

§ 80.84

40 CFR Ch. I (7-1-08 Edition)

oxygenates which produce commingling-related RVP increases in the area(s) that are covered by the petition;

(B) Evidence demonstrating a pattern of exceedances for the period for which the extension is sought, including ozone monitoring data for the preceding three(3) years of the reformulated gasoline program;

(C) An analysis showing that the pattern of ozone exceedances is likely to continue even with implementation of other ozone air quality control measures and/or programs currently planned by the State; and

(D) Evidence that the responsible State agency or authority has given the public an opportunity for a public hearing and the submission of written comments with respect to the petition.

(i) Effective data and publication of decision.

(A) If the Administrator determines that the petition meets the requirements of paragraph (i)(1)(i) of this section, to the satisfaction of the Administrator, then EPA shall publish a notice in the FEDERAL REGISTER announcing its intention to establish the non-commingling season as requested by the Governor, and specifying a tentative effective date.

(1) The Administrator shall provide the public with an opportunity for a hearing and the submission of written comments.

(2) The tentative effective date will correspond with the first day of the next complete non-commingling season beginning not less than one year after receipt of the petition.

(B) If the Administrator receives adverse comments or information demonstrating to the satisfaction of the Administrator that the criteria of paragraph (i)(1)(i) of this section have not been met, that the tentative effective date is not reasonable, or that other good reasons exist to deny the petition, then the Administrator may reject the Governor's request for an extended non-commingling season, in whole or in part, or may delay the effective date by up to two (2) additional years. Absent receipt of such adverse comments or information, EPA shall publish a notice in the FEDERAL REGISTER announcing its approval of the

petition and specifying an effective date for the extended non-commingling season.

(2) In the case of any refiner that produces RBOB, or any importer that imports RBOB, the oxygenate that is blended with the RBOB may be included with the refiner's or importer's compliance calculations under paragraph (d) of this section only if:

(i) The oxygenate meets the applicable renewable oxygenate definition under paragraph (a) of this section; and

(ii) In the case of RBOB designated for "non VOC controlled ether only" the refiner or importer assumes that ETBE or other oxygenate that does not exhibit volatility-related commingling effects when mixed with other gasolines and approved by the EPA Administrator under subparagraph (a)(3) of this section will be blended with the RBOB and so labels the transfer documentation.

[59 FR 39290, Aug. 2, 1994]

EFFECTIVE DATE NOTE: At 59 FR 39290, Aug. 2, 1994, §80.83 was added effective September 1, 1994, except for paragraphs (g) and (h), which would not become effective until approval had been given by the Office of Management and Budget. At 59 FR 60715, Nov. 28, 1994, this section was stayed, effective September 13, 1994. At 70 FR 74571, Dec. 15, 2005, §80.83 was revised; however, the amendment could not be incorporated because the section is stayed.

§ 80.84 Treatment of interface and transmix.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Interface* means a volume of petroleum product generated in a pipeline between two adjacent volumes of non-identical petroleum product that consists of a mixture of the two adjacent products.

(2) *Transmix* means an interface that does not meet the specifications for a fuel that can be used or sold, and that is composed solely of any combination of:

(i) Previously certified gasoline (including previously certified gasoline blendstocks that become gasoline solely upon the addition of an oxygenate);

(ii) Distillate fuel; or

(iii) Gasoline blendstocks that are suitable for use as a blendstock without further processing.

(3) *Transmix gasoline product*, or *TGP*, means the gasoline or gasoline blendstock that is produced when transmix is separated into distillate fuel and either gasoline or gasoline blendstock. Gasoline blendstock here includes blendstock that becomes gasoline solely upon the addition of an oxygenate (such as RBOB).

(4) *Transmix processing facility* means any refinery that produces TGP from transmix by distillation or other refining processes, but does not produce gasoline by processing crude oil.

(5) *Transmix processor* means any person who owns, leases, operates, controls or supervises a transmix processing facility.

(6) *Transmix blending facility* means any facility which produces gasoline by blending transmix into gasoline.

(7) *Transmix blender* means any person who owns, leases, operates, controls or supervises a transmix blending facility.

(b) *Designation of gasoline interface by pipeline operators.* (1) Gasoline interface mixtures containing the products below shall be designated by pipeline operators in the following manner:

(i) Interface mixtures of reformulated gasoline or RBOB, and conventional gasoline shall be designated as conventional gasoline;

(ii) Interface mixtures of VOC-controlled reformulated gasoline and non-VOC-controlled reformulated gasoline shall be designated as non-VOC-controlled RFG;

(iii) Interface mixtures of RBOB and reformulated gasoline shall be designated as RBOB; and

(iv) Interface mixtures of reformulated gasoline or RBOB, and blendstock shall be designated as blendstock.

(2) Regardless of gasoline product designation, all gasoline containing interface must meet all downstream standards, including but not limited to any standards and requirements that apply downstream of the refinery in this part and the Clean Air Act.

(c) *Transmix processing*—(1) *TGP sold without further mixing with blendstocks or previously certified gasoline.* (i) Where the TGP meets all standards and requirements that apply to conventional

gasoline downstream from the refinery, including but not limited to any standards and requirements in this part and the Clean Air Act, and the TGP is designated and sold as conventional gasoline, the transmix processor may exclude the TGP from compliance calculations for the transmix processing facility under this part Subpart E of this part. Except as required in paragraph (c)(4) of this section, the transmix processor must either include every batch or exclude every batch of this TGP from their compliance calculations for each compliance period;

(ii) Where the TGP is sold as a blendstock, the transmix processor must exclude the TGP from compliance calculations. Pursuant to §80.101(d)(3), however, TGP which becomes gasoline solely upon the addition of an oxygenate must be included in the compliance calculations for the transmix processing facility under subpart E of this part.

(iii) Where the TGP is designated and sold as reformulated gasoline or RBOB, the transmix processor must fulfill all requirements and standards that apply to a refiner under subpart D of this part and must include the reformulated gasoline or RBOB produced from the transmix in compliance calculations for the transmix processing facility under subpart D of this part.

(2) *TGP blended with blendstocks.* Where the transmix processor mixes the TGP with blendstock(s) to produce reformulated or conventional gasoline or RBOB, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards that apply to a refiner under subpart D or E of this part, as appropriate, and include the gasoline produced in compliance calculations for the transmix processing facility under subpart D or E of this part, as appropriate.

(3) *TGP blended with previously certified gasoline.* (i) Where the TGP meets all the standards and requirements that apply to conventional gasoline downstream from the refinery, including but not limited to any standards and requirements of this part and the Clean Air Act, and the transmix processor mixes the TGP with any previously certified gasoline to produce conventional gasoline, the TGP may be

excluded from compliance calculations for the transmix processing facility under subpart E of this part. Except as required in paragraph (c)(4) of this section, the transmix processor must either include every batch or exclude every batch of this TGP from compliance calculations for the transmix processing facility for each compliance period.

(ii) Where the TGP does not meet all standards that apply to conventional gasoline downstream from the refinery, including but not limited to any standards and requirements of this part and the Clean Air Act, and the transmix processor mixes the TGP with any previously certified gasoline to produce conventional gasoline, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards for a refiner under subpart E of this part, for the TGP, and include the TGP in the compliance calculations for the transmix processing facility under subpart E of this part.

(iii) The sampling and testing required under paragraph (c)(3)(ii) of this section may be met using one of the following methods:

(A) Sample and test the TGP prior to blending with previously certified gasoline to determine the volume and properties of the TGP and include each volume of TGP blended with previously certified gasoline as a separate batch in compliance calculations for the transmix processing facility; or

(B) Determine the volume and properties of the previously certified gasoline prior to blending with the TGP and measure the volume and properties of the gasoline subsequent to blending with the TGP. Calculate the volume and properties of the TGP by subtracting the volume and properties of the previously certified gasoline from the volume and properties of the gasoline subsequent to blending, and include each volume of TGP blended with previously certified gasoline as a separate batch in compliance calculations for the transmix processing facility; or

(C) Comply with the requirements in § 80.101(g)(9).

(iv) Where the transmix processor mixes the TGP with any previously certified gasoline to produce reformu-

lated gasoline or RBOB, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards for a refiner under subpart D of this part, for the TGP, and include the TGP in the compliance calculations for the transmix processing facility under subpart D of this part, using the procedures in § 80.65(i).

(4) *Additional requirements for conventional gasoline produced with transmix containing blendstocks.* Notwithstanding paragraphs (c)(1)(i) and (c)(3)(i) of this section, if gasoline is produced at a transmix processing facility from any transmix containing gasoline blendstocks, the transmix processor must include every batch of gasoline produced from transmix in compliance calculations for the transmix processing facility under subpart E of this part for the entire compliance period.

(d) *Transmix blending.* Transmix blenders which fulfill all of the requirements in this paragraph (d) are exempt from the requirements and standards that apply to a refiner under subparts D and E of this part.

(1) Transmix may be blended into any previously certified gasoline, provided that:

(i) The endpoint of the final transmix-blended gasoline does not exceed 437 degrees Fahrenheit as measured by ASTM standard method D 86-01^{e1}, entitled "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure", which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428-2959. Copies may be inspected at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.htm;

(ii) The final transmix-blended gasoline meets all applicable downstream standards; and

(iii) The transmix blender complies with the requirements in §§ 80.74(b)(10), 80.104(b) and 80.213.

(2) The transmix blender must maintain and follow a written quality assurance program designed to assure that the type and amount of transmix blended into previously certified gasoline will not cause violations of the applicable standards in paragraph (d)(1) of this section. Except as set forth in paragraph (d)(3) of this section, as a part of the quality assurance program, transmix blenders shall collect samples of gasoline subsequent to blending transmix, and test the samples to ensure the end-point temperature of the final transmix-blended gasoline does not exceed 437 degrees Fahrenheit, at one of the following rates:

(i) In the case of transmix that is blended in a tank, following each occasion transmix is blended; or

(ii) In the case of transmix that is blended by a computer controlled in-line blending system, the transmix blender shall collect composite samples of gasoline subsequent to blending transmix at a rate of not less than twice each calendar month during which transmix is blended.

(3) Any transmix blender may petition EPA for approval of a quality assurance program that does not include the minimum sampling and testing requirements in paragraph (d)(2) of this section. In order to seek such an exemption, the transmix blender shall submit a petition to EPA that includes:

(i) A detailed description of the quality assurance procedures to be carried out at each location where transmix is blended into previously certified gasoline, including a description of how the transmix blender proposes to determine the ratio of transmix that can be blended with previously certified gasoline without violating any of the applicable standards in paragraph (d)(1) of this section, and a description of how the transmix blender proposes to determine that the gasoline produced by the transmix blending operation meets the applicable standards.

(ii) If the transmix is blended by a computer controlled in-line blending system, the transmix blender shall also include all of the information required by refiners under § 80.65(f)(4)(i)(A).

(iii) A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the submission is true to the best of his/her belief must accompany any submission under this paragraph.

(iv) Transmix blenders who seek an exemption under paragraph (d)(3) of this section must comply with any request by EPA for additional information or any other requirements that EPA includes as part of the exemption. However, they may withdraw their exemption petition or approved exemption at any time, upon notice to EPA.

(v) EPA reserves the right to modify the requirements of an exemption under paragraph (d)(3) of this section, in whole or in part, at any time, if EPA determines that the transmix blender's operation does not effectively or adequately control, monitor or document the end-point temperature of the gasoline produced, or if EPA determines that any other circumstance exists which merits modification of the requirements of an exemption. If EPA finds that a transmix blender provided false or inaccurate information in any submission required for an exemption under this section, upon notification from EPA, the transmix blender's exemption will be void ab initio.

(4) In the event the test results for any sample collected pursuant to a quality assurance program indicate the gasoline does not comply with any of the applicable standards in paragraph (d)(1) of this section, the transmix blender shall:

(i) Immediately take steps to stop the sale of the gasoline that was sampled;

(ii) Take steps which are reasonably calculated to determine the cause of the noncompliance and to prevent future instances of noncompliance;

(iii) Inform EPA of the noncompliance; and

(iv) If the transmix was blended by a computer controlled in-line blending system, increase the rate of sampling and testing to a rate of not less than

once per week and continue the increased frequency of sampling and testing until the results of ten consecutive samples and tests indicate the gasoline complies with applicable standards, at which time the sampling and testing may be conducted at the original frequency;

(5) Any transmix blender who blends transmix into previously certified gasoline and who does not meet the requirements under this paragraph (d) shall meet all requirements and standards that apply to a refiner under subparts D and E of this part, other than this section and §§80.74(b)(10), and 80.104(b).

(e) The provisions of paragraphs (c) and (d) of this section also apply to mixtures of gasoline and distillate fuel:

(1) Produced by unintentionally combining gasoline and distillate fuel in a tank.

(2) Produced from normal business operations at terminals or pipelines, such as gasoline or distillate fuel drained from a tank, or drained from piping or hoses used to transfer gasoline or distillate fuel to tanks or trucks, or gasoline or distillate fuel discharged from a safety relief valve.

(f) Any transmix processor or transmix blender who adds a feedstock to their transmix other than gasoline, distillate fuel or gasoline blendstocks from pipeline interface must meet all requirements and standards that apply to a refiner under subparts D and E of this part, other than this section and §§80.74(b)(10), and 80.104(b), for all gasoline they produce during a compliance period.

[71 FR 31961, June 2, 2006]

§§ 80.85–80.89 [Reserved]

Subpart E—Anti-Dumping

SOURCE: 59 FR 7860, Feb. 16, 1994, unless otherwise noted.

§ 80.90 Conventional gasoline baseline emissions determination.

(a) *Annual average baseline values.* For any facility of a refiner or importer of conventional gasoline, the annual average baseline values of the facility’s exhaust benzene emissions, exhaust toxics emissions, NO_x emissions, sulfur, olefins and T90 shall be determined using the following equation:

$$\text{BASELINE} = \frac{\text{SUMRBASE} \times \text{SUMRVOL} + \text{WNTRBASE} \times \text{WNTRVOL}}{\text{SUMRVOL} + \text{WNTRVOL}}$$

where

BASELINE = annual average baseline value of the facility,

SUMRBASE = summer baseline value of the facility,

SUMRVOL = summer baseline gasoline volume of the facility, per §80.91,

WNTRBASE = winter baseline value of the facility,

WNTRVOL = winter baseline gasoline volume of the facility, per §80.91.

(b) *Baseline exhaust benzene emissions—simple model.* (1) Simple model exhaust benzene emissions of conventional gasoline shall be determined using the following equation:

$$\text{EXHBEN} = (1.884 + 0.949 \times \text{BZ} + 0.113 \times (\text{AR} - \text{BZ}))$$

where

EXHBEN = exhaust benzene emissions,

BZ = fuel benzene value in terms of volume percent (per §80.91), and

AR = fuel aromatics value in terms of volume percent (per §80.91).

(2) The simple model annual average baseline exhaust benzene emissions for any facility of a refiner or importer of conventional gasoline shall be determined as follows:

(i) The simple model baseline exhaust benzene emissions shall be determined separately for summer and winter using the facility’s oxygenated individual baseline fuel parameter values for summer and winter (per §80.91), respectively, in the equation specified in paragraph (b)(1) of this section.

(ii) The simple model annual average baseline exhaust benzene emissions of the facility shall be determined using the emissions values determined in