

## § 80.1035

### ATTEST ENGAGEMENTS

#### § 80.1035 What are the attest engagement requirements for gasoline toxics compliance applicable to refiners and importers?

In addition to the requirements for attest engagements that apply to refiners and importers under §§ 80.125 through 80.130, and § 80.1030, the attest engagements for refiners and importers applicable to this subpart J shall include the following procedures and requirements each year, which should be applied separately to reformulated gasoline (and RBOB, combined) and conventional gasoline:

(a) Obtain the EPA toxics baseline approval letter for the refinery to determine the refinery's applicable baseline toxics value and baseline toxics volume under § 80.915.

(b) Obtain a written representation from the company representative stating the toxics value(s) that the company used as its baseline(s) and agree that number to paragraph (a) of this section.

(c) Obtain and read a copy of the refinery's or importer's annual toxics reports per §§ 1A80.75(e) and 80.105 filed with EPA for the year to determine the compliance baseline and incremental volume.

(d) Agree the yearly volume of gasoline reported to EPA in the toxics reports with the inventory reconciliation analysis under § 80.128.

(e) Calculate the annual average toxics value level for each type of gasoline specified at § 80.815(b) and agree the applicable values with the values reported to EPA.

(f) Calculate the difference between the yearly volume of gasoline reported to EPA and the baseline volume, if applicable, to determine the yearly incremental volume and agree that value with the value reported to EPA.

(g) Calculate the compliance baseline per § 80.850, and agree that value with the value reported to EPA.

(h) Beginning January 1, 2011, or January 1, 2015 for small refiners approved per § 80.1340, the requirements of this section shall apply only to gasoline that is not subject to the benzene

## 40 CFR Ch. I (7–1–08 Edition)

standard of § 80.1230, pursuant to the provisions of § 80.1235.

[66 FR 17263, Mar. 29, 2001, as amended at 72 FR 8544, Feb. 26, 2007]

#### § 80.1040 [Reserved]

### ADDITIONAL RULEMAKING

#### § 80.1045 What additional rulemaking will EPA conduct?

No later than July 1, 2003, the Administrator shall propose any requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels that the Administrator determines are appropriate pursuant to section 202(1)(2) of the Act. The Administrator will take final action on such proposal no later than July 1, 2004. During this rulemaking, EPA also intends to evaluate emissions and potential strategies relating to hazardous air pollutants from nonroad engines and vehicles.

### Subpart K—Renewable Fuel Standard

#### § 80.1100 How is the statutory default requirement for 2006 implemented?

(a) *Definitions.* For calendar year 2006, the definitions of section 80.2 and the following additional definitions apply to this section.

(1) *Renewable fuel.* (i) *Renewable fuel* means motor vehicle fuel that is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle, and which:

(A) Is produced from grain, starch, oil seeds, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

(B) Is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found.

(ii) The term “renewable fuel” includes cellulosic biomass ethanol, waste derived ethanol, biodiesel, and any blending components derived from renewable fuel.

(2) *Cellulosic biomass ethanol* means ethanol derived from any

## Environmental Protection Agency

## § 80.1100

lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste. The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

(3) *Waste derived ethanol* means ethanol derived from animal wastes, including poultry fats and poultry wastes, and other waste materials, or municipal solid waste.

(4) *Small refinery* means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

(5) *Biodiesel* means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act. It includes biodiesel derived from animal wastes (including poultry fats and poultry wastes) and other waste materials, or biodiesel derived from municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater.

(b) *Renewable Fuel Standard for 2006*. The percentage of renewable fuel in the total volume of gasoline sold or dispensed to consumers in 2006 in the United States shall be a minimum of 2.78 percent on an annual average volume basis.

(c) *Responsible parties*. Parties collectively responsible for attainment of the standard in paragraph (b) of this section are refiners (including blenders) and importers of gasoline. However, a party that is a refiner only because he owns or operates a small refinery is exempt from this responsibility.

(d) *EPA determination of attainment*. EPA will determine after the close of 2006 whether or not the requirement in

paragraph (b) of this section has been met. EPA will base this determination on information routinely published by the Energy Information Administration on the annual domestic volume of gasoline sold or dispensed to U.S. consumers and of ethanol produced for use in such gasoline, supplemented by readily available information concerning the use in motor fuel of other renewable fuels such as cellulosic biomass ethanol, waste derived ethanol, biodiesel, and other non-ethanol renewable fuels.

(1) The renewable fuel volume will equal the sum of all renewable fuel volumes used in motor fuel, provided that:

(i) One gallon of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel; and

(ii) Only the renewable fuel portion of blending components derived from renewable fuel shall be counted towards the renewable fuel volume.

(2) If the nationwide average volume percent of renewable fuel in gasoline in 2006 is equal to or greater than the standard in paragraph (b) of this section, the standard has been met.

(e) *Consequence of nonattainment in 2006*. In the event that EPA determines that the requirement in paragraph (b) of this section has not been attained in 2006, a deficit carryover volume shall be added to the renewable fuel volume obligation for 2007 for use in calculating the standard applicable to gasoline in 2007.

(1) The deficit carryover volume shall be calculated as follows:

$$DC = V_{gas} * (R_s - R_a)$$

Where:

DC = Deficit carryover, in gallons, of renewable fuel.

$V_{gas}$  = Volume of gasoline sold or dispensed to U.S. consumers in 2006, in gallons.

$R_s = 0.0278$ .

$R_a$  = Ratio of renewable fuel volume divided by total gasoline volume determined in accordance with paragraph (d)(2) of this section.

(2) There shall be no other consequence of failure to attain the standard in paragraph (b) of this section in 2006 for any of the parties in paragraph (c) of this section.

[72 FR 23991, May 1, 2007]