

**§ 80.23**

**40 CFR Ch. I (7-1-06 Edition)**

heavy-duty vehicles, boats, or airplanes is exempt from this requirement.

[38 FR 1255, Jan. 10, 1973, as amended at 39 FR 16125, May 17, 1974; 39 FR 43283, Dec. 12, 1974; 48 FR 4287, Jan. 31, 1983; 56 FR 13768, Apr. 4, 1991; 58 FR 16019, Mar. 24, 1993; 61 FR 3837, Feb. 2, 1996; 61 FR 33039, June 26, 1996]

**§ 80.23 Liability for violations.**

Liability for violations of paragraphs (a) and (b) of § 80.22 shall be determined as follows:

(a)(1) Where the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries appears on the pump stand or is displayed at the retail outlet or wholesale purchaser-consumer facility from which the gasoline was sold, dispensed, or offered for sale, the retailer or wholesale purchaser-consumer, the reseller (if any), and such gasoline refiner shall be deemed in violation. Except as provided in paragraph (b)(2) of this section, the refiner shall be deemed in violation irrespective of whether any other refiner, distributor, retailer, or wholesale purchaser-consumer or the employee or agent of any refiner, distributor, retailer, or wholesale purchaser-consumer may have caused or permitted the violation.

(2) Where the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries does not appear on the pump stand and is not displayed at the retail outlet or wholesale purchaser-consumer facility from which the gasoline was sold, dispensed, or offered for sale, the retailer or wholesale purchaser-consumer and any distributor who sold that person gasoline contained in the storage tank which supplied that pump at the time of the violation shall be deemed in violation.

(b)(1) In any case in which a retailer or wholesale purchaser-consumer and any gasoline refiner or distributor would be in violation under paragraph (a) (1) or (2) of this section, the retailer or wholesale purchaser-consumer shall not be liable if he can demonstrate that the violation was not caused by him or his employee or agent.

(2) In any case in which a retailer or wholesale purchaser-consumer, a reseller (if any), and any gasoline refiner

would be in violation under paragraph (a)(1) of this section, the refiner shall not be deemed in violation if he can demonstrate:

(i) That the violation was not caused by him or his employee or agent, and

(ii) That the violation was caused by an act in violation of law (other than the Act or this part), or an act of sabotage, vandalism, or deliberate commingling of gasoline which is produced with the use of lead additives or phosphorus additives with unleaded gasoline, whether or not such acts are violations of law in the jurisdiction where the violation of the requirements of this part occurred, or

(iii) That the violation was caused by the action of a reseller or a retailer supplied by such reseller, in violation of a contractual undertaking imposed by the refiner on such reseller designed to prevent such action, and despite reasonable efforts by the refiner (such as periodic sampling) to insure compliance with such contractual obligation, or

(iv) That the violation was caused by the action of a retailer who is supplied directly by the refiner (and not by a reseller), in violation of a contractual undertaking imposed by the refiner on such retailer designed to prevent such action, and despite reasonable efforts by the refiner (such as periodic sampling) to insure compliance with such contractual obligation, or

(v) That the violation was caused by the action of a distributor subject to a contract with the refiner for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, in violation of a contractual undertaking imposed by the refiner on such distributor designed to prevent such action, and despite reasonable efforts by the refiner (such as periodic sampling) to insure compliance with such contractual obligation, or

(vi) That the violation was caused by a distributor (such as a common carrier) not subject to a contract with the refiner but engaged by him for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, despite reasonable efforts by the refiner (such as

## Environmental Protection Agency

## § 80.27

specification or inspection of equipment) to prevent such action, or

(vii) That the violation occurred at a wholesale purchaser-consumer facility: *Provided, however,* That if such wholesale purchaser-consumer was supplied by a reseller, the refiner must demonstrate that the violation could not have been prevented by such reseller's compliance with a contractual undertaking imposed by the refiner on such reseller as provided in paragraph (b)(2)(iii) of this section.

(viii) In paragraphs (b)(2)(ii) through (vi) hereof, the term "was caused" means that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another.

(c) In any case in which a retailer or wholesale purchaser-consumer, a reseller, and any gasoline refiner would be in violation under paragraph (a)(1) of this section, the reseller shall not be deemed in violation if he can demonstrate that the violation was not caused by him or his employee or agent.

(d) In any case in which a retailer or wholesale purchaser-consumer and any gasoline distributor would be in violation under paragraph (a)(2) of this section, the distributor will not be deemed in violation if he can demonstrate that the violation was not caused by him or his employee or agent.

(e)(1) In any case in which a retailer or his employee or agent or a wholesale purchase-consumer or his employee or agent introduced gasoline other than unleaded gasoline into a motor vehicle which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, only the retailer or wholesale purchaser-consumer shall be deemed in violation.

(2) [Reserved]

(Secs. 211, 301 of the Clean Air Act, as amended (42 U.S.C. 1857f-6c, 1857g))

[38 FR 1255, Jan. 10, 1973, as amended at 39 FR 42360, Dec. 5, 1974; 39 FR 43284, Dec. 12, 1974; 42 FR 45307, Sept. 9, 1977; 61 FR 3837, Feb. 2, 1996]

### § 80.24 Controls applicable to motor vehicle manufacturers.

(a) [Reserved]

(b) The manufacturer of any motor vehicle equipped with an emission control device which the Administrator has determined will be significantly impaired by the use of gasoline other than unleaded gasoline shall manufacture such vehicle with each gasoline tank filler inlet having a restriction which prevents the insertion of a nozzle with a spout having a terminal end with an outside diameter of 0.930 inch (2.363 centimeters) or more and allows the insertion of a nozzle with a spout meeting the specifications of § 80.22(f)(2).

(c) A motorcycle, as defined at 40 CFR 86.402 for the applicable model year, is exempt from the requirements of paragraph (b) of this section.

[38 FR 26450, Sept. 21, 1973, as amended at 39 FR 34538, Sept. 26, 1974; 46 FR 50472, Oct. 13, 1981; 48 FR 29692, June 28, 1983; 51 FR 33731, Sept. 22, 1986; 61 FR 3838, Feb. 2, 1996; 61 FR 8221, Mar. 4, 1996; 61 FR 28766, June 6, 1996; 67 FR 36771, May 24, 2002]

### § 80.25 [Reserved]

### § 80.26 Confidentiality of information.

Information obtained by the Administrator or his representatives pursuant to this part shall be treated, in so far as its confidentiality is concerned, in accordance with the provisions of 40 CFR part 2.

[38 FR 33741, Dec. 6, 1973]

### § 80.27 Controls and prohibitions on gasoline volatility.

(a)(1) *Prohibited activities in 1991.* During the 1991 regulatory control periods, no refiner, importer, distributor, reseller, carrier, retailer or wholesale purchaser-consumer shall sell, offer for sale, dispense, supply, offer for supply, or transport gasoline whose Reid vapor pressure exceeds the applicable standard. As used in this section and § 80.28, "applicable standard" means the standard listed in this paragraph for the geographical area and time period in which the gasoline is intended to be dispensed to motor vehicles or, if such area and time period cannot be determined, the standard listed in this paragraph that specifies the lowest Reid vapor pressure for the year in which the gasoline is being sampled. As used in this section and § 80.28, "regulatory