to one month may be included in a single batch for purposes of reporting to EPA, however, commercial grade butane and non-commercial grade butane must be reported as separate batches.

(h) Where a refiner chooses to include butane blended with gasoline in the refinery’s annual average compliance calculations—

(1) In the case of butane blended with conventional gasoline, the equivalent emissions performance of the butane must be calculated in accordance with the provisions of §80.101(g)(3). For purposes of this paragraph (h)(1), the property values in §80.82(c) or (d), as appropriate, may be used;

(2) In the case of butane blended with reformulated gasoline or RBOB, compliance with the reformulated gasoline standards may not be demonstrated using the provisions of this section;

(3) All butane blended into gasoline during the annual averaging period must be included in annual average compliance calculations for the refinery.

(i) A refiner who only blends commercial grade or non-commercial grade butane into PCG may meet the sampling and testing requirements of this part by meeting the requirements of paragraphs (a) through (f) and (h)(3) of this section and all the following additional requirements:

(1) The per-gallon sulfur content of every batch of butane must not exceed 30 ppm from January 1, 2005 through December 31, 2016, and 10 ppm beginning January 1, 2017 and thereafter.

(2) The refiner obtains test results from the butane supplier that demonstrate that the sulfur content of each load does not exceed the applicable per-gallon sulfur standard under paragraph (i)(1) of this section through test results of samples of butane contained in the storage tank from which the butane blender is supplied.

(i) Sampling and testing for the sulfur content of the butane by the supplier must be subsequent to each receipt of butane into the supplier’s storage tank or the sampling and testing must be immediately before transfer of butane to the butane blender.

(ii) The testing must be performed in accord with the provisions of §80.46, §80.47, or other test methods as approved by the Administrator as applicable.

(iii) The butane blender must obtain a copy of the butane supplier’s test results at the time of each transfer of butane to the butane blender.

(3) The sulfur content and volume of each batch of gasoline produced is that of the butane that the refiner blends into PCG for the purposes of calculating compliance with the applicable per-gallon sulfur standard.

(4) The requirements of paragraphs (i)(1) through (3) of this section apply regardless of whether the butane is commercial grade or non-commercial grade.

(5) The quality assurance testing requirement of paragraph (b)(1) of this section applies regardless of whether the butane is commercial grade or non-commercial grade.

(6) If any of the requirements of this paragraph (i) are not met, in whole or in part for any butane blended into gasoline, that butane is deemed in violation of the gasoline standards in §80.1603(a).

(j) The PCG procedures of §80.1640 may be used to meet the sampling and testing requirements of subpart O of this part.

[79 FR 23644, Apr. 28, 2014]

§ 80.83 Renewable oxygenate requirements.

(a) Definition of renewable oxygenate. For purposes of subparts D and F of this part, renewable oxygenate is defined as provided in this paragraph (a).

(1) In the case of oxygenate added to reformulated gasoline or RBOB that is not designated as VOC-controlled or that is not subject to the additional requirements associated with an extended non-commingling season pursuant to §80.83(i), renewable oxygenate shall be:

(i) An oxygenate that is derived from non-fossil fuel feedstocks; or

(ii) An ether that is produced using an oxygenate that is derived from non-fossil fuel feedstocks.

(2) In the case of oxygenate added to reformulated gasoline or RBOB that is designated as VOC-controlled or that is subject to the additional requirements associated with an extended non-commingling season pursuant to §80.83(i), renewable oxygenate shall be:

(i) An oxygenate that is derived from non-fossil fuel feedstocks; or

(ii) An ether that is produced using an oxygenate that is derived from non-fossil fuel feedstocks.
renewable oxygenate shall be an ether that meets the requirements of paragraph (a)(1)(ii) or (a)(3) of this section.

(3) An oxygenate other than those ethers specified in paragraphs (a)(1) or (a)(2) of this section may be considered a renewable oxygenate if the Administrator approves a petition to that effect. The Administrator may approve such a petition if it is demonstrated to the satisfaction of the Administrator that the oxygenate does not cause volatility increases in gasoline that are non-linear in nature (i.e., a non-linear vapor pressure blending curve). The Administrator may approve a petition subject to any appropriate conditions or limitations.

(4)(i) Oxygenate shall be renewable only if the refiner, importer, or oxygenate blender who uses the oxygenate is able to establish in the form of documentation that the oxygenate was produced from a non-fossil fuel feedstock.

(ii)(A) Any person who produces renewable oxygenate, as defined in paragraph (a)(1) of this section, or who stores, transports, transfers, or sells such renewable oxygenate, and where such renewable oxygenate is intended to be used in the production of gasoline, shall maintain documents that state the renewable source of the oxygenate, and shall supply to any transferee of the oxygenate documents which state the oxygenate is from a renewable source.

(B) Any person who imports oxygenate that is represented by the importer to be renewable oxygenate, as defined in paragraph (a) of this section, shall maintain documents, obtained from the person who produced the oxygenate, that include a certification signed by the owner or chief executive officer of the company that produced the oxygenate that states:

(1) The nature of the feedstock for the oxygenate; and

(2) A description of the manner in which the oxygenate meets the renewable definition under paragraph (a) of this section.

(iii) No person may represent any oxygenate as renewable unless the oxygenate meets the renewable definition under paragraph (a) of this section.

(5) For purposes of this section, an oxygenate shall be considered to be derived from non-fossil fuel feedstocks only if the oxygenate is:

(i) Derived from a source other than petroleum, coal, natural gas, or peat;

(ii) Derived from a product:

(A) That was produced using petroleum, coal, natural gas, or peat through a substantial transformation of the fossil fuel;

(B) When the product was initially produced, it was not commonly used to generate energy (e.g., automobile tires); and

(C) The product was sold or transferred for a use other than energy generation, and was later treated as a waste product.

(b) Renewable oxygenate standard. (1) The reformulated gasoline and reformulated gasoline produced using RBOB that is produced by any refiner at each refinery, or is imported by any importer, shall contain a volume of renewable oxygenate such that the reformulated gasoline and reformulated gasoline produced using RBOB, on average, has an oxygen content from such renewable oxygenate that is equal to or greater than 0.30 wt% for the period of December 1, 1994 through December 31, 1995, and 0.60 wt% beginning on January 1, 1996.

(2) The averaging period for the renewable oxygenate standard specified in paragraph (b)(1) of this section shall be:

(i) Each calendar year; except that

(ii) Any reformulated gasoline and RBOB that is produced or imported prior to January 1, 1995 shall be averaged with reformulated gasoline and RBOB produced or imported during 1995.

(3)(i) The oxygenate used to meet the standard under paragraph (b)(1) of this section may also be used to meet any oxygen standard under §80.41; except that

(ii) The renewable oxygenate added by a downstream oxygenate blender shall not be used by any refiner or importer to meet the oxygen standard under §80.41, except through the transfer of oxygen credits.

(c) Downstream oxygenate blending using renewable oxygenate. (1) In the case of any refiner that produces RBOB, or any importer that imports
RBOB, the oxygenate that is blended with the RBOB may be included with the refiner's or importer's compliance calculations under paragraph (d) of this section only if:

(i) The oxygenate meets the applicable renewable oxygenate definition under paragraph (a) of this section; and
(ii) The refiner or importer meets the downstream oxygenate blending oversight requirements specified in §§ 80.69(a)(6) and (7); or
(iii)(A) In the case of RBOB designated for “any renewable oxygenate” the refiner or importer assumes that ethanol will be blended with the RBOB;
(B) In the case of RBOB designated for “renewable ether only” or “non-VOC controlled renewable ether only,” the refiner or importer assumes that ETBE will be blended with the RBOB; and
(C) In the case of “any renewable oxygenate,” “non-VOC controlled renewable ether only” and “renewable ether only RBOB,” the refiner or importer assumes that the volume of oxygenate added will be such that the resulting reformulated gasoline will have an oxygen content of 2.0 wt%.

(2)(i) No person may combine any oxygenate with RBOB designated as “any renewable oxygenate” unless the oxygenate meets the criteria specified in paragraph (a) of this section.
(ii) No person may combine any oxygenate with RBOB designated as “renewable ether only” or “non-VOC controlled renewable ether only” unless the oxygenate meets the criteria specified in paragraph (a) of this section.
(d) Compliance calculation. (1) Any refiner for each of its refineries, and any importer shall, for each averaging period, determine compliance with the renewable oxygenate standard by calculating:
(i) Prior to January 1, 1996, renewable oxygen compliance total using the following formula:

\[ CT_{ro} = \left( \sum_{i=1}^{n} V_i \right) \ast 0.60 \]

where
\[ CT_{ro} = \text{the compliance total for renewable oxygen} \]
\[ V_i = \text{the volume of reformulated gasoline or RBOB batch i} \]
\[ n = \text{the number of batches of reformulated gasoline and RBOB produced or imported during the averaging period} \]

(ii) Beginning on January 1, 1996, the renewable oxygen compliance total using the following formula:

\[ CT_{ro} = \left( \sum_{i=1}^{n} V_i \ast RO_i \right) \]

where
\[ AT_{ro} = \text{the actual total for renewable oxygen} \]
\[ V_i = \text{the volume of gasoline or RBOB batch i} \]
\[ RO_i = \text{the oxygen content, in wt%, in the form of renewable oxygenate of gasoline or RBOB batch i} \]
\[ n = \text{the number of batches of gasoline or RBOB produced or imported during the averaging period} \]

(iv) Compare the renewable oxygen actual total with the renewable oxygen compliance total.

(v) The total number of renewable oxygen credits which may be traded to a refiner for a refinery, or to another importer, is calculated by subtracting the renewable oxygen actual total from the renewable oxygen compliance total.
(e) Credit transfers. Compliance with the renewable oxygenate standard specified in paragraph (b)(1) of this section may be achieved through the transfer of renewable oxygen credits, provided that the credits meet the criteria specified in §§80.67(h)(1) (i) through (iv) and §§80.67(h) (2) and (3).

(f) Recordkeeping. Any refiner or importer, or any oxygenate blender who blends oxygenate with any RBOB designated as "any renewable oxygenate," "non VOC controlled renewable ether only" or "renewable ether only" shall for a period of five years maintain the records specified in this paragraph (f) in a manner consistent with the requirements under §80.74, and deliver such records to the Administrator upon request. The records shall contain the following information:

(i) The volume, type, and purity of any renewable oxygenate used; and

(ii) Product transfer documentation for all renewable oxygenate, reformulated gasoline, or RBOB for which the party is the transferor or transferee.

(2) The requirements of this paragraph (f) shall apply in addition to the recordkeeping requirements specified in §80.74(e).

(g) Reporting requirements. (1) Any refiner for each refinery, or any importer, shall for each batch of reformulated gasoline and RBOB include in the quarterly reports for reformulated gasoline required by §80.75(a), a report for all reformulated gasoline and RBOB that was produced or imported during the previous calendar year averaging period, that includes the following information:

(i) The total volume of reformulated gasoline and RBOB;

(ii) The compliance total for renewable oxygen;

(iii) The actual total for renewable oxygen;

(iv) The number of renewable oxygen credits generated as a result of actual total renewable oxygen being greater than compliance total renewable oxygen;

(v) The number of renewable oxygen credits transferred to another refinery or importer;

(vi) The number of renewable oxygen credits obtained from another refinery or importer; and

(vii) For any renewable oxygen credits that are transferred from or to another refiner or importer, for any such transfer:

(A) The names, EPA-assigned registration numbers and facility identification numbers of the transferor and transferee of the credits;

(B) The number of renewable oxygen credits that were transferred; and

(C) The date of the transaction.

(h) Renewable oxygenate requirements for reformulated gasoline used in the State of California.

(1) Any refiner or importer of California gasoline, as defined in §80.81, shall meet the renewable oxygenate standard specified in paragraph (a) of this section for all reformulated gasoline or RBOB used in any reformulated gasoline covered area as specified in §80.70.

(2) Any California gasoline shall be presumed to be used in a reformulated gasoline covered area:

(A) If the gasoline is produced at a refinery that is located within a reformulated gasoline covered area; or

(B) If the gasoline is transported to a facility that is located within a reformulated gasoline covered area, or to a facility from which gasoline is transported by truck into a reformulated gasoline covered area, unless

(ii) The refiner or importer is able to establish with documentation that the gasoline was used outside any reformulated gasoline covered area.

(3) Any California gasoline shall be considered to be designated as VOC-controlled (for purposes of paragraph...
(a)(1) of this section) if the Reid vapor pressure of the gasoline, or RBOB subsequent to oxygenate blending, is intended to meet a standard of:

(i) 7.8 psi or less in the case of gasoline intended for use before March 1, 1996; or

(ii) 7.0 psi or less in the case of gasoline intended for use on or after March 1, 1996.

(i) Special provisions for shoulder season. (1) The Governor of any State may petition for an extension of the non-commingling season for any or all reformulated gasoline covered areas within the State pursuant to §80.70.

(i) Such petition must satisfy the following criteria:

(A) Evidence showing an increase in the market share and/or use of oxygenates which produce commingling-related RVP increases in the area(s) that are covered by the petition;

(B) Evidence demonstrating a pattern of exceedances for the period for which the extension is sought, including ozone monitoring data for the preceding three(3) years of the reformulated gasoline program;

(C) An analysis showing that the pattern of ozone exceedances is likely to continue even with implementation of other ozone air quality control measures and/or programs currently planned by the State; and

(D) Evidence that the responsible State agency or authority has given the public an opportunity for a public hearing and the submission of written comments with respect to the petition.

(ii) Effective data and publication of decision.

(A) If the Administrator determines that the petition meets the requirements of paragraph (i)(1)(i) of this section, to the satisfaction of the Administrator, then EPA shall publish a notice in the FEDERAL REGISTER announcing its intention to establish the non-commingling season as requested by the Governor, and specifying a tentative effective date.

(1) The Administrator shall provide the public with an opportunity for a hearing and the submission of written comments.

(2) The tentative effective date will correspond with the first day of the next complete non-commingling season beginning not less than one year after receipt of the petition.

(B) If the Administrator receives adverse comments or information demonstrating to the satisfaction of the Administrator that the criteria of paragraph (i)(1)(i) of this section have not been met, that the tentative effective date is not reasonable, or that other good reasons exist to deny the petition, then the Administrator may reject the Governor’s request for an extended non-commingling season, in whole or in part, or may delay the effective date by up to two (2) additional years. Absent receipt of such adverse comments or information, EPA shall publish a notice in the FEDERAL REGISTER announcing its approval of the petition and specifying an effective date for the extended non-commingling season.

(2) In the case of any refiner that produces RBOB, or any importer that imports RBOB, the oxygenate that is blended with the RBOB may be included with the refiner’s or importer’s compliance calculations under paragraph (d) of this section only if:

(i) The oxygenate meets the applicable renewable oxygenate definition under paragraph (a) of this section; and

(ii) In the case of RBOB designated for “non VOC controlled ether only” the refiner or importer assumes that ETBE or other oxygenate that does not exhibit volatility-related commingling effects when mixed with other gasolines and approved by the EPA Administrator under subparagraph (a)(3) of this section will be blended with the RBOB and so labels the transfer documentation.

[59 FR 39290, Aug. 2, 1994]

Effective Date Note: At 59 FR 39290, Aug. 2, 1994, §80.83 was added effective September 1, 1994, except for paragraphs (e) and (h), which would not become effective until approval had been given by the Office of Management and Budget. At 59 FR 60715, Nov. 28, 1994, this section was stayed, effective Sept. 13, 1994. At 70 FR 74571, Dec. 15, 2005, §80.83 was revised; however, the amendment could not be incorporated because the section is stayed.