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contract with the refiner for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, in violation of a contractual undertaking imposed by the refiner on such distributor designed to prevent such action, and despite reasonable efforts by the refiner (such as periodic sampling) to insure compliance with such contractual obligation, or

(vi) That the violation was caused by a distributor (such as a common carrier) not subject to a contract with the refiner but engaged by him for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, despite reasonable efforts by the refiner (such as specification or inspection of equipment) to prevent such action, or

(vii) That the violation occurred at a wholesale purchaser-consumer facility: *Provided, however,* That if such wholesale purchaser-consumer was supplied by a reseller, the refiner must demonstrate that the violation could not have been prevented by such reseller's compliance with a contractual undertaking imposed by the refiner on such reseller as provided in paragraph (b)(2)(iii) of this section.

(viii) In paragraphs (b)(2)(ii) through (vi) hereof, the term "was caused" means that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another.

(c) In any case in which a retailer or wholesale purchaser-consumer, a reseller, and any gasoline refiner would be in violation under paragraph (a)(1) of this section, the reseller shall not be deemed in violation if he can demonstrate that the violation was not caused by him or his employee or agent.

(d) In any case in which a retailer or wholesale purchaser-consumer and any gasoline distributor would be in violation under paragraph (a)(2) of this section, the distributor will not be deemed in violation if he can demonstrate that the violation was not caused by him or his employee or agent.

(e)(1) In any case in which a retailer or his employee or agent or a wholesale purchase-consumer or his employee or

agent introduced gasoline other than unleaded gasoline into a motor vehicle which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, only the retailer or wholesale purchaser-consumer shall be deemed in violation.

(2) [Reserved]

(Secs. 211, 301 of the Clean Air Act, as amended (42 U.S.C. 1857f-6c, 1857g))

[38 FR 1255, Jan. 10, 1973, as amended at 39 FR 42360, Dec. 5, 1974; 39 FR 43284, Dec. 12, 1974; 42 FR 45307, Sept. 9, 1977; 61 FR 3837, Feb. 2, 1996]

### § 80.24 Controls applicable to motor vehicle manufacturers.

(a) [Reserved]

(b) The manufacturer of any motor vehicle equipped with an emission control device which the Administrator has determined will be significantly impaired by the use of gasoline other than unleaded gasoline shall manufacture such vehicle with each gasoline tank filler inlet having a restriction which prevents the insertion of a nozzle with a spout having a terminal end with an outside diameter of 0.930 inch (2.363 centimeters) or more and allows the insertion of a nozzle with a spout meeting the specifications of § 80.22(f)(2).

(c) A motorcycle, as defined at 40 CFR 86.402 for the applicable model year, is exempt from the requirements of paragraph (b) of this section.

[38 FR 26450, Sept. 21, 1973, as amended at 39 FR 34538, Sept. 26, 1974; 46 FR 50472, Oct. 13, 1981; 48 FR 29692, June 28, 1983; 51 FR 33731, Sept. 22, 1986; 61 FR 3838, Feb. 2, 1996; 61 FR 8221, Mar. 4, 1996; 61 FR 28766, June 6, 1996; 67 FR 36771, May 24, 2002]

### § 80.25 [Reserved]

### § 80.26 Confidentiality of information.

Information obtained by the Administrator or his representatives pursuant to this part shall be treated, in so far as its confidentiality is concerned, in accordance with the provisions of 40 CFR part 2.

[38 FR 33741, Dec. 6, 1973]

### § 80.27 Controls and prohibitions on gasoline volatility.

(a)(1) *Prohibited activities in 1991.* During the 1991 regulatory control periods,

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no refiner, importer, distributor, reseller, carrier, retailer or wholesale purchaser-consumer shall sell, offer for sale, dispense, supply, offer for supply, or transport gasoline whose Reid vapor pressure exceeds the applicable standard. As used in this section and §80.28, "applicable standard" means the standard listed in this paragraph for the geographical area and time period in which the gasoline is intended to be

dispensed to motor vehicles or, if such area and time period cannot be determined, the standard listed in this paragraph that specifies the lowest Reid vapor pressure for the year in which the gasoline is being sampled. As used in this section and §80.28, "regulatory control periods" mean June 1 to September 15 for retail outlets and wholesale purchaser-consumers and May 1 to September 15 for all other facilities.

APPLICABLE STANDARDS <sup>1</sup>

State	May	June	July	Aug.	Sept.
Alabama .....	10.5	10.5	9.5	9.5	10.5
Arizona:					
North of 34 degrees latitude and east of 111 degrees longitude .....	9.5	9.0	9.0	9.5	9.5
All areas except North of 34 degrees latitude and east of 111 degrees longitude .....	9.5	9.0	9.0	9.0	9.5
Arkansas .....	10.5	10.5	9.5	9.5	10.5
California: <sup>2</sup>					
North Coast .....	10.5	9.5	9.5	9.5	9.5
South Coast .....	9.5	9.5	9.5	9.5	9.5
Southeast .....	9.5	9.5	9.5	9.5	9.5
Interior .....	9.5	9.5	9.5	9.5	9.5
Colorado .....	10.5	9.5	9.5	9.5	9.5
Connecticut .....	10.5	10.5	10.5	10.5	10.5
Delaware .....	10.5	10.5	10.5	10.5	10.5
District of Columbia .....	10.5	10.5	10.5	10.5	10.5
Florida .....	10.5	10.5	10.5	10.5	10.5
Georgia .....	10.5	10.5	9.5	9.5	10.5
Idaho .....	10.5	10.5	10.5	10.5	10.5
Illinois:					
North of 40° Latitude .....	10.5	10.5	10.5	10.5	10.5
South of 40° Latitude .....	10.5	10.5	9.5	9.5	10.5
Indiana .....	10.5	10.5	10.5	10.5	10.5
Iowa .....	10.5	10.5	10.5	10.5	10.5
Kansas .....	10.5	10.5	9.5	9.5	10.5
Kentucky .....	10.5	10.5	10.5	10.5	10.5
Louisiana .....	10.5	10.5	9.5	9.5	10.5
Maine .....	10.5	10.5	10.5	10.5	10.5
Maryland .....	10.5	10.5	10.5	10.5	10.5
Massachusetts .....	10.5	10.5	10.5	10.5	10.5
Michigan .....	10.5	10.5	10.5	10.5	10.5
Minnesota .....	10.5	10.5	10.5	10.5	10.5
Mississippi .....	10.5	10.5	9.5	9.5	10.5
Missouri .....	10.5	10.5	9.5	9.5	10.5
Montana .....	10.5	10.5	10.5	10.5	10.5
Nebraska .....	10.5	10.5	10.5	10.5	10.5
Nevada:					
North of 38° Latitude .....	10.5	9.5	9.5	9.5	9.5
South of 38° Latitude .....	9.5	9.5	9.5	9.5	9.5
New Hampshire .....	10.5	10.5	10.5	10.5	10.5
New Jersey .....	10.5	10.5	10.5	10.5	10.5
New Mexico:					
North of 34° Latitude .....	9.5	9.0	9.0	9.5	9.5
South of 34° Latitude .....	9.5	9.0	9.0	9.0	9.5
New York .....	10.5	10.5	10.5	10.5	10.5
North Carolina .....	10.5	10.5	9.5	9.5	10.5
North Dakota .....	10.5	10.5	10.5	10.5	10.5
Ohio .....	10.5	10.5	10.5	10.5	10.5
Oklahoma .....	10.5	9.5	9.5	9.5	9.5
Oregon:					
East of 122° Longitude .....	10.5	10.5	10.5	10.5	10.5
West of 122° Longitude .....	10.5	10.5	10.5	10.5	10.5
Pennsylvania .....	10.5	10.5	10.5	10.5	10.5
Rhode Island .....	10.5	10.5	10.5	10.5	10.5
South Carolina .....	10.5	10.5	9.5	9.5	10.5
South Dakota .....	10.5	10.5	10.5	10.5	10.5
Tennessee .....	10.5	10.5	9.5	9.5	10.5

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APPLICABLE STANDARDS<sup>1</sup>—Continued

State	May	June	July	Aug.	Sept.
Texas:					
East of 99° Longitude .....	9.5	9.0	9.0	9.0	9.5
West of 99° Longitude .....	9.5	9.0	9.0	9.0	9.5
Utah .....	10.5	9.5	9.5	9.5	9.5
Vermont .....	10.5	10.5	10.5	10.5	10.5
Virginia .....	10.5	10.5	10.5	10.5	10.5
Washington:					
East of 122° Longitude .....	10.5	10.5	10.5	10.5	10.5
West of 122° Longitude .....	10.5	10.5	10.5	10.5	10.5
West Virginia .....	10.5	10.5	10.5	10.5	10.5
Wisconsin .....	10.5	10.5	10.5	10.5	10.5
Wyoming .....	10.5	10.5	10.5	10.5	10.5

<sup>1</sup> Standards are expressed in pounds per square inch (psi).

<sup>2</sup> California areas include the following counties:

North Coast—Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, and Trinity.

Interior—Lassen, Modoc, Plumas, Sierra, Siskiyou, Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kern (except that portion lying east of the Los Angeles County Aqueduct), Kings, Madera, Mariposa, Merced, Placer, Sacramento, San Joaquin, Shasta, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, Yuba, and Nevada.

South Coast—Orange, San Diego, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles (except that portion north of the San Gabriel mountain range and east of the Los Angeles County Aqueduct).

Southeast—Imperial, Riverside, San Bernardino, Los Angeles (that portion north of the San Gabriel mountain range and east of the Los Angeles County Aqueduct), Mono, Inyo, and Kern (that portion lying east of the Los Angeles County Aqueduct).

(2) *Prohibited activities in 1992 and beyond.* During the 1992 and later high ozone seasons no person, including without limitation, no retailer or wholesale purchaser-consumer, and during the 1992 and later regulatory control periods, no refiner, importer, distributor, reseller, or carrier shall sell, offer for sale, dispense, supply, offer for supply, transport or introduce into commerce gasoline whose Reid vapor pressure exceeds the applicable standard. As used in this section and §80.28, “applicable standard” means:

- (i) 9.0 psi for all designated volatility attainment areas; and
- (ii) The standard listed in this paragraph for the state and time period in which the gasoline is intended to be

dispensed to motor vehicles for any designated volatility nonattainment area within such State or, if such area and time period cannot be determined, the standard listed in this paragraph that specifies the lowest Reid vapor pressure for the year in which the gasoline is sampled. Designated volatility attainment and designated volatility nonattainment areas and their exact boundaries are described in 40 CFR part 81, or such part as shall later be designated for that purpose. As used in this section and §80.27, “high ozone season” means the period from June 1 to September 15 of any calendar year and “regulatory control period” means the period from May 1 to September 15 of any calendar year.

APPLICABLE STANDARDS<sup>1</sup> 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
Alabama .....	9.0	7.8	7.8	7.8	7.8
Arizona .....	9.0	7.8	7.8	7.8	7.8
Arkansas .....	9.0	7.8	7.8	7.8	7.8
California .....	9.0	7.8	7.8	7.8	7.8
Colorado <sup>2</sup> .....	9.0	7.8	7.8	7.8	7.8
Connecticut .....	9.0	9.0	9.0	9.0	9.0
Delaware .....	9.0	9.0	9.0	9.0	9.0
District of Columbia .....	9.0	7.8	7.8	7.8	7.8
Florida .....	9.0	7.8	7.8	7.8	7.8
Georgia .....	9.0	7.8	7.8	7.8	7.8
Idaho .....	9.0	9.0	9.0	9.0	9.0
Illinois .....	9.0	9.0	9.0	9.0	9.0
Indiana .....	9.0	9.0	9.0	9.0	9.0
Iowa .....	9.0	9.0	9.0	9.0	9.0
Kansas .....	9.0	7.8	7.8	7.8	7.8
Kentucky .....	9.0	9.0	9.0	9.0	9.0
Louisiana:					
Grant Parish <sup>4</sup> .....	9.0	9.0	9.0	9.0	9.0

APPLICABLE STANDARDS<sup>1</sup> 1992 AND SUBSEQUENT YEARS—Continued

State	May	June	July	August	September
All other volatility nonattainment areas .....	9.0	7.8	7.8	7.8	7.8
Maine .....	9.0	9.0	9.0	9.0	9.0
Maryland .....	9.0	7.8	7.8	7.8	7.8
Massachusetts .....	9.0	9.0	9.0	9.0	9.0
Michigan .....	9.0	9.0	9.0	9.0	9.0
Minnesota .....	9.0	9.0	9.0	9.0	9.0
Mississippi .....	9.0	7.8	7.8	7.8	7.8
Missouri .....	9.0	7.8	7.8	7.8	7.8
Montana .....	9.0	9.0	9.0	9.0	9.0
Nebraska .....	9.0	9.0	9.0	9.0	9.0
Nevada .....	9.0	7.8	7.8	7.8	7.8
New Hampshire .....	9.0	9.0	9.0	9.0	9.0
New Jersey .....	9.0	9.0	9.0	9.0	9.0
New Mexico .....	9.0	7.8	7.8	7.8	7.8
New York .....	9.0	9.0	9.0	9.0	9.0
North Carolina .....	9.0	7.8	7.8	7.8	7.8
North Dakota .....	9.0	9.0	9.0	9.0	9.0
Ohio .....	9.0	9.0	9.0	9.0	9.0
Oklahoma .....	9.0	7.8	7.8	7.8	7.8
Oregon .....	9.0	7.8	7.8	7.8	7.8
Pennsylvania .....	9.0	9.0	9.0	9.0	9.0
Rhode Island .....	9.0	9.0	9.0	9.0	9.0
South Carolina <sup>3</sup> .....	9.0	9.0	9.0	9.0	9.0
South Dakota .....	9.0	9.0	9.0	9.0	9.0
Tennessee:					
Knox County .....	9.0	9.0	9.0	9.0	9.0
All other volatility nonattainment areas .....	9.0	7.8	7.8	7.8	7.8
Texas .....	9.0	7.8	7.8	7.8	7.8
Utah .....	9.0	7.8	7.8	7.8	7.8
Vermont .....	9.0	9.0	9.0	9.0	9.0
Virginia .....	9.0	7.8	7.8	7.8	7.8
Washington .....	9.0	9.0	9.0	9.0	9.0
West Virginia .....	9.0	9.0	9.0	9.0	9.0
Wisconsin .....	9.0	9.0	9.0	9.0	9.0
Wyoming .....	9.0	9.0	9.0	9.0	9.0

<sup>1</sup> Standards are expressed in pounds per square inch (psi).  
<sup>2</sup> The Colorado Covered Area encompasses the Denver-Boulder-Greeley-Ft. Collins-Loveland, CO, 8-hour ozone nonattainment area (see 40 CFR part 81).  
<sup>3</sup> The standard for nonattainment areas in South Carolina from June 1 until September 15 in 1992 and 1993 was 7.8 psi.  
<sup>4</sup> The standard for Grant Parish from June 1 until September 15 in 1992 through 2007 was 7.8 psi.

(b) *Determination of compliance.* Compliance with the standards listed in paragraph (a) of this section shall be determined by the use of the sampling methodologies specified in §80.8 and the testing methodology specified in §80.46(c).

(c) *Liability.* Liability for violations of paragraph (a) of this section shall be determined according to the provisions of §80.28. Where the terms refiner, importer, distributor, reseller, carrier, ethanol blender, retailer, or wholesale purchaser-consumer are expressed in the singular in §80.28, these terms shall include the plural.

(d) *Special provisions for alcohol blends.*  
 (1) Any gasoline which meets the requirements of paragraph (d)(2) of this section shall not be in violation of this section if its Reid vapor pressure does not exceed the applicable standard in

paragraph (a) of this section by more than one pound per square inch (1.0 psi).

(2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in §80.46(g). The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.

(3) Each invoice, loading ticket, bill of lading, delivery ticket and other document which accompanies a shipment of gasoline containing ethanol

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shall contain a legible and conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol.

(e) *Testing exemptions.* (1)(i) Any person may request a testing exemption by submitting an application that includes all the information listed in paragraphs (e)(3), (4), (5) and (6) of this section to:

Director (6406J), Field Operations and Support Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460

(ii) For purposes of this section, "testing exemption" means an exemption from the requirements of § 80.27(a) that is granted by the Administrator for the purpose of research or emissions certification.

(2)(i) In order for a testing exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits its reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the Environmental Protection Agency's (EPA's) monitoring requirements.

(ii) Paragraphs (e)(3), (4), (5) and (6) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (e)(2)(i) (A) through (D) of this section.

(3) An appropriate purpose is limited to research or emissions certification. The testing exemption application must include a concise statement of the purpose(s) of the testing program.

(4) With respect to the necessity that an exemption be granted, the applicant must demonstrate an inability to achieve the stated purpose in a practicable manner, during a period of the year in which the volatility regulations do not apply, or without performing or causing to be performed one or more of the prohibited activities under § 80.27(a). If any site of the proposed test program is located in an area that has been classified by the Administrator as a nonattainment area for purposes of the ozone national am-

bi-ent air quality standard, the application must also demonstrate an inability to perform the test program in an area that is not so classified.

(5) With respect to reasonableness, a test program must exhibit a duration of reasonable length, effect a reasonable number of vehicles or engines, and utilize a reasonable amount of high volatility fuel. In this regard, the testing exemption application must include:

(i) An estimate of the program's duration;

(ii) An estimate of the maximum number of vehicles or engines involved in the test program;

(iii) The time or mileage duration of the test program;

(iv) The range of volatility of the fuel (expressed in Reid Vapor Pressure (RVP)) expected to be used in the test program; and

(v) The quantity of fuel which exceeds the applicable standard that is expected to be used in the test program.

(6) With respect to control, a test program must be capable of affording EPA a monitoring capability. At a minimum, the testing exemption application must also include:

(i) The technical nature of the test program;

(ii) The site(s) of the test program (including the street address, city, county, State, and zip code);

(iii) The manner in which information on vehicles and engines used in the test program will be recorded and made available to the Administrator;

(iv) The manner in which results of the test program will be recorded and made available to the Administrator;

(v) The manner in which information on the fuel used in the test program (including RVP level(s), name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the Administrator;

(vi) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;

(vii) The name, address, telephone number and title of the person(s) in the

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organization requesting a testing exemption from whom further information on the request may be obtained; and

(viii) The name, address, telephone number and title of the person(s) in the organization requesting a testing exemption who will be responsible for recording and making available to the Administrator the information specified in paragraphs (e)(6)(iii), (iv), and (v) of this section, and the location in which such information will be maintained.

(7) A testing exemption will be granted by the Administrator upon a demonstration that the requirements of paragraphs (e)(2), (3), (4), (5) and (6) of this section have been met. The testing exemption will be granted in the form of a memorandum of exemption signed by the applicant and the Administrator (or his delegate), which shall include such terms and conditions as the Administrator determines necessary to monitor the exemption and to carry out the purposes of this section. Any violation of such a term or condition shall cause the exemption to be void.

[54 FR 11883, Mar. 22, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 80.27, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

**§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.**

(a) *Violations at refineries or importer facilities.* Where a violation of the applicable standard set forth in § 80.27 is detected at a refinery that is not an ethanol blending plant or at an importer's facility, the refiner or importer shall be deemed in violation.

(b) *Violations at carrier facilities.* Where a violation of the applicable standard set forth in § 80.27 is detected at a carrier's facility, whether in a transport vehicle, in a storage facility, or elsewhere at the facility, the following parties shall be deemed in violation:

(1) The carrier, except as provided in paragraph (g)(1) of this section;

(2) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced or the importer at whose

import facility the gasoline was imported, except as provided in paragraph (g)(2) of this section;

(3) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) of this section; and

(4) The distributor and/or reseller, except as provided in paragraph (g)(3) of this section.

(c) *Violations at branded distributor facilities, reseller facilities, or ethanol blending plants.* Where a violation of the applicable standard set forth in § 80.27 is detected at a distributor facility, a reseller facility, or an ethanol blending plant which is operating under the corporate, trade, or brand name of a gasoline refiner or any of its marketing subsidiaries, the following parties shall be deemed in violation:

(1) The distributor or reseller, except as provided in paragraph (g)(3) or (g)(8) of this section;

(2) The carrier (if any), if the carrier caused the gasoline to violate the applicable standard;

(3) The refiner under whose corporate, trade, or brand name (or that of any of its marketing subsidiaries) the distributor, reseller, or ethanol blender is operating, except as provided in paragraph (g)(4) of this section; and

(4) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) or (g)(8) of this section.

(d) *Violations at unbranded distributor facilities or ethanol blending plants.* Where a violation of the applicable standard set forth in § 80.27 is detected at a distributor facility or an ethanol blending plant not operating under a refiner's corporate, trade, or brand name, or that of any of its marketing subsidiaries, the following parties shall be deemed in violation:

(1) The distributor, except as provided in paragraph (g)(3) or (g)(8) of this section;

(2) The carrier (if any), if the carrier caused the gasoline to violate the applicable standard;

(3) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced or the importer at whose