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distribute gasoline which does not meet the requirements for reformulated gasoline, or does not contain the type(s) and amount(s) of oxygenate required under § 80.69(b)(1), if:

(a) It is in the public interest to do so (e.g., distribution of the nonconforming gasoline is necessary to meet projected shortfalls which cannot otherwise be compensated for);

(b) The refiner, importer, or oxygenate blender exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(c) The refiner, importer, or oxygenate blender can show how the requirements for reformulated gasoline will be expeditiously achieved;

(d) The refiner, importer, or oxygenate blender agrees to make up air quality detriment associated with the nonconforming gasoline, where practicable; and

(e) The refiner, importer, or oxygenate blender pays to the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount expended, pursuant to paragraph (d) of this section, in making up the air quality detriment.

[38 FR 1255, Jan. 10, 1973, as amended at 71 FR 26700, May 8, 2006]

**§ 80.74 Recordkeeping requirements.**

All parties in the gasoline distribution network, as described in this section, shall maintain records containing the information as required in this section. These records shall be retained for a period of five years from the date of creation, and shall be delivered to the Administrator of EPA or to the Administrator's authorized representative upon request.

(a) *All regulated parties.* Any refiner, importer, oxygenate blender, carrier, distributor, reseller, retailer, or wholesale-purchaser who sells, offers for sale, dispenses, supplies, offers for supply, stores, transports, or causes the transportation of any reformulated gasoline or RBOB, shall maintain records containing the following information:

(1) The product transfer documentation for all reformulated gasoline or RBOB for which the party is the transferor or transferee; and

(2) For any sampling and testing on RBOB or reformulated gasoline:

(i) The location, date, time, and storage tank or truck identification for each sample collected;

(ii) The identification of the person who collected the sample and the person who performed the testing;

(iii) The results of the tests; and

(iv) The actions taken to stop the sale of any gasoline found not to be in compliance, and the actions taken to identify the cause of any noncompliance and prevent future instances of noncompliance.

(b) *Refiners and importers.* In addition to other requirements of this section, any refiner and importer shall, for all reformulated gasoline and RBOB produced or imported, maintain records containing the following information:

(1) Results of the tests to determine reformulated gasoline properties and characteristics specified in § 80.65;

(2) [Reserved]

(3) The volume of gasoline associated with each of the above test results using the method normally employed at the refinery or import facility for this purpose;

(4) In the case of RBOB:

(i) The results of tests to ensure that, following blending, RBOB meets applicable standards; and

(ii) Each contract with each oxygenate blender to whom the refiner or importer transfers RBOB; or

(iii) Compliance calculations described in § 80.69(a)(8) based on an assumed addition of oxygenate;

(5) In the case of any refinery or importer subject to the simple model standards, the calculations used to determine the 1990 baseline levels of sulfur, T-90, and olefins, and the calculations used to determine compliance with the standards for these parameters;

(6) In the case of any refinery or importer subject to the complex model standards before January 1, 1998, the calculations used to determine the baseline levels of VOC, toxics, and NO<sub>x</sub> emissions performance; and

(7) In the case of any gasoline classified as previously certified gasoline under the terms of § 80.65(i):

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(i) Results of the tests to determine the properties and volume of the previously certified gasoline when received at the refinery; and

(ii) Records that reflect the storage and movement of the previously certified gasoline within the refinery to the point the previously certified gasoline is used to produce reformulated gasoline or RBOB;

(8) In the case of butane blended into reformulated gasoline or RBOB under § 80.82, documentation of:

(i) The volume of butane added;

(ii) The volume of reformulated gasoline or RBOB both prior to and subsequent to the butane blending;

(iii) The purity and properties of the butane specified in § 80.82(c) and (d), as appropriate;

(iv) Compliance with the requirements of § 80.82; and

(9) In the case of any imported GTAB, documents that reflect the storage and physical movement of the GTAB from the point of importation to the point of blending to produce reformulated gasoline.

(10) In the case of any interface or transmix used to produce reformulated gasoline or RBOB under § 80.84, records that reflect the results of any sampling and testing of RFG or RBOB required under § 80.84.

(i) Pipelines must keep records showing that interface was designated in the proper manner, according to the designations listed in § 80.84(b)(1);

(ii) Transmix processors and transmix blenders must keep records showing that their transmix meets the definition in § 80.84(a)(2), or contains gasoline and distillate fuel only from the sources listed in § 80.84(e);

(iii) Transmix processors must keep records showing the volumes of reformulated gasoline or RBOB recovered from transmix and the type and amount of any blendstock added, if applicable; and

(iv) Transmix blenders must keep records showing compliance with the quality assurance program and/or sampling and testing requirements in § 80.84(d)(2) or (d)(3), and for each batch of reformulated gasoline or RBOB with which transmix is blended, the volume of the batch, and the volume of transmix blended into the batch;

(c) *Refiners and importers of averaged gasoline.* In addition to other requirements of this section, any refiner or importer who produces or imports any reformulated gasoline for which compliance with one or more applicable standard is determined on an average shall maintain records containing the following information:

(1) The calculations used to determine compliance with the relevant standards on average, for each averaging period and for each quantity of gasoline for which standards must be separately achieved; and

(2) For any credits bought, sold, traded or transferred pursuant to § 80.67(h), the dates of the transactions, the names and EPA registration numbers of the parties involved, and the number of credits transferred.

(d) *Oxygenate blenders.* Any oxygenate blender who blends any oxygenate with any RBOB shall, for each occasion such blending occurs, maintain records containing the following:

(i) The date, time, location, and identification of the blending tank or truck in which the blending occurred;

(ii) The volume and oxygenate requirements of the RBOB to which oxygenate was added; and

(iii) The volume, type, and purity of the oxygenate which was added, and documents which show the source(s) of the oxygenate used.

(e) *Distributors who dispense RBOB into trucks.* In addition to other requirements of this section, any distributor who dispenses any RBOB into a truck used for delivering gasoline to retail outlets shall, for each occasion RBOB is dispensed into such a truck, obtain records identifying:

(1) The name and EPA registration number of the oxygenate blender that received the RBOB; and

(2) The volume and oxygenate requirements of the RBOB dispensed.

(f) [Reserved]

(g) *Retailers before January 1, 1998.* Prior to January 1, 1998 any retailer that sells or offers for sale any reformulated gasoline shall maintain at each retail outlet the product transfer documentation for the most recent three deliveries to the retail outlet of each grade of reformulated gasoline sold or offered for sale at the retail

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outlet, and shall make such documentation available to any person conducting any gasoline compliance survey pursuant to § 80.68.

[59 FR 7813, Feb. 16, 1994, as amended at 66 FR 67106, Dec. 28, 2001; 71 FR 74569, Dec. 15, 2005; 71 FR 26700, May 8, 2006; 71 FR 31961, June 2, 2006]

### § 80.75 Reporting requirements.

Any refiner or importer shall report as specified in this section, and shall report such other information as the Administrator may require.

(a) *Quarterly reports for reformulated gasoline.* Any refiner or importer that produces or imports any reformulated gasoline or RBOB shall submit quarterly reports to the Administrator for each refinery at which such reformulated gasoline or RBOB was produced and for all such reformulated gasoline or RBOB imported by each importer.

(1) The quarterly reports shall be for all such reformulated gasoline or RBOB produced or imported during the following time periods:

(i) The first quarterly report shall include information for reformulated gasoline or RBOB produced or imported from January 1 through March 31, and shall be submitted by May 31 of each year beginning in 1995;

(ii) The second quarterly report shall include information for reformulated gasoline or RBOB produced or imported from April 1 through June 30, and shall be submitted by August 31 of each year beginning in 1995;

(iii) The third quarterly report shall include information for reformulated gasoline or RBOB produced or imported from July 1 through September 30, and shall be submitted by November 30 of each year beginning in 1995; and

(iv) The fourth quarterly report shall include information for reformulated gasoline or RBOB produced or imported from October 1 through December 31, and shall be submitted by the last day of February of each year beginning in 1996.

(2) The following information shall be included in each quarterly report for each batch of reformulated gasoline or RBOB which is included under paragraph (a)(1) of this section:

- (i) The batch number;
- (ii) The date of production;

(iii) The volume of the batch;

(iv) The grade of gasoline produced (i.e., premium, mid-grade, or regular);

(v) For any refiner or importer:

(A) Each designation of the gasoline, pursuant to § 80.65; and

(B) The properties, pursuant to §§ 80.65 and 80.66;

(vi) For any importer, the PADD in which the import facility is located;

(vii) [Reserved]

(viii) In the case of any previously certified gasoline used in a refinery operation under the terms of § 80.65(i), the following information relative to the previously certified gasoline when received at the refinery:

(A) Identification of the previously certified gasoline as such;

(B) The batch number assigned by the receiving refinery;

(C) The date of receipt; and

(D) The volume, properties and designation of the batch.

(ix) In the case of butane blended with reformulated gasoline or RBOB under § 80.82:

(A) Identification of the butane batch as complying with the provisions of § 80.82;

(B) Identification of the butane batch as commercial or non-commercial grade butane;

(C) The batch number of the butane;

(D) The date of production of the gasoline produced using the butane batch;

(E) The volume of the butane batch;

(F) The properties of the butane batch specified by the butane supplier, or the properties specified in § 80.82(c) or (d), as appropriate;

(G) The volume of the gasoline batch subsequent to the butane blending; and

(x) In the case of any imported GTAB, identification of the gasoline as GTAB.

(3) Information pertaining to gasoline produced or imported during 1994 shall be included in the first quarterly report in 1995.

(b) *Reports for gasoline or RBOB produced or imported under the simple model—(1) RVP averaging reports.* (i) Any refiner or importer that produced or imported any reformulated gasoline or RBOB under the simple model that was to meet RVP standards on average (“averaged reformulated gasoline”) shall submit to the Administrator,