

**§ 80.280**

**40 CFR Ch. I (7–1–14 Edition)**

into allotments for use in demonstrating compliance with the corporate pool average standard in 2005, but such reconverted allotments are discounted by 50 percent.

(f) *Small refiners.* Small refiners subject to the standards under § 80.240 may not generate sulfur allotments under paragraph (b) of this section.

(g) *GPA gasoline.* GPA gasoline that is included in the refiner's or importer's corporate pool average under § 80.216(f)(2) must be included in the calculations under paragraph (b) of this section. No refiner or importer may generate allotments in 2004 or 2005 who is not required to meet the corporate pool average standards.

(h) Allotments and credits under this program are in units of "ppm-gallons".

[65 FR 6823, Feb. 10, 2000, as amended at 67 FR 40183, June 12, 2002]

**AVERAGING, BANKING AND TRADING (ABT) PROGRAM—GENERAL INFORMATION**

**§ 80.280 [Reserved]**

**§ 80.285 Who may generate credits under the ABT program?**

(a) *Credit generation in 2000 through 2003.* (1) Credits may be generated in 2000 through 2003 under § 80.305 by refiners who produce gasoline from crude oil, and are:

(i) Refiners who establish a sulfur baseline under § 80.295 for a refinery;

(ii) Foreign refiners for refineries with an approved baseline under § 80.94, or refineries with baselines established in accordance with § 80.290(d); or

(iii) Small refiners for any refinery subject to the standards under § 80.240, using their small refiner baseline established under § 80.250 for that refinery.

(2) Importers and oxygenate blenders may not generate credits under § 80.305.

(b) *Credit generation beginning in 2004.* (1) Credits may be generated beginning in 2004 under § 80.310 by:

(i) Refiners for any refinery, and importers subject to the standards under § 80.195;

(ii) Refiners and importers of gasoline designated as GPA gasoline under § 80.219, using the least of 150.00 ppm, or the refinery's or importer's 1997–98

baseline 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 (for any party generating credits under both paragraphs (b)(1)(i) of this section and this paragraph (b)(1)(ii), such credits must be calculated separately); or

(iii) Small refiners for any refinery subject to the standards under § 80.240, using refinery's standard established under § 80.240.

(2) Generation of credits under § 80.310 for all imported gasoline shall be through the importer.

(3) Oxygenate blenders may not generate credits under § 80.310.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19307, Apr. 13, 2001; 67 FR 40183, June 12, 2002; 71 FR 54912, Sept. 20, 2006]

**§ 80.290 How does a refiner apply for a sulfur baseline?**

(a) The refiner must submit an application to EPA which includes the information required under paragraph (c) of this section no later than September 30 of the year in which the refiner plans to begin generating credits, or the refiner or an importer plans to sell gasoline in the geographic phase-in area in accordance with § 80.217.

(b) The sulfur baseline request must be sent to: U.S. EPA, Attn: Sulfur Program (6406J), 1200 Pennsylvania Ave., NW Washington, DC 20460. For commercial (non-postal) delivery: U.S. EPA, Attn: Sulfur Program, 501 3rd Street NW., Washington, DC 20001.

(c) The sulfur baseline application must include the following information:

(1) A listing of the names and addresses of all refineries owned by the corporation for which the refiner is applying for a sulfur baseline.

(2) The annual average gasoline sulfur baseline for gasoline produced in 1997–1998, for each refinery for which the refiner is applying for a sulfur baseline, calculated in accordance with § 80.295.

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(3) A letter signed by the president, chief operating or chief executive officer, of the company, or his/her delegate, stating that the information contained in the sulfur baseline determination is true to the best of his/her knowledge.

(4) Name, address, phone number, facsimile number and E-mail address of a corporate contact person.

(5) The following information for each batch of gasoline produced in 1997-1998:

- (i) Batch number assigned to the batch under §80.65(d) or §80.101(i);
- (ii) Volume; and
- (iii) Sulfur content.

(6) For any refiner that acquires and/or reactivates a refinery that was shut down or non-operational between January 1, 1997, and December 31, 1998, the 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 base-

line 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<sub>Base</sub>=Sulfur baseline value.

V<sub>i</sub>=Volume of gasoline batch i.

S<sub>i</sub>=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)).