date received from the supplier), will be recorded and made available to EPA;

(vi) The manner in which distribution pumps will be labeled to insure proper use of the gasoline where appropriate;

(vii) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the application may be obtained; and

(viii) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who is responsible for recording and making available the information specified in paragraphs (b)(4)(iii), (iv) and (v) of this section, and the location in which such information will be maintained.

(c) *Additional requirements.* (1) The product transfer documents associated with R&D gasoline must identify the gasoline as such, and must state that the gasoline is to be used only for research, development, or testing purposes.

(2) The R&D gasoline must be designated by the refiner or importer as exempt R&D gasoline.

(3) The R&D gasoline must be kept segregated from non-exempt gasoline at all points in the distribution system of the gasoline.

(4) The R&D gasoline must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a gasoline retail outlet, or by a wholesale purchaser-consumer facility, unless the wholesale purchaser-consumer facility is associated with the R&D program that uses the gasoline.

(d) *Memorandum of exemption.* The Administrator will grant an R&D exemption upon a demonstration that the requirements of this section have been met. The R&D exemption will be granted in the form of a memorandum of exemption signed by the applicant and the Administrator (or delegate), which may include such terms and conditions

as the Administrator determines necessary to monitor the exemption and to carry out the purposes of this section, including restoration of motor vehicle emissions control systems. Any violation of such a term or condition of the exemption or any requirement under this section will cause the exemption to be void ab initio.

(e) *Effects of exemption.* Gasoline that is subject to an R&D exemption under this section is exempt from other provisions of this subpart provided that the gasoline is used in a manner that complies with the memorandum of exemption granted under paragraph (d) of this section.

**VIOLATION PROVISIONS**

**§ 80.385 What acts are prohibited under the gasoline sulfur program?**

No person shall:

(a) *Averaging violation.* Produce or import gasoline that does not comply with the applicable sulfur average standard under § 80.195, § 80.216 or § 80.240.

(b) *Cap standard violation.* Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport gasoline that does not comply with the applicable sulfur cap standard under § 80.195, § 80.216, § 80.210, § 80.220, § 80.240, or does not comply with an adjusted cap standard approved for a small refiner under § 80.271.

(c) *Causing an averaging, cap standard, or geographic phase-in area (GPA) use violation.* Cause another person to commit an act in violation of paragraph (a), (b), or (f) of this section.

(d) *Causing violating gasoline to be in the distribution system.* Cause gasoline to be in the distribution system which does not comply with an applicable sulfur cap standard under § 80.195, § 80.210, § 80.216, § 80.220 or § 80.240; a sulfur average standard under § 80.195, § 80.216 or § 80.240; or a GPA use prohibition under § 80.219(c).

(e) *Denatured ethanol violation.* Blend into gasoline denatured ethanol with a sulfur content higher than 30 ppm.

(f) *GPA use violation.* Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport gasoline that does not comply with a GPA use prohibition under § 80.219(c).