§ 80.825 How is the refinery or importer annual average toxics value determined?

(a) The refinery or importer annual average toxics value is calculated as follows:

$$T_a = \frac{\sum_{i=1}^{n} (V_i \times T_i)}{\sum_{i=1}^{n} V_i}$$

Where:

T_a = The refinery or importer annual average toxics value, as applicable.

V_i = The volume of applicable gasoline produced or imported in batch i.

T_i = The toxics value of batch i.

n = The number of batches of gasoline produced or imported during the averaging period.

i = Individual batch of gasoline produced or imported during the averaging period.

(b) The calculation specified in paragraph (a) of this section shall be made separately for each type of gasoline specified at §80.815(b).

(c) The toxics value, T_i, of each batch of gasoline is determined using the Phase II Complex Model specified at §80.45.

(1) The toxics value, T_i, of each batch of reformulated gasoline or RBOB, and the annual average toxics value, T_a, for reformulated gasoline and RBOB, combined, under this subpart are in percent reduction from the statutory baseline described in §80.45(b) and volumes are in gallons.

(2) The toxics value, T_i, of each batch of conventional gasoline, and the annual average toxics value, T_a, for conventional gasoline under this subpart are in milligrams per mile (mg/mile) and volumes are in gallons.

(d) All refinery or importer annual average toxics value calculations shall be conducted to two decimal places.

(e) A refiner or importer may include oxygenate added downstream from the refinery or import facility when calculating the toxics value, provided the following requirements are met:

(1) For oxygenate added to conventional gasoline, the refiner or importer shall comply with the requirements of §80.101(d)(4)(ii).

(2) For oxygenate added to RBOB, the refiner or importer shall comply with the requirements of §80.69(a).

(f) *Gasoline excluded.* Refiners and importers shall exclude from compliance calculations all of the following:

(1) Gasoline that was not produced at the refinery;

(2) In the case of an importer, gasoline that was imported as Certified Toxics-FRGAS under §80.1030;

(3) Blending stocks transferred to others;

(4) Gasoline that has been included in the compliance calculations for another refinery or importer; and

(5) Gasoline exempted from standards under §80.820.

§ 80.830 What requirements apply to oxygenate blenders?

Oxygenate blenders who blend oxygenate into gasoline downstream of the refinery that produced the gasoline or the import facility where the gasoline was imported are not subject to the requirements of this subpart applicable to refiners for this gasoline.

§ 80.835 What requirements apply to butane blenders?

Butane blenders who blend butane into gasoline downstream of the refinery that produced the gasoline or the import facility where the gasoline was imported are not subject to the requirements of this subpart applicable to refiners for this gasoline.

§ 80.840 [Reserved]

§ 80.845 What requirements apply to California gasoline?

(a) *Definition.* For purposes of this subpart "California gasoline" means any gasoline designated by the refiner or importer 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.* (1) Each batch of California gasoline shall be designated as such by its refiner or importer.

(2) [Reserved]

(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 shall meet the product transfer document requirements under §80.81(g).

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

§80.850 How is the compliance baseline determined?

(a) The compliance baseline to which annual average toxics values are compared according to §80.815(a) is calculated according to the following equation:

$$T_{CBase} = \frac{T_{Base} \times V_{Base} + T_{Exist} \times V_{inc}}{V_{Base} + V_{inc}}$$

Where:

T_{CBase} = Compliance baseline toxics value.

T_{Base} = Baseline toxics value for the refinery or importer, calculated according to §80.915(b)(1).

V_{Base} = Baseline volume for the refinery or importer, calculated according to §80.915(b)(2).

T_{Exist} = Existing toxics standard, per paragraph (b) of this section.

V_{inc} = Volume of gasoline produced during the averaging period in excess of V_{Base}.

(b) The value of existing toxics standard, T_{Exist}, is equal to:

(1) 21.5 percent, for reformulated gasoline and RBOB, combined;

(2) The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per §80.101(f), for conventional gasoline.

(c) If the refinery or importer produced less gasoline during the compliance period than its baseline volume V_{Base}, the value of V_{inc} will be zero.

§80.855 What is the compliance baseline for refineries or importers with insufficient data?

(a) A refinery or importer shall use the methodology specified in this section for determining a compliance baseline if it cannot determine an applicable toxics value for every batch of gasoline produced or imported for 12 or more consecutive months during January 1, 1998 through December 31, 2000.

(b)(1) A refinery or importer that cannot determine an applicable toxics value on every batch of gasoline produced or imported for 12 or more consecutive months during the period January 1, 1998 through December 31, 2000 or a refinery or importer that did not produce or import reformulated gasoline and/or RBOB (combined) or conventional gasoline or both during the period between January 1, 1998 and December 31, 2000, inclusive, shall have the following as its compliance baseline for the purposes of this subpart:

(i) For conventional gasoline, 94.64 mg/mile.

(ii) For reformulated gasoline, 26.71 percent reduction from statutory baseline.

(2) By October 31, 2001, EPA will revise by regulation the default baseline values specified in paragraph (b)(1) of this section to reflect the final 1998–2000 average toxics values.

(c)(1) *Eligibility to petition.* A refiner who has been granted an alternative anti-dumping averaging period under §80.101(k) may petition the Administrator to have the statutory baseline exhaust toxics emissions, Phase II value specified in §80.91(c)(5)(iv) as its compliance baseline for the purposes of this subpart J for one or more of the years of the refiner's approved alternative anti-dumping averaging period.

(2) *Application process.* Applications must be submitted to the Administrator by January 1, 2004 to the following address: U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (certified mail/return receipt) or U.S. EPA—Attn: Anti-Dumping Compliance Period (6406J), Transportation & Regional Programs Division, 501 3rd Street, NW., Washington, DC 20001 (express mail/return receipt).

(3) *Contents of the application petition.* Each petition must include:

(i) A copy of the refinery's approval for an alternative averaging period under section 80.101(k).

(ii) A description of the hardships that make it infeasible, on a cost and/or technological basis, for the refinery to comply with the compliance baseline specified in paragraph (b) of this section.