(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.

[72 FR 8544, Feb. 26, 2007, as amended at 79 FR 23654, Apr. 28, 2014]

§ 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:

$$B_{avg} = \frac{\sum_{i=1}^{n}(V_i \times B_i)}{\sum_{i=1}^{n} V_i}$$

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 or CBOB, the refiner or importer must comply with the requirements of § 80.101(d)(4)(ii). The benzene content of the oxygenate must be determined using the applicable test method at § 80.46 through December 31, 2015, and at § 80.47 beginning January 1, 2016.

(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).

[72 FR 8544, Feb. 26, 2007, as amended at 79 FR 23654, Apr. 28, 2014]