

**3745-72-06 Defenses.**

(A) In the event that a shipment of gasoline does not meet the requirements of paragraph (A) of rule 3745-72-03 of the Administrative Code, except as provided for in rule 3745-72-07 of the Administrative Code, a gasoline refiner, importer, distributor, reseller, ethanol blender or carrier shall not be deemed in violation if the following can be demonstrated:

(1) For refiners and importers, the following are true:

- (a) That the violation was not caused by the refiner or importer, the refiner or importer's employee, or the refiner or importer's agent.
- (b) Test results, performed in accordance with the sampling and testing methodologies in rule 3745-72-08 of the Administrative Code, demonstrate that the gasoline was in compliance with the rules of this chapter when it was delivered to the next party in the distribution system.

(2) For distributors, the following are true:

- (a) That the violation was not caused by the distributor, the distributor's employee, or the distributor's agent.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the distributor that the gasoline was in compliance with the rules of this chapter when delivered to the distributor.
- (c) The distributor provides evidence of an oversight program conducted by the distributor such as periodic sampling and testing of gasoline for monitoring the R.V.P. of gasoline that the distributor sells, supplies, offers for sale or supply, or transports to the next party in the distribution system.

(3) For ethanol blenders, the following are true:

- (a) That the violation was not caused by the ethanol blender, the ethanol blender's employee, or the ethanol blender's agent.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the ethanol blender that the gasoline to which ethanol was added was in compliance with the rules of this chapter when delivered to the ethanol blender.
- (c) The ethanol blender provides evidence of an oversight program conducted by the ethanol blender such as periodic sampling and testing of gasoline for monitoring the R.V.P. of gasoline that the ethanol blender sells, supplies, offers for sale or

supply, or transports.

- (d) The ethanol blender provides evidence that the gasoline determined to be in violation contained no more than ten per cent ethanol, by volume, when delivered to the next party in the distribution system.

(4) For carriers, the following are true:

- (a) That the violation was not caused by the carrier, the carrier's employee, or the carrier's agent.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the carrier that the gasoline was in compliance with the rules of this chapter when delivered to the carrier.
- (c) The carrier provides evidence of an oversight program conducted by the carrier such as periodic sampling and testing of incoming gasoline for monitoring the R.V.P. of gasoline stored or transported by that carrier to the next party in the distribution system.

(5) For retailers or wholesale purchaser-consumers, the following are true:

- (a) That the violation was not caused the retailer or wholesale purchaser-consumer, the retailer or wholesale purchaser-consumer's employee, or the retailer or wholesale purchaser-consumer's agent.
- (b) Bills of lading, invoices, delivery tickets, loading tickets, or other documents from the refiner at whose refinery the gasoline was produced, the importer at whose facility the gasoline was imported, or the carrier, reseller, or distributor from whom the gasoline was received, represent to the retailer or wholesale purchaser-consumer that the gasoline was in compliance with the rules of this chapter when delivered to the retailer or wholesale purchaser-consumer.

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