

(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.