

## Environmental Protection Agency

## § 80.295

average sulfur level of gasoline produced during each annual averaging period that the refinery was in operation after the refinery was acquired and/or reactivated. EPA will evaluate all of the data submitted by the refiner in determining the appropriate sulfur baseline for the refinery. Where EPA concludes that the data submitted reasonably reflects current sulfur levels, the refinery's baseline will be determined based on the average sulfur content of the refinery's gasoline production during the most recent annual averaging period the refinery was in operation.

(d)(1) Foreign refiners who do not have an approved refinery baseline under § 80.94 must follow the procedures specified in § 80.410(b).

(2) Foreign refiners who have an approved individual refinery baseline under § 80.94, but one that was not in effect for purposes of anti-dumping compliance during the 1997-1998 annual averaging periods, must comply with the requirements of this section for the gasoline produced at the refinery and imported to the U.S. during each annual averaging period in which the refinery was subject to its individual anti-dumping baseline. EPA will evaluate all of the information and data submitted under this section in determining a foreign refinery's sulfur baseline pursuant to this paragraph (d). Where EPA concludes that the data submitted reasonably reflects current sulfur levels, a foreign refinery's baseline sulfur level under this paragraph will be determined based on the average sulfur level of gasoline produced by the foreign refinery and imported to the U.S. during the most recent annual averaging period in which the refinery was subject to its individual anti-dumping baseline.

(e) Within 60 days of receipt of an application under this section, EPA will notify the refiner of approval of the refinery's baseline or of any deficiencies in the application.

(f) If at any time the baseline submitted in accordance with the requirements of this section is determined to be incorrect, EPA will notify the refiner of the corrected baseline.

(g) Any refiner that seeks temporary relief under § 80.270 shall apply for a refinery sulfur baseline in accordance

with the provisions of this section and § 80.295, and if applicable, § 80.410(b), no later than September 1, 2000.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19308, Apr. 13, 2001]

### ABT PROGRAM—BASELINE DETERMINATION

#### § 80.295 How is a refinery sulfur baseline determined?

(a) A refinery's gasoline sulfur baseline for the purpose of generating credits during years 2000 through 2003 is calculated using the following equation:

$$S_{\text{Base}} = \frac{\sum_{i=1}^n (V_i \times S_i)}{\sum_{i=1}^n V_i}$$

Where:

$S_{\text{Base}}$  = Sulfur baseline value.

$V_i$  = Volume of gasoline batch  $i$ .

$S_i$  = Sulfur content of gasoline batch  $i$ .

$n$  = Total number of batches of gasoline produced during January 1, 1997 through December 31, 1998 (or the total number of batches of gasoline pursuant to § 80.290(c)(6); or, for a foreign refinery, the total number of batches of gasoline produced and imported into the U.S. during January 1, 1997 through December 31, 1998, or, the total number of batches of gasoline produced and imported into the U.S. pursuant to § 80.290(d)(2)).

$i$  = Individual batch of gasoline produced during January 1, 1997 through December 31, 1998 (or individual batch of gasoline produced pursuant to § 80.290(c)(6); or, for a foreign refinery, individual batch of gasoline produced and imported into the U.S. during January 1, 1997 through December 31, 1998, or, individual batch of gasoline produced and imported into the U.S. pursuant to § 80.290(d)(2)).

(b) Any refiner who, under § 80.69 or § 80.101(d)(4), included oxygenate blended downstream in compliance calculations for 1997-1998 for a refinery must include this oxygenate in the baseline calculations for sulfur content for that refinery under paragraph (a) of this section.

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(c) Sulfur baseline calculations under this section shall be conducted to two decimal places.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19308, Apr. 13, 2001]

**§ 80.300 [Reserved]**

**ABT PROGRAM—CREDIT GENERATION**

**§ 80.305 How are credits generated during the time period 2000 through 2003?**

(a) Credits must be calculated as follows:

$$CR_a = V_a \times (S_{Base} - S_a)$$

Where:

CR<sub>a</sub> = Credits generated for the averaging period.

V<sub>a</sub> = Total volume of gasoline produced during the averaging period at the refinery (or for a foreign refinery, the total volume of gasoline produced during the averaging period at the refinery that was imported into the U.S. in accordance with the requirements of § 80.410)

S<sub>Base</sub> = Sulfur baseline value for the refinery established under § 80.250 or § 80.295.

S<sub>a</sub> = Actual annual average sulfur level, calculated in accordance with the provisions of § 80.205, for gasoline produced during the averaging period by the refinery, exclusive of any credits, (or for a foreign refinery, the actual average sulfur level, calculated in accordance with the provisions of § 80.205, for gasoline produced during the averaging period at the refinery that was imported into the U.S., in accordance with the requirements of § 80.410, exclusive of any credits.)

(b) The refiner may include any oxygenates included in its RFG or conventional gasoline volume under §§ 80.65 and 80.101(d)(4), respectively, for the purpose of generating credits.

(c) Credits under this program are in units of “ppm-gallons”.

(d) Refiners may generate credits for gasoline produced during an averaging period for a refinery only if the annual average sulfur level for the gasoline produced at that refinery during the averaging period is less than 0.90 of the refinery’s baseline under § 80.250 or § 80.295.

(e) Credits generated in accordance with paragraph (a) of this section must be identified by the year of creation.

(f) For gasoline produced during the year 2000, the averaging period for credits generated in accordance with

paragraph (a) of this section may be less than the full calendar year. Such partial-year averaging period will begin with the first full month for which all applicable sampling, testing, and documentation requirements are met.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19308, Apr. 13, 2001; 67 FR 40183, June 12, 2002]

**§ 80.310 How are credits generated beginning in 2004?**

(a) A refiner for any refinery, or an importer, may generate credits in 2004 and thereafter if the annual average sulfur level for gasoline produced or imported for the averaging period is less than 30.00 ppm; or, for refiners that are subject to the small refiner standards in § 80.240, the small refiner annual average sulfur standard applicable to that refinery; or, for refiners and importers subject to the GPA standards in § 80.216, the least of 150.00 ppm, or the refinery’s or importer’s 1997–1998 sulfur level calculated under § 80.295 plus 30.00 ppm, or the refinery’s lowest annual average sulfur level for any year from 2000 through 2003 during which the refinery generated credits or allotments plus 30.00 ppm.

(b) Credits are calculated as follows:

$$CR_a = V_a \times (S_{Credit} - S_a)$$

Where:

CR<sub>a</sub> = Credits generated for the averaging period.

V<sub>a</sub> = Total annual volume of gasoline produced at a refinery or imported during the averaging period.

S<sub>Credit</sub> = 30.00 ppm; or the sulfur standard for a small refinery established under § 80.240; or, for gasoline designated as GPA gasoline under § 80.219, the least of 150.00 ppm, or the refinery’s or importer’s 1997–1998 sulfur level calculated under § 80.295 plus 30.00 ppm, or the refinery’s lowest annual average sulfur level for any year from 2000 through 2003 during which the refinery generated credits or allotments plus 30.00 ppm.

S<sub>a</sub> = Actual annual average sulfur level, calculated in accordance with the provisions of § 80.205, for gasoline produced at a refinery or imported during the averaging period, exclusive of any credits.