

Environmental Protection Agency

§ 80.1653

June 1 of each year for the prior calendar year.

§ 80.1653 Recordkeeping.

Unless otherwise provided for in this section, the records required by this section 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) *Records that must be kept by gasoline refiners, importers, and parties in the gasoline distribution system.* Beginning January 1, 2017 or January 1 of the first year that credits are generated (whichever is earlier), any person who produces, imports, sells, offers for sale, dispenses, distributes, supplies, offers for supply, stores, or transports gasoline, shall keep records containing the information as required in this section.

(1) The product transfer document information required under § 80.1651.

(2) All the following information for any sampling and testing for sulfur content required under this subpart O:

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

(ii) The name and title of the person who collected the sample and the person who performed the test.

(iii) The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test.

(iv) Any record that contains a test result for the sample that is not identical to the result recorded under paragraph (a)(2)(iii) of this section.

(v) The test methodology used.

(b) *Additional records that refiners and importers must keep.* Beginning January 1, 2014, or January 1 of the first year credits are generated under § 80.1615, whichever is earlier, any refiner for each of its refineries and any importer for the gasoline it imports, shall keep records that include all the following information:

(1) For each batch of gasoline produced or imported—

(i) The batch volume.

(ii) The batch number assigned under § 80.65(d)(3) and the appropriate designation under paragraph (b)(1)(iv) of

this section; except that for composite samples of conventional gasoline representing multiple batches, that are tested under § 80.101(i)(2) for purposes of this subpart, a separate batch number must be assigned to each batch using the batch numbering procedures under § 80.65(d)(3).

(iii) The date of production or importation.

(iv) If appropriate, the designation of the batch as California gasoline under § 80.1654, exempt gasoline for national security purposes under § 80.1655, exempt gasoline for research and development under § 80.1656, or for export outside the United States.

(v) The test methodology used.

(2) Information regarding credits, separately kept according to the year of creation; and for credit generation or use starting in 2014. The following information shall be kept separately for each type of credit generated under § 80.1615:

(i) The number of credits in the refiner's or importer's possession at the beginning of the averaging period.

(ii) The number of credits generated.

(iii) The number of credits used.

(iv) If any credits were obtained from or transferred to other parties, all the following for each other party:

(A) The party's name.

(B) The party's EPA refiner or importer registration number.

(C) The number of credits obtained from, or transferred to, the party.

(v) The number of credits that expired at the end of the averaging period.

(vi) The number of credits in the refiner's or importer's possession that will carry over into the subsequent averaging period.

(vii) Contracts or other commercial documents that establish each transfer of credits from the transferor to the transferee.

(3) The calculations used to determine compliance with the applicable sulfur average standards of § 80.1603 or § 80.1604.

(4) The calculations used to determine the number of credits generated under § 80.1615.

(5) A copy of all reports submitted to EPA under § 80.1652.

(6) In the case of parties who process transmix, records of any sampling and testing required under § 80.1607.

(c) *Additional records gasoline importers must keep.* Any importer shall keep records that identify and verify the source of each batch of certified Sulfur-FRGAS and non-certified Sulfur-FRGAS imported and demonstrate compliance with the requirements for importers under § 80.1666.

(d) *Records that producers and importers of denatured fuel ethanol and other oxygenates must keep.* Beginning January 1, 2017 or the first date when DFE is introduced into commerce that is represented on the product transfer document as meeting the standards in § 80.1610 (whichever is earlier), records of all the following must be kept for each batch of oxygenate produced or imported by oxygenate producers and importers:

- (1) The date the batch was produced.
- (2) The batch number.
- (3) The batch volume.
- (4) The product transfer document for the batch.

(5) The sulfur content of the batch as determined pursuant to the requirements of § 80.1642.

(6) The following records shall be kept if the sulfur content of the batch was determined by analytical testing:

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

(ii) The name and title of the person who collected the sample and the person who performed the test.

(iii) The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test.

(iv) Any record that contains a test result for the sample that is not identical to the result recorded under paragraph (d)(5)(iii) of this section.

(v) The test methodology used.

(7) For denatured fuel ethanol, the following records shall be kept if the sulfur content of the batch was determined by the alternative means of demonstrating compliance with the sulfur requirements pursuant to the requirements of § 80.1642(c):

(i) The name and title of the person who calculated the sulfur content of the batch.

(ii) The date the calculation was performed.

(iii) The calculated sulfur content.

(iv) The sulfur content of the neat (un-denatured) ethanol.

(v) The date each batch of neat ethanol was produced.

(vi) The neat ethanol batch number.

(vii) The neat ethanol batch volume.

(viii) As applicable, the neat ethanol production quality control records, or the test results on the neat ethanol including—

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

(B) The name and title of the person who collected the sample and the person who performed the test.

(C) The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test.

(D) Any record that contains a test result for the sample that is not identical to the result recorded under paragraph (d)(7)(v) of this section.

(E) The test methodology used.

(v) The sulfur content of the denaturant(s) used, and the volume percent at which the denaturant(s) were added to neat (un-denatured) ethanol to produce denatured fuel ethanol.

(vi) The product transfer documents for the denaturants used.

(e) *Records that parties who take custody of oxygenates in the oxygenate distribution system must keep.* Beginning January 1, 2017 or the first date when a party takes custody of oxygenate that is represented on the product transfer document as meeting the standards in § 80.1610 (whichever is earlier), all parties that take custody of oxygenate—from the oxygenate producer through to the oxygenate blender—must keep a copy of the product transfer document for each batch of oxygenate.

(f) *Records that must be kept by producers and importers of ethanol denaturant designated as suitable for use in the manufacturer of denatured fuel ethanol meeting federal quality requirements.* Beginning January 1, 2017 or the first date when a producer or importer of

ethanol denaturant designated as suitable for use in the manufacture of denatured fuel ethanol meeting federal quality requirements pursuant to the requirements of § 80.1611 introduces such denaturant into commerce, records of all the following must be kept for each batch of such denaturant produced or imported:

- (1) The date each batch was produced.
- (2) The batch number.
- (3) The batch volume.
- (4) The product transfer document for the batch.
- (5) The sulfur content of the batch.
- (6) The location, date, time, and storage tank or truck identification for each sample collected.
- (7) The name and title of the person who collected the sample and the person who performed the test.
- (8) The results of the test as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person who performed the test.
- (9) Any record that contains a test result for the sample that is not identical to the result recorded under paragraph (f)(5) of this section.
- (10) The test methodology used.

(g) *Records that parties who take custody of ethanol denaturants designated as suitable for use in the manufacture of denatured fuel ethanol meeting federal quality requirements.* Beginning January 1, 2017, all parties that take custody of denaturants designated as suitable for use in the manufacture of DFE pursuant to § 80.1611 must keep the following records:

- (1) The product transfer document for the denaturant.
- (2) As applicable, the volume percent at which the denaturant was added to neat ethanol.

(h) *Records that producers and importers of gasoline additives as defined in 40 CFR 79.2(f) must keep.* Beginning January 1, 2017 producers and importers of gasoline additives must keep the following records:

- (1) The date the batch was produced.
- (2) The volume of the batch.
- (3) The product transfer document for the batch.
- (4) The maximum recommended treatment rate.

(5) Records of the additive manufacturer's control practices which demonstrate that the additive will contribute no more than 3 ppm on a per gallon basis to the sulfur content of gasoline when used at the maximum recommended treatment rate.

(i) *Records that parties who take custody of gasoline additives in the gasoline additive distribution system must keep.* Beginning January 1, 2017, all parties that take custody of gasoline additives for bulk addition to gasoline from the producer through to the party that adds the additive to gasoline must keep the following records; these requirements of do not apply for gasoline additives packaged for addition to gasoline in the vehicle fuel tank:

- (1) The product transfer document for each batch of gasoline additive.
- (2) As applicable, the treatment at which the additive was added to gasoline.
- (3) As applicable, the volume of gasoline that was treated with the additive. A new record shall be initiated in cases where a new batch of additives is mixed into a storage tank from which the additive is drawn to be injected into gasoline.

(j) *Records regarding credits.* The records required under this subpart O shall be kept for five years from the date they were created; except in the following cases:

(1) *Transfers of credits.* Except as provided in paragraph (f)(2) of this section, records relating to credit transfers shall be kept by the transferor for five years from the date the credits are transferred; and shall be kept by the transferee for five years from the date the credits were transferred, used, or terminated, whichever is later.

(2) *Credits generated prior to January 1, 2017.* (i) Where the party generating the credits does not transfer the credits, records must be kept for five years from the date of creation, use, or termination, whichever is later.

(ii) When credits generated prior to January 1, 2017 are transferred, records relating to such credits shall be kept by the transferor for five years from the date the credits are transferred; and shall be kept by the transferee for five years from the date the credits

were transferred, used, or terminated, whichever is later.

(k) *Make records available to EPA.* On request by EPA, the records required in this section shall be provided to the Administrator's authorized representative. For records that are electronically generated or maintained, the equipment and software necessary to read the records shall be made available; or, if requested by EPA, electronic records shall be converted to paper documents which shall be provided to the Administrator's authorized representative.

§ 80.1654 California gasoline requirements.

(a) *California gasoline exemption.* California gasoline that complies with all the requirements of this section is exempt from all other provisions of this subpart O.

(b) *Requirements for California gasoline.* (1) Each batch of California gasoline must be designated as such by its refiner or importer.

(2) Designated California gasoline must be kept segregated from gasoline that is not California gasoline, at all points in the distribution system.

(3) Designated California gasoline must ultimately be used in the State of California and not used elsewhere.

(4) For California gasoline produced outside the State of California, the transferors and transferees must meet the product transfer document requirements of paragraph (b)(5) of this section.

(5)(i) Any refiner that operates a refinery located outside the State of California at which California gasoline (as defined in § 80.1600) is produced must provide to any person to whom custody or title of such gasoline has transferred, and each transferee must provide to any subsequent transferee, documents which include all the following information:

(A) The name and address of the transferor.

(B) The name and address of the transferee.

(C) The volume of gasoline which is being transferred.

(D) The location of the gasoline at the time of the transfer.

(E) The date and time of the transfer.

(F) The identification of the gasoline as California gasoline.

(ii) Each refiner and transferee of California gasoline must maintain copies of the product transfer documents required to be provided by paragraph (b)(5)(i) of this section for a period of five years from the date of creation and shall deliver such documents to the Administrator or to the Administrator's authorized representative upon request.

(6) Gasoline that is ultimately used in any part of the United States outside of the State of California must comply with the standards and requirements of this subpart, regardless of any designation as California gasoline.

(c) *Use of California test methods and offsite sampling procedures.* In the case of any gasoline that is not California gasoline and that is either produced at a refinery located in the State of California or is imported from outside the United States into the State of California, the refiner or importer may, with regard to such gasoline—

(1) Use the sampling and testing methods approved in Title 13 of the California Code of Regulations instead of the sampling and testing methods required under § 80.1630; and

(2) Determine the sulfur content of gasoline at offsite tankage (which would otherwise be prohibited under § 80.65(e)(1)). Note that the requirements of § 80.65(e)(1), regarding when the properties of a batch of reformulated gasoline must be determined, specify that the properties of a batch of gasoline be determined prior to the gasoline leaving the refinery or import facility; however, under this section, a refiner of California gasoline may determine the properties of gasoline as specified under § 80.65(e)(1) at offsite tankage provided that—

(i) The samples are properly collected under the terms of a current and valid protocol agreement between the refiner and the California Air Resources Board with regard to sampling at the offsite tankage and consistent with the requirements prescribed in Title 13, California Code of Regulations, section 2250 et seq. (May 1, 2003); and

(ii) The refiner provides a copy of the protocol agreement to EPA upon request.