

**§ 80.845**

gasoline and RBOB, and under subpart E of this part for conventional gasoline, according to the requirements specified in § 80.84(c).

[71 FR 31964, June 2, 2006]

**§ 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 com-

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pared 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<sub>CBase</sub> = Compliance baseline toxics value.
- T<sub>Base</sub> = Baseline toxics value for the refinery or importer, calculated according to § 80.915(b)(1).
- V<sub>Base</sub> = Baseline volume for the refinery or importer, calculated according to § 80.915(b)(2).
- T<sub>Exist</sub> = Existing toxics standard, per paragraph (b) of this section.
- V<sub>inc</sub> = Volume of gasoline produced during the averaging period in excess of V<sub>Base</sub>.

(b) The value of existing toxics standard, T<sub>Exist</sub>, 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) Any refiner for any refinery or importer with an approved anti-dumping baseline under § 80.93(d) for gasoline produced or imported for use in Alaska, and/or Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands, and for which a conventional gasoline baseline toxics value for such gasoline can be determined according to § 80.915(b)(1), shall determine its compliance baseline applicable to such gasoline according to the following equation:

$$T_{CBase} = \frac{T_{Base} \times V_{Base} + T_{Exist} \times V_{inc} + T_{SBase} \times V_{SBase} + T_{SEExist} \times V_{Sinc} + T_{WBase} \times V_{WBase} + T_{WEExist} \times V_{Winc}}{V_{Base} + V_{inc} + V_{SBase} + V_{Sinc} + V_{WBase} + V_{Winc}}$$

Where:

- T<sub>CBase</sub> = Compliance baseline toxics value.
- T<sub>Base</sub> = Baseline toxics value for the refinery or importer, calculated according to § 80.915(b)(1) for all gasoline except gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.
- V<sub>Base</sub> = Baseline volume for the refinery or importer, calculated according to § 80.915(b)(2) for all gasoline except gasoline produced or imported for use in Alaska,

- Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.
- T<sub>Exist</sub> = The refinery’s or importer’s anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per § 80.101(f) for all gasoline except gasoline produced or imported for use in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.
- V<sub>inc</sub> = Volume of gasoline produced or imported, excluding the volume of gasoline produced or imported for use in Alaska,

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Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands during the averaging period, which is in excess of  $V_{\text{Base}}$ .

$T_{\text{SBase}}$  = Baseline toxics value for the refinery or importer, calculated according to §80.915(e)(2)(i) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

$V_{\text{SBase}}$  = Baseline volume for the refinery or importer, calculated according to §80.915(e)(2)(ii) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

$T_{\text{SExist}}$  = The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per §80.101(f) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

$V_{\text{Sinc}}$  = Volume of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands during the averaging period which is in excess of  $V_{\text{SBase}}$ .

$T_{\text{WBase}}$  = Baseline toxics value for the refinery or importer, calculated according to §80.915(e)(1)(i) for gasoline produce or imported for use in Alaska.

$V_{\text{WBase}}$  = Baseline volume for the refinery or importer, calculated according to §80.915(e)(1)(ii) for gasoline produce or imported for use in Alaska.

$T_{\text{WExist}}$  = The refinery's or importer's anti-dumping compliance baseline value for exhaust toxics, in mg/mi, per §80.101(f) for gasoline produce or imported for use in Alaska.

$V_{\text{Winc}}$  = Volume of gasoline produced or imported for use in Alaska during the averaging period which is in excess of  $V_{\text{WBase}}$ .

(d) If the refinery or importer produced less gasoline during the compliance period than its applicable baseline volume, the value of  $V_{\text{inc}}$ ,  $V_{\text{Sinc}}$  or  $V_{\text{Winc}}$ , as applicable, will be zero.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 60581, Oct. 25, 2007]

### § 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, prior to January 1, 2006, 94.64 mg/mile; starting January 1, 2006, 97.38 mg/mile.

(ii) For reformulated gasoline, prior to January 1, 2006, 25.31 percent reduction from statutory baseline; starting January 1, 2006, 26.78 percent reduction from statutory baseline.

(2)(i) A refinery or importer that has an approved anti-dumping baseline under §80.93(d) for gasoline produced or imported for use in Alaska, and that cannot determine an applicable toxics value according to paragraph (b)(1) of this section, shall have the following as its compliance baseline for the purposes of this subpart: 110.72 mg/mile.

(ii) A refinery or importer that has an approved anti-dumping baseline under §80.93(d) for gasoline produce or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands and that cannot determine an applicable toxics value according to paragraph (b)(1) of this section, shall have the following as its compliance baseline for the purposes of this subpart: 77.82 mg/mile.

(iii) The provisions of this paragraph (b)(2) shall apply to any refiner, for any refinery, or importer that received approval of a petition under §80.93(d) prior to November 26, 2007 beginning with the 2008 annual averaging period.

(iv) Any new refiner or importer without a toxics baseline that produces or imports gasoline for use in Alaska, Hawaii, the Commonwealth of Puerto Rico or the Virgin Islands shall be subject to the applicable toxics default baseline under paragraph (b)(1) of this section unless the refiner or importer petitions for and receives approval of use of a seasonal baseline and seasonal Complex Model under §80.93(d).

(c)(1) *Eligibility to petition.* A refiner who has been granted an alternative