

§§ 80.860–80.905 [Reserved]

BASELINE DETERMINATION

**§ 80.910 How does a refiner or importer apply for a toxics baseline?**

(a)(1) A refiner or importer shall submit an application to EPA which includes the information required under paragraph (c) of this section no later than June 30, 2001, or 3 months prior to the first introduction of gasoline into commerce from the refinery or by the importer, whichever is later.

(2) A refiner or importer shall submit an application to EPA for the purposes of this subpart simultaneously with the submission of a petition under § 80.93(d).

(b) The toxics baseline request shall be sent to: U.S. EPA, Attn: Toxics Program (6406J), 1200 Pennsylvania Ave., NW, Washington, DC 20460. For commercial (non-postal) delivery: U.S. EPA, Attn: Toxics Program, 501 3rd Street NW, Washington, DC 20001.

(c) The toxics baseline application shall include the following information:

(1) A listing of the names and addresses of all refineries owned by the company for which the refiner is applying for a toxics baseline, or the name and address of the importer applying for a toxics baseline.

(2) For each refinery and importer—

(i) The baseline toxics value for each type of gasoline, per § 80.815(b), calculated in accordance with § 80.915;

(ii) The baseline toxics volume for each type of gasoline, per § 80.815(b), calculated in accordance with § 80.915;

(iii) For those with insufficient data pursuant to § 80.855, a statement that the refinery's or importer's baseline toxics value is the default compliance baseline specified at § 80.855(b), and that its baseline toxics volume is zero.

(3) A letter signed by the president, chief operating or chief executive officer, of the company, or his/her delegate, stating that the information contained in the toxics baseline determination is true to the best of his/her knowledge.

(4) Name, address, phone number, facsimile number and E-mail address of a company contact person.

(5) The following information for each batch of gasoline produced or imported during the period 1998–2000, separately for each type of gasoline listed at § 80.815(b):

(i) Batch number assigned to the batch under § 80.65(d) or § 80.101(i);

(ii) Volume; and

(iii) Applicable toxics value determined as specified at § 80.915(c).

(d) Foreign refiners shall follow the procedures specified in § 80.1030(b) to establish individual toxics baseline values for a foreign refinery.

(e) By October 31, 2001, or 4 months after the submission date, whichever is later, EPA will notify the submitter of approval of its toxics baseline.

(f) If at any time the baseline submitted in accordance with the requirements of this section is determined to be incorrect, the corrected baseline applies ab initio and the annual average toxics requirements are deemed to be those applicable under the corrected information.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 60582, Oct. 25, 2007]

**§ 80.915 How are the baseline toxics value and baseline toxics volume determined?**

(a)(1) A refinery or importer shall use the methodology specified in this section for determining a baseline toxics value if it can 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.

(2) The determination in paragraph (a)(1) of this section is made separately for each type of gasoline listed at § 80.815(b) produced or imported between January 1, 1998 and December 31, 2000, inclusive.

(3) All consecutive and non-consecutive batch toxics measurements between January 1, 1998 and December 31, 2000, inclusive, are to be included in the baseline determination, unless the refinery or importer petitions EPA to exclude such data on the basis of data quality, per § 80.91(d)(6), and receives permission from EPA to exclude such data.

(b)(1) A refinery's or importer's baseline toxics value is calculated using the following equation:

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$$T_{\text{Base}} = \frac{\sum_{i=1}^n (V_i \times T_i)}{\sum_{i=1}^n V_i} + M$$

Where:

- T<sub>Base</sub> = Baseline toxics value.
- V<sub>i</sub> = Volume of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- T<sub>i</sub> = Toxics value of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- i = Individual batch of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- n = Total number of batches of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- M = Compliance margin.

(2) A refinery's or importer's baseline toxics volume is calculated using the following equation:

$$V_{\text{base}} = \frac{\sum_{i=1}^n V_i}{Y}$$

Where:

- V<sub>base</sub> = Baseline toxics volume.
- V<sub>i</sub> = Volume of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- i = Individual batch of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- n = Total number of batches of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.
- Y = Number of years between 1998 and 2000, inclusive, during some or all of which the refinery produced, or the importer imported, gasoline.

(c) The calculation specified in paragraph (b) of this section shall be made separately for each type of gasoline listed at §80.815(b).

(d) The toxics value, T<sub>i</sub>, of each batch of gasoline is determined using the Phase II Complex Model specified at §80.45.

(1) The toxics value, T<sub>i</sub>, of each batch of reformulated gasoline or RBOB, and the baseline toxics value, T<sub>Base</sub>, for reformulated gasoline and RBOB, combined, under this subpart are in percent reduction from the statutory baseline

defined in 40 CFR 80.45(b) and volumes are in gallons.

(2) The toxics value, T<sub>i</sub>, of each batch of conventional gasoline, and the baseline toxics value, T<sub>Base</sub>, for conventional gasoline under this subpart are in milligrams per mile (mg/mile) and volumes are in gallons.

(e)(1)(i) A refiner or importer which is approved for a petition submitted under §80.910(a)(2) for gasoline produced or imported for use in Alaska shall calculate the applicable toxics baseline value using the following equation:

$$T_{\text{WBase}} = \frac{\sum_{i=1}^n (V_i \times T_i)}{\sum_{i=1}^n V_i} + M$$

Where:

- T<sub>WBase</sub> = Baseline toxics value for gasoline produced or imported for use in Alaska.
- V<sub>i</sub> = Volume of gasoline batch i produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.
- T<sub>i</sub> = Toxics value of gasoline batch i produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.
- i = Individual batch of gasoline produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.
- n = Total number of batches of gasoline produced or imported for use in Alaska between January 1, 1998 and December 31, 2000, inclusive.
- M = Compliance margin.

(ii) The baseline volume associated with the baseline value calculated in paragraph (e)(1)(i) of this section shall be calculated using the methodology in paragraph (b)(2) of this section for the gasoline described in paragraph (e)(1)(i) of this section.

(2)(i) A refiner or importer which is approved for a petition submitted under §80.910(a)(2) for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands shall calculate the applicable toxics baseline value using the following equation:

$$T_{SBase} = \frac{\sum_{i=1}^n (V_i \times T_i)}{\sum_{i=1}^n V_i} + M$$

Where:

$T_{SBase}$  = Baseline toxics value for gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands.

$V_i$  = Volume of gasoline batch  $i$  produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

$T_i$  = Toxics value of gasoline batch  $i$  produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

$i$  = Individual batch of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

$n$  = Total number of batches of gasoline produced or imported for use in Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands between January 1, 1998 and December 31, 2000, inclusive.

$M$  = Compliance margin.

(ii) The baseline volume associated with the baseline value calculated in paragraph (e)(2)(i) of this section shall be calculated using the methodology in paragraph (b)(2) of this section for the gasoline described in paragraph (e)(2)(i) of this section.

(f) All refinery or importer baseline toxics value calculations shall be conducted to two decimal places.

(g) Any refinery for which oxygenate blended downstream was included in compliance calculations for 1998–2000, pursuant to §80.65 or §80.101(d)(4), shall include this oxygenate in the baseline calculations for toxics value under paragraph (a) of this section.

(h) *Baseline adjustment.* (1) A toxics baseline determined differently than described in paragraphs (a) through (e) of this section may be allowed upon petition by the refiner or importer and approval by the Administrator or designee. The petition must be included with the baseline submittal under §80.910.

(2) A toxics baseline adjustment petition shall, at minimum, be accompanied by:

(i) Unadjusted and adjusted baseline fuel parameters, applicable toxics values, and volumes; and

(ii) A narrative describing how the circumstances during 1998–2000 materially affected the baseline toxics value calculated under paragraph (a) of this section. The narrative shall also describe and show the calculations, and the reasoning supporting the calculations, used to determine the adjusted values.

(i) The compliance margin,  $M$ , that will be added to the toxics baseline calculated according to paragraph (a) of this section shall be equal to:

(1) –0.7% for reformulated gasoline or RBOB;

(2) 2.5 mg/mile for conventional gasoline.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 60582, Oct. 25, 2007]

§§ 80.920–80.980 [Reserved]

RECORDKEEPING AND REPORTING REQUIREMENTS

§ 80.985 What records shall be kept?

(a) The recordkeeping requirements specified under §80.74 applicable to refiners and importers of reformulated gasoline, RBOB and/or conventional gasoline apply under this subpart, however, duplicate records are not required.

(b) *Additional records that refiners and importers shall keep.* Beginning January 1, 2002, any refiner for each of its refineries, and any importer for the gasoline it imports, shall keep records that include the following information:

(1) The calculations used to determine the applicable compliance baseline under §80.915.

(2) The calculations used to determine compliance with the applicable toxics requirements per §80.815.

(3) A copy of all reports submitted to EPA under §80.990, however, duplicate records are not required.

(c) *Additional records importers shall keep.* Any importer shall keep records that identify and verify the source of each batch of Certified Toxics-FRGAS