(3) Where the refiner or importer has included oxygenate that is blended downstream of the refinery or import facility in its compliance calculations in accordance with §80.101(d)(4)(ii), obtain a listing of each downstream oxygenate blending operation from which the refiner or importer is claiming oxygenate for use in compliance calculations, and for each such operation:

(i) Determine if the refiner or importer had a contract in place with the downstream blender during the period oxygenate was blended;

(ii) Determine if the refiner or importer has records reflecting that it conducted physical inspections of the downstream blending operation during the period oxygenate was blended;

(iii) Obtain a listing from the refiner or importer of the batches of conventional gasoline or conventional sub-octane blendstock, and the compliance calculations which include oxygenate blended by the downstream oxygenate blender, and test the mathematical accuracy of the calculations contained in this listing;

(iv) Obtain a listing from the downstream oxygenate blender of the oxygenate blended with conventional gasoline or sub-octane blendstock that was produced or imported by the refiner or importer. Test the mathematical accuracy of the calculations in this listing. Agree the overall oxygenate blending listing obtained from the refiner or importer with the listing obtained from the downstream oxygenate blender. Select a representative sample of oxygenate blending listing obtained from the downstream oxygenate blender, and for this sample:

(A) Using product transfer documents, determine if the oxygenate was blended with conventional gasoline or conventional sub-octane blendstock that was produced by the refiner or imported by the importer; and

(B) Agree the oxygenate volume with the refiner's or importer's listing of oxygenate claimed for this gasoline;

(v) Obtain a listing of the sampling and testing conducted by the refiner or importer over the downstream oxygenate blending operation. Select a representative sample of the test results from this listing, and for this sample agree the tested oxygenate volume with the oxygenate use listings from the refiner or importer, and from the oxygenate blender; and

(vi) Obtain a copy of the records reflecting the refiner or importer audit over the downstream oxygenate blending operation. Review these records for indications that the audit included review of the overall volumes and type of oxygenate purchased and used by the oxygenate blender to be consistent with the oxygenate claimed by the refiner or importer and that this oxygenate was blended with the refiner's or importer's gasoline or blending stock.

[59 FR 7875, Feb. 16, 1994, as amended at 59 FR 36969, July 20, 1994; 59 FR 39292, Aug. 2, 1994; 62 FR 60136, Nov. 6, 1997; 67 FR 8738, Feb. 26, 2002; 70 FR 74574, Dec. 15, 2005]

EFFECTIVE DATE NOTE: At 59 FR 39292, Aug. 2, 1994, §80.128 was amended by revising paragraphs (a) and (e)(2); removing ''and'' at the end of paragraph (e)(4); removing the period at the end of paragraph (e)(5) and adding ''; and'' in its place; and adding paragraph (e)(6) effective September 1, 1994. At 59 FR 60715, Nov. 28, 1994, the amendment was stayed effective September 13, 1994. At 70 FR 74574, Dec. 15, 2005, §80.128 was amended by revising paragraphs (e)(2), (e)(4) and (e)(5) and removing paragraph (e)(6); however, the amendment could not be incorporated because those paragraphs are stayed. At 71 FR 26702, May 8, 2006, §80.128 was amended by revising paragraph (e)(2); however, the amendment could not be incorporated because that paragraph is stayed. At 72 FR 8543, Feb. 26, 2007, §80.128 was amended by revising paragraph (a); however, the amendment could not be incorporated because that paragraph is stayed.

§80.129 [Reserved]

§80.130 Agreed upon procedures reports.

(a) *Reports.* (1) The CPA or CIA shall issue to the refiner or importer a report summarizing the procedures performed in the findings in accordance with the attest engagement or internal audit performed in compliance with this subpart.

(2) The refiner or importer shall provide a copy of the auditor's report to the EPA within the time specified in §80.75(m).

(b) *Record retention.* The CPA or CIA shall retain all records pertaining to the performance of each agreed upon

procedure and pertaining to the creation of the agreed upon procedures report for a period of five years from the date of creation and shall deliver such records to the Administrator upon request.

[59 FR 7875, Feb. 16, 1994, as amended at 71 FR 26702, May 8, 2006]

§ 80.131 Agreed upon procedures for GTAB, certain conventional gasoline imported by truck, previously certified gasoline used to produce gasoline, and butane blenders.

(a) *Attest procedures for GTAB.* The following are the attest procedures to be carried out in the case of an importer who imports gasoline classified as blendstock (or ''GTAB'') under the terms of § 80.83:

(1) Obtain a listing of all GTAB volumes imported for the reporting period. Agree the total volume of GTAB from the listing to the inventory reconciliation analysis under § 80.133, or agree to alternative documents if the inventory reconciliation analysis is not sufficient.

(2) Obtain a listing of all GTAB batches reported to EPA by the importer. Agree the total volume of GTAB from the listing to the GTAB volumes reported to EPA. Note that the EPA report includes a notation that the batch is not included in the compliance calculations because the imported product is GTAB. Also, agree these volumes to the Import Summary received from the U.S. Customs Service.

(3) Select a sample, in accordance with the guidelines in § 80.127, from the listing of GTAB batches obtained in paragraph (a)(2) of this section, and for each GTAB batch selected perform the following:

(i) Trace the GTAB batch to the tank activity records. From the tank activity records, determine the volumes of conventional gasoline and of RFG produced. Agree the volumes from the tank activity records to the batch volume reported to the EPA as reformulated or conventional gasoline.

(ii) Agree the location of the refinery represented by the tank activity records obtained in paragraph (a)(3)(i) of this section for the gasoline produced from GTAB, to the location that the GTAB arrived in the U.S. or at a facility to which GTAB is directly transported from the import facility using records representing location (e.g., U.S. Customs Service entry records). Using product transfer records, trace volumes transported from the import facility directly to the refinery as applicable.

(iii) Obtain tank activity records for all batches of GTAB received and blended. Using the tank activity records, determine whether the GTAB was received into an empty tank, or into a tank containing other GTAB imported by that importer or finished gasoline of the same category as the gasoline that will be produced using the GTAB or into a tank containing blendstock.

(iv) Using the tank activity records obtained under paragraph (a)(3)(iii) of this section, determine the volume of any tank bottom (beginning tank inventory) that is previously certified gasoline before GTAB is added to the tank. Using lab reports, batch reports, or product transfer documents, determine the properties of the tank bottom.

(v) Determine whether the properties and volume of gasoline produced using GTAB were determined in a manner that excludes the volume and properties of any gasoline that previously has been included in any refiners or importers compliance calculations, as follows:

(A) Note documented tank mixing procedures.

(B) Determine the volume and properties of the gasoline contained in the storage tank after blending is complete. Mathematically subtract the volume and properties of the previously certified gasoline to determine the volume and properties of the GTAB plus blendstock added. Agree the volume and properties of the GTAB plus blendstock added to the volume reported to EPA as a batch of gasoline produced; or

(C) In the alternative, using the tank activity records, note that only GTAB and blending components were combined, and that no gasoline was added to the tank. Agree the volumes and properties of the shipments from the tank after the GTAB and blendstock are added, blended, and sampled and