§ 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 tested, to the volumes and properties reported to the EPA by the refiner.

(vi) Obtain the importer's laboratory analysis for each batch of GTAB selected, and agree the properties listed in the corresponding batch report submitted to the EPA, to the laboratory analysis.

(b) *Attest procedures for certain truck imports.* The following are the attest procedures to be carried out in the case of an importer who imports conventional gasoline into the United States by truck using the sampling and testing option in § 80.101(i)(3) (''§ 80.101(i)(3) truck imports'').

(1) Obtain a listing of all volumes of § 80.101(i)(3) truck imports for the reporting period. Agree the total volume of § 80.101(i)(3) truck imports from the listing to the inventory reconciliation analysis under § 80.132.

(2) Obtain a listing of all § 80.101(i)(3) truck import batches reported to EPA by the importer. Agree the total volume of § 80.101(i)(3) truck imports from the listing to the volume of § 80.101(i)(3) truck imports reported to EPA. Also, agree these totals 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 obtained in paragraph (b)(2) of this section, and for each § 80.101(i)(3) truck import batch selected perform the following:

(i) Obtain the copy of the terminal test results for the batch, under § 80.101(i)(3)(iii)(A), and determine that the sample was analyzed using the test methods specified in § 80.46, and agree the terminal test results to the batch properties reported to EPA; and

(ii) Obtain tank activity records for the terminal storage tank showing receipts, discharges, and sampling, and determine that the sample under paragraph (b)(3)(i) of this section was collected subsequent to the most recent receipt into the storage tank.

(4) Obtain listings for each terminal where § 80.101(i)(3) truck import gasoline was loaded, of all quality assurance samples collected by the importer, and for each terminal select a sample in accordance with the guidelines in § 80.127 from the listing. For each quality assurance sample selected perform the following:

(i) Determine that the sample was analyzed by the importer or by an independent laboratory, and that the analysis was performed using the test methods specified in § 80.46;

(ii) Obtain the terminal's test results that correspond in time to the time the quality assurance sample was collected, and agree the terminal's test results with the quality assurance test results; and

(iii) Determine that the quality assurance sample was collected within the frequency specified in § 80.101(i)(3)(iv)(D).

(c) *Attest procedures for previously certified gasoline.* The following are the attest procedures to be carried out in the case of a refiner who uses previously certified gasoline under the requirements of §§ 80.65(i) and 80.101(g)(9).

(1) Obtain a listing of all batches of previously certified gasoline used under the requirements of § 80.65(i) which were received at the refinery during the reporting period. Agree the total volume of such previously certified gasoline 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 previously certified gasoline batches reported to EPA by the refiner. Agree the total volume of previously certified gasoline

from the listing of previously certified gasoline received in paragraph (c)(1) of this section to the volume of previously certified gasoline reported to EPA.

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

(i) Trace the previously certified gasoline batch to the tank activity records. Confirm that the previously certified gasoline was included in a batch of reformulated or conventional gasoline produced at the refinery.

(ii) Obtain the refiner's laboratory analysis and volume measurement for the previously certified gasoline when received and agree the properties and volume listed in the corresponding batch report submitted to the EPA, to the laboratory analysis and volume measurements.

(iii) Obtain the product transfer documents for the previously certified gasoline when received and agree the designations from the product transfer documents to designations in the corresponding batch report submitted to EPA (reformulated gasoline, RBOB or conventional gasoline, and designations regarding VOC control).

(d) *Attest procedures for butane blenders.* The following are the attest procedures to be carried out by a refiner who blends butane under § 80.82.

(1) Obtain a listing of all butane batches received at the refinery during the reporting period.

(2) Obtain a listing of all butane batches reported to EPA by the refiner for the reporting period. Agree the total volume of butane from the receipt listing to the volume of butane reported to EPA.

(3) Select a sample, in accordance with the guidelines in § 80.127, from the listing of butane batches reported to EPA, and for each butane batch selected perform the following:

(i) Trace the butane included in the batch to the documents provided to the refiner by the butane supplier for the butane. Determine, and report as a finding, whether these documents establish the butane was commercial grade, non-commercial grade, or neither commercial nor non-commercial grade as defined in § 80.82.

(ii) In the case of non-commercial grade butane, obtain the refiner's sampling and testing results for butane, and confirm that the frequency of the sampling and testing was consistent with the requirements in § 80.82.

[70 FR 74574, Dec. 15, 2005]

§ 80.132 [Reserved]

§ 80.133 Agreed-upon procedures for refiners and importers.

The following are the minimum attest procedures that shall be carried out for each refinery and importer. Agreed upon procedures may vary from the procedures stated in this section due to the nature of the refiner's or importer's business or records, provided that any refiner or importer desiring to use modified procedures obtains prior approval from EPA.

(a) *EPA reports.* (1) Obtain and read a copy of the refinery's or importer's reports (except for batch reports) filed with the EPA as required by §§ 80.75 and 80.105 for the reporting period.

(2) In the case of a refiner's report to EPA that represents aggregate calculations for more than one refinery, obtain the refinery-specific volume and property information that was used by the refiner to prepare the aggregate report. Foot and crossfoot the refinery-specific totals and agree to the values in the aggregate report. The procedures in paragraphs (b) through (m) of this section then are performed separately for each refinery.

(3) Obtain a written representation from a company representative that the report copies are complete and accurate copies of the reports filed with the EPA.

(4) Identify, and report as a finding, the name of the commercial computer program used by the refiner or importer to track the data required by the regulations in this part, if any.

(b) *Inventory reconciliation analysis.* Obtain an inventory reconciliation analysis for the refinery or importer for the reporting period by product type (i.e., reformulated gasoline, RBOB, conventional gasoline, and non-finished-gasoline petroleum products), and perform the following: