

§ 80.1236

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(3) Butane added to finished gasoline, RBOB, CBOB downstream of the refinery that produced the gasoline or import facility where the gasoline was imported.

(4) Gasoline produced by separating gasoline from transmix.

(5) PCG.

(6) Gasoline produced or imported for use in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) Gasoline exported for use outside the United States.

(8) Gasoline produced by a small refiner approved under § 80.1340 prior to January 1, 2015, or prior to the small refiner’s first compliance period pursuant to § 80.1342(a), whichever is earlier.

(9) Gasoline that is used to fuel aircraft, racing vehicles or racing boats that are used only in sanctioned racing events, provided that —

(i) Product transfer documents associated with such gasoline, and any pump stand from which such gasoline is dispensed, identify the gasoline either as gasoline that is restricted for use in aircraft, or as gasoline that is restricted for use in racing motor vehicles or racing boats that are used only in sanctioned events;

(ii) The gasoline is completely segregated from all other gasoline throughout production, distribution and sale to the ultimate consumer; and

(iii) The gasoline is not made available for use as motor vehicle gasoline, or dispensed for use in motor vehicles, except for motor vehicles used only in sanctioned racing events.

(10) California gasoline, as defined in § 80.1236.

§ 80.1236 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 only in California and that is actually used in California.

(b) California gasoline exemption. California gasoline that complies with all the requirements of this section is exempt from the requirements in § 80.1230.

(c) Requirements for California gasoline. The following requirements apply to California gasoline:

(1) Each batch of California gasoline must be designated as such by its refiner or importer.

(2) Designated California gasoline must be kept segregated from gasoline that is not California gasoline at all points in the distribution system.

(3) Designated California gasoline must ultimately be used in the State of California and not used elsewhere in the United States.

(4) In the case of California gasoline produced outside the State of California, the transferors and transferees must 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 must comply with the requirements specified in § 80.1230, regardless of any designation as California gasoline.

§ 80.1238 How is a refinery’s or importer’s average benzene concentration determined?

(a) The average benzene concentration of gasoline produced at a refinery or imported by an importer for an applicable averaging period is calculated according to the following equation:

B_avg = (sum from i=1 to n of (V_i x B_i)) / (sum from i=1 to n of V_i)

Where:

B_avg = Average benzene concentration for the applicable averaging period (volume percent benzene).

i = Individual batch of gasoline produced at the refinery or imported during the applicable averaging period.

n = Total number of batches of gasoline produced at the refinery or imported during the applicable annual averaging period.

V_i = Volume of gasoline in batch i (gallons).

B_i = Benzene concentration of batch i (volume percent benzene), per § 80.46(e).

(b) A refiner or importer may include the volume of oxygenate added downstream from the refinery or import facility in the calculation specified in paragraph (a) of this section, provided the following requirements are met:

(1) For oxygenate added to conventional gasoline, the refiner or importer must comply with the requirements of

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§ 80.101(d)(4)(ii) and the calculation methodologies of § 80.101(g)(3).

(2) For oxygenate added to RBOB, the refiner or importer must comply with the requirements of § 80.69(a).

(c) Refiners and importers must exclude from the calculation specified in paragraph (a) of this section all of the following:

(1) Gasoline that was not produced at the refinery or imported by the importer.

(2) Except as provided in paragraph (b) of this section, any blendstocks or unfinished gasoline transferred to others.

(3) Gasoline that has been included in the compliance calculations for another refinery or importer.

(4) Gasoline exempted from the standards under § 80.1235(b).

§ 80.1240 How is a refinery's or importer's compliance with the gasoline benzene requirements of this subpart determined?

(a) A refinery's or importer's compliance with the annual average benzene standard at § 80.1230(a) is determined as follows:

(1)(i) The compliance benzene value for a refinery or importer is:

$$CBV_y = V_y \times \left(\frac{B_{avg,y}}{100} \right) + D_{y-1} - BC - OC$$

Where:

CBV_y = Compliance benzene value (gallons benzene) for year y .

V_y = Gasoline volume produced or imported in year y (gallons).

$B_{avg,y}$ = Average benzene concentration in year y (volume percent benzene), calculated in accordance with § 80.1238.

D_{y-1} = Benzene deficit from the previous reporting period, per § 80.1230(c) (gallons benzene).

BC = Banked benzene credits used to show compliance (gallons benzene).

OC = Benzene credits obtained by the refinery or importer used to show compliance (gallons benzene).

(ii) Benzene credits used in the calculation specified in paragraph (a)(1)(i) of this section must be used in accordance with the requirements at § 80.1295.

(2)(i) If $CBV_y \leq V_y \times (0.62)/100$, then compliance with the benzene requirement at § 80.1230(a) is achieved for calendar year y .

(ii) If $CBV_y > V_y \times (0.62)/100$, then compliance with the benzene requirement at § 80.1230(a) is not achieved for calendar year y , and a deficit is created per § 80.1230(c). The deficit value to be included in the following year's compliance calculation per paragraph (a) of this section is calculated as follows:

$$D_y = CBV_y - V_y \times \left(\frac{0.62}{100} \right)$$

Where:

D_y = Benzene deficit created in compliance period y (gallons benzene).

(b) Compliance with the maximum average benzene standard at § 80.1230(b) is achieved by a refinery or importer if the value of B_{avg} calculated in accordance with § 80.1238(a) is no greater than 1.30 volume percent for an applicable averaging period per § 80.1230(b)(3).

AVERAGING, BANKING AND TRADING (ABT) PROGRAM

§ 80.1270 Who may generate benzene credits under the ABT program?

(a) *Early benzene credits.* Early benzene credits are credits generated prior to 2011, or prior to 2015 if generated by a small refiner approved under § 80.1340.

(1)(i) Early credits may be generated under § 80.1275 by a refiner for any refinery it owns that has an approved benzene baseline under § 80.1285, including a refinery of a foreign refiner that is subject to the provisions of § 80.1363.

(ii) The refinery specified in paragraph (a)(1)(i) of this section must process crude oil and/or intermediate feedstocks through refinery processing units.

(iii) Early benzene credits shall be calculated separately for each refinery of a refiner.

(iv) A refinery that is approved for early compliance under § 80.1334 may not generate early credits for the gasoline subject to the early compliance provisions.

(2)(i) A refinery that was shut down during the entire 2004–2005 benzene baseline period is not eligible to generate early credits under § 80.1275.

(ii) A refinery not in full production, excluding normal refinery downtime, or not showing consistent or regular gasoline production activity during