

Environmental Protection Agency

§ 80.1015

and Non-Certified Toxics-FRGAS imported and demonstrate compliance with the requirements for importers under § 80.1030(o).

(d) *Length of time records shall be kept.* The records required in this section shall be kept for five years from the date they were created.

(e) *Make records available to EPA.* On request by EPA the records required in paragraphs (a), (b) and (c) of this section shall be provided to the Administrator's authorized representative. For records that are electronically generated or maintained the equipment and software necessary to read the records shall be made available, or upon approval by EPA, electronic records shall be converted to paper documents which shall be provided to the Administrator's authorized representative.

§ 80.990 What are the toxics reporting requirements?

Beginning with the 2002 averaging period, and continuing for each averaging period thereafter, any refiner or importer shall submit to EPA the information required in this section, and such other information as EPA may require.

(a) *Refiner and importer annual reports.* Any refiner, for each of its refineries and/or aggregate(s) of refineries, and any importer for the gasoline it imports, shall:

(1) Include in its reformulated gasoline toxics emissions performance averaging report per § 80.75(e) the compliance baseline and incremental volume, V_{inc} , for its reformulated gasoline and RBOB, combined, per § 80.850.

(2) Include in its conventional gasoline report per § 80.105 the compliance baseline and incremental volume, V_{inc} , for its conventional gasoline per § 80.850.

(3) Exclude Certified Toxics-FRGAS under § 80.1030, if an importer.

(b) *Additional reporting requirements for importers.* Any importer shall report the following information for Toxics-FRGAS imported during the averaging period:

(1) The EPA refiner and refinery registration numbers of each foreign refiner and refinery where the Certified Toxics-FRGAS was produced; and

(2) The total gallons of Certified Toxics-FRGAS and Non-Certified Toxics-FRGAS imported from each foreign refiner and refinery.

EXEMPTIONS

§ 80.995 What if a refiner or importer is unable to produce gasoline conforming to the requirements of this subpart?

In appropriate extreme and unusual circumstances (e.g., natural disaster or Act of God) which are clearly outside the control of the refiner or importer and which could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refiner or importer, for a brief period, to not meet the requirements of this subpart, separately for reformulated gasoline (and RBOB, combined) and conventional gasoline, provided the refiner or importer meets all the criteria, requirements and conditions contained in § 80.73 (a) through (e).

§ 80.1000 What are the requirements for obtaining an exemption for gasoline used for research, development or testing purposes?

Gasoline used for research, development or testing purposes is exempt from the requirements of this subpart if it is exempted for these purposes under the reformulated and conventional gasoline programs, as applicable.

VIOLATION PROVISIONS

§ 80.1005 What acts are prohibited under the gasoline toxics program?

No person shall:

(a) *Averaging violation.* Produce or import gasoline subject to this subpart that does not comply with the applicable toxics requirement under § 80.815.

(b) *Causing an averaging use violation.* Cause another person to commit an act in violation of paragraph (a) of this section.

§ 80.1010 [Reserved]

§ 80.1015 Who is liable for violations under the gasoline toxics program?

(a) *Persons liable for violations of prohibited acts—(1) Averaging violation.* Any

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person who violates §80.1005(a) is liable for the violation.

(2) *Causing an averaging violation.* Any person who causes another party to violate §80.1005(a), is liable for a violation of §80.1005(b).

(3) *Parent corporation liability.* Any parent corporation is liable for any violations of this subpart that are committed by any of its wholly-owned subsidiaries.

(b) *Persons liable for failure to meet other provisions of this subpart.* (1) Any person who fails to meet a provision of this subpart not addressed in paragraph (a) of this section is liable for a violation of that provision.

(2) Any person who causes another party to fail to meet a requirement of this subpart not addressed in paragraph (a) of this section, is liable for causing a violation of that provision.

§ 80.1020 [Reserved]

§ 80.1025 What penalties apply under this subpart?

(a) Any person liable for a violation under §80.1015 is subject to civil penalties as specified in sections 205 and 211(d) of the Clean Air Act for every day of each such violation and the amount of economic benefit or savings resulting from each violation.

(b) Any person liable under §80.1015(a) for a violation of the applicable toxics requirements or causing another party to violate the requirements during any averaging period, is subject to a separate day of violation for each and every day in the averaging period.

(c) Any person liable under §80.1015(b) for failure to meet, or causing a failure to meet, a provision of this subpart is liable for a separate day of violation for each and every day such provision remains unfulfilled.

PROVISIONS FOR FOREIGN REFINERS WITH INDIVIDUAL TOXICS BASELINES

§ 80.1030 What are the requirements for gasoline produced at foreign refineries having individual refiner toxics baselines?

(a) *Definitions.* (1) A *foreign refinery* is a refinery that is located outside the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam,

American Samoa, and the Commonwealth of the Northern Mariana Islands (collectively referred to in this section as “the United States”).

(2) A *foreign refiner* is a person who meets the definition of refiner under §80.2(i) for a foreign refinery.

(3) *Toxics-FRGAS* means gasoline produced at a foreign refinery that has been assigned an individual refinery toxics baseline under §80.915 and that is imported into the U.S.

(4) *Non-Toxics-FRGAS* means gasoline that is produced at a foreign refinery that has not been assigned an individual refinery toxics baseline, gasoline produced at a foreign refinery with an individual refinery toxics baseline that is not imported into the United States, and gasoline produced at a foreign refinery with an individual toxics baseline during a year when the foreign refiner has opted to not participate in the Toxics-FRGAS program under paragraph (c)(3) of this section.

(5) *Certified Toxics-FRGAS* means Toxics-FRGAS the foreign refiner intends to include in the foreign refinery’s toxics compliance calculations under §80.825, and does include in these compliance calculations when reported to EPA.

(6) *Non-Certified Toxics-FRGAS* means Toxics-FRGAS that is not Certified Toxics-FRGAS.

(b) *Baseline establishment.* Any foreign refiner may submit a petition to the Administrator for an individual refinery toxics baseline pursuant to §80.915 for all gasoline that was produced at the foreign refinery and imported into the United States between January 1, 1998 and December 31, 2000.

(1) The refiner shall follow the procedures specified in §§80.91 through 80.93 to establish an anti-dumping baseline, if it does not already have such a baseline.

(2) In making determinations for foreign refinery baselines, EPA will consider all information supplied by a foreign refiner, and in addition may rely on any and all appropriate assumptions necessary to make such determinations.

(3)(i) Where a foreign refiner submits a petition that is incomplete or inadequate to establish an accurate toxics baseline, and the refiner fails to cure