ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1090

[EPA–HQ–OAR–2024–0143; FRL–8513–01–OAR]

RIN 2060–AV26

Fuels Regulatory Streamlining Sampling and Testing Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes revisions, updates, and corrections to EPA's streamlined fuel quality regulations. This action does not change the stringency of the existing fuel quality standards.

DATES: *Effective date.* This rule is effective on July 1, 2025. The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register as of July 1, 2025.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2024–0143. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material is not available on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

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SUPPLEMENTARY INFORMATION:

Does this action apply to me?

Entities potentially affected by this action are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel. Potentially affected categories include:

Category	NAICS[a] Code	Examples of Potentially Affected Entities
Industry	211130	Natural gas liquids extraction and fractionation
Industry	221210	Natural gas production and distribution
Industry	324110	Petroleum refineries (including importers)
Industry	325110	Butane and pentane manufacturers
Industry	325193	Ethyl alcohol manufacturing
Industry	325199	Manufacturers of gasoline additives
Industry	424710	Petroleum bulk stations and terminals
Industry	424720	Petroleum and petroleum products wholesalers
Industry	457110, 457120	Fuel retailers
Industry	457210	Other fuel dealers
Industry	486910	Natural gas liquids pipelines, refined petroleum products pipelines
Industry	493190	Other warehousing and storage – bulk petroleum storage

[a] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity is affected by this action, you should carefully examine the applicability criteria in 40 CFR part 1090. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Preamble acronyms and abbreviations. Throughout this document the use of ''we,'' ''us,'' or ''our'' is intended to refer to EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, EPA defines the following terms and acronyms here:

ARV accepted reference value
BOB gasoline before oxygenate blending
DFE denatured fuel ethanol
EMTS EPA Moderated Transaction System
GTAB gasoline treated as blendstock
NFSP National Fuel Survey Program
OFR Office of the Federal Register
PBMS Performance-based Measurement System
PCG previously certified gasoline
RTC response to comments
RVP Reid vapor pressure
SQC statistical quality control
TGP transmix gasoline product

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I. Background and Overview

On December 4, 2020, EPA finalized the Fuels Regulatory Streamlining Rule (''streamlining rule'') that replaced EPA's prior gasoline, diesel fuel, and other fuel quality programs in 40 CFR part 80 with a new set of provisions and definitions in 40 CFR part 1090.[1] Since that time, EPA found that several provisions in 40 CFR part 1090 require further correction or clarification to better align with current market practices; this action makes such changes. As further discussed in section VI, the regulatory text in this document includes both text that EPA is changing as well as text that EPA is republishing without change for context and clarity in keeping with new guidance by the Office of the Federal Register (OFR). EPA did not reopen for comment any of the unchanged text. Specifically, EPA did not reopen any fuel quality standard (*e.g.,* the sulfur, benzene, and Reid vapor pressure (RVP) standards for gasoline in 40 CFR part 1090, subpart C, or the sulfur and cetane standards for diesel fuel in 40 CFR part 1090, subpart D); the general requirements that regulated parties register with EPA, maintain records, submit reports, etc.; or the general requirements for averaging, banking, and trading.

This action makes amendments to two main areas of EPA's fuel quality regulations. First, EPA is making minor revisions to provide clarity and flexibility to provisions that govern how fuel, fuel additives, and regulated blendstocks are sampled and tested to demonstrate compliance. Since finalizing the streamlining rule, EPA identified, with stakeholder input, several areas in the sampling and testing provisions that need further consideration and clarification. These areas include the in-line blending waiver provisions, instructions for collecting samples through automatic and manual sampling, the process for demonstrating homogeneity for certification testing, and requirements related to demonstrating the accuracy and precision of test methods. The sampling and testing amendments are discussed in section II.

Second, EPA is making the following technical amendments, which are discussed in section III:

- Clarification of definitions and general provisions.
- Clarification of the truthful reporting requirement.
- Clarification of the RVP standard in federal 7.8 psi RVP areas.
- Adjustments to notifications under the National Fuel Survey Program (NFSP).
- Addition of provisions to allow for certifying fuel loaded onto domestic marine vessels.
- Numerous clarifications, corrections, and consistency edits to the regulations.

Responses to comments received from stakeholders on the proposed rule can be found in the associated Response to Comments (RTC) document, available in the docket for this action.

II. Sampling and Testing

A. Determining the Volume of Non-Compliant Fuel

EPA is finalizing clarifications regarding how batches of fuel certified through automatic sampling will be treated when a test result indicates that a regulated parameter exceeds a per-gallon standard to make it clear that the definition is consistent with EPA's historic approach to per-gallon standards. A per-gallon standard is defined as ''the maximum or minimum value for any parameter that applies to every volume unit of a specified fuel, fuel additive, or regulated blendstock.'' [2] Whether fuel is produced and tested by in-line blending or in storage tanks, each gallon of fuel must meet all applicable per-gallon standards. EPA expects fuel manufacturers to apply a margin of safety to their production targets to ensure that all fuel meets all applicable per-gallon standards in 40 CFR part 1090.

The relevant regulations in the streamlining rule stated that ''[a] batch is noncompliant if any tested sample does not meet all applicable per-gallon standards.'' [3] Since the streamlining rule was finalized in 2020, several stakeholders expressed concern that this language could be construed to mean that EPA would consider the entire volume of a batch produced by in-line blending to be in violation of a per-gallon standard whenever any test result exceeded the per-gallon standard. To address this concern, EPA is finalizing the removal of the above-referenced language in 40 CFR 1090.1335(e)(2) and replacing it with new clarifying language in 40 CFR 1090.1335(b) and (c). Specifically, EPA is first modifying the manual-sampling provisions in 40 CFR 1090.1335(b) to include the statement that ''The entire batch volume is noncompliant if a sample fails to meet any applicable per-gallon standard.'' This is intended to be consistent with the provision described above from 40 CFR 1090.1335(e)(2). Second, EPA is modifying the automatic-sampling provisions in 40 CFR 1090.1335(c) to clarify that the entire batch volume is noncompliant if the composite sample fails to meet any applicable per-gallon standard. However, if an in-line sample fails to meet any applicable per-gallon standard, EPA would consider the volume of noncompliant fuel to be the volume starting with the last passing result before the failing result (or the start of the batch), up to the first passing result after the failing result (or the end of the batch). For example, if a head sample exceeds a standard, followed shortly by a middle sample with a valid passing result, the volume of noncompliant fuel would be limited to the portion of the batch preceding the middle sample with the passing result. Also, if the fuel manufacturer took an extra sample between the head and middle samples and determined that the extra sample had a passing result, that would further limit the volume of fuel considered noncompliant.

This approach is intended to preserve EPA's long-standing principle of requiring every tested sample to meet all applicable per-gallon standards, while allowing EPA to consider a portion of the in-line blended batch to be compliant based on tested samples that establish the boundaries of what should be considered noncompliant. As stated in the proposal, we believe this approach properly incentivizes fuel manufacturers both to design and

[1] 85 FR 78412.

[2] 40 CFR 1090.80.

[3] 40 CFR 1090.1335(e)(2).

manage their processes to provide for appropriate compliance margins and to perform spot testing as appropriate to verify that the blended fuel continues to meet all applicable per-gallon standards for the whole batch.

Fuel manufacturers can measure fuel parameters using procedures that are different than the test methods used to generate official test results for certification. We recognize that those nonstandard measurements provide value to fuel manufacturers to inform the blending process and add assurance that the blend settings continue to maintain compliant fuel across the batch. However, as nonstandard tests, those measurements cannot be used to reduce the volume of fuel considered noncompliant if there are test results from any official test method showing that a sample fails to meet a per-gallon standard.

Commenters did not object to the proposed new provisions, but instead recommended a flexible approach for establishing the exact volume of fuel found to be noncompliant. As further discussed in RTC section 2.1, we understand the penalty provisions of 40 CFR 1090.1710(g) to already allow the flexibility recommended by the commenters. We are therefore adopting the amendments to 40 CFR 1090.1335 as proposed.

B. Requirements for In-Line Blending

In the streamlining rule, the in-line blending waiver provisions required that interested fuel manufacturers submit general information about their in-line blending equipment, including the location, layout, operation, and monitoring of equipment.[4] During EPA review and approval of in-line blending waiver requests following finalization of the streamlining rule, multiple stakeholders raised concerns regarding the requirement to follow ASTM D4177[5] and the sampling and testing of spot samples. Through iterative discussion with these stakeholders, EPA approved multiple flexibilities addressing these and other concerns in several individual waiver requests. As described in the rest of this section, EPA is codifying these previously approved flexibilities in the regulations for in-line blending waivers to ensure a transparent framework. Including these provisions in the regulation also ensures that all fuel manufacturers will follow a consistent set of provisions for their in-line blending waivers. Because these in-line blending flexibilities codify existing industry practices, we do not anticipate any change in burdens on industry.

The rest of this section describes the provisions for in-line blending waivers, which generally provide further flexibility or provide EPA with additional information to help with overseeing in-line blending processes.

1. Scope of Measurements and Sampling Frequency

EPA is finalizing as proposed the requirement at 40 CFR 1090.1315(a)(7) for fuel manufacturers to identify the blendstock parameters that will be measured for managing the blending process and the typical sampling frequency for those measurements. This will enable EPA to better understand the fuel manufacturer's ability to manage the blending process to keep fuel parameters within targeted values over the course of the blend and to not exceed per-gallon standards.

Regarding sampling frequency, the general instruction for automatic sampling at 40 CFR 1090.1335(c) is to follow ASTM D4177 and to create a composite sample from at least 9,604 grabs to represent the batch, with a secondary specification to collect samples with a sampling frequency that does not exceed 20 seconds throughout the batch. The underlying objective is to require a sampling frequency that corresponds to a margin of error of 0.01. EPA is amending 40 CFR 1090.1335(c) to identify three separate criteria to qualify sampling frequency: (1) Collecting at least 9,604 grabs; (2) Collecting sufficient grabs to achieve a margin of error of 0.01 or less; or (3) Maintaining a sampling frequency that does not exceed 20 seconds through the batch. In addition, we recognize that such a sampling frequency may be difficult to achieve for certain batch characteristics. EPA is therefore adding 40 CFR 1090.1315(a)(8) to allow fuel manufacturers to describe in their in-line blending waiver requests circumstances where they cannot meet the requirement to achieve a margin of error at or below 0.01. Any fuel manufacturer in those circumstances would need to quantify their measurement variability and adjust target values downward to account for the greater margin of error. This approach is intended to accommodate special circumstances without relaxing the per-gallon standards that apply for the fuel.

Commenters did not raise concerns regarding the substance of the amendments, but rather focused on properly describing the various criteria and related documentation. As discussed in RTC section 2.1, we have amended the regulation for the final rule consistent with the suggested changes.

2. Reduced Spot Sampling for Small Batches

As described in section II.A, automatic sampling generally requires collection of head, middle, and tail samples to confirm that the blended fuel meets all applicable per-gallon standards across the batch. We acknowledge that collecting all three of these spot samples could be difficult for small batches due to the logistics of collecting and analyzing samples during the blending process. EPA is finalizing as proposed that in-line blending waivers may allow for reduced sampling requirements for certain batch sizes to provide additional flexibility. Specifically, EPA is allowing for collecting a single sample anytime during the blend for a batch involving up to 8 hours of blending or up to 1 million gallons of fuel, and for collecting two evenly distributed samples during the blend for a batch involving up to 16 hours of blending or up to 2 million gallons of fuel. These specified values will be based on actual volume and duration. If a batch volume or duration extends beyond what was anticipated and exceeds the specified threshold for relief from sampling requirements, the fuel manufacturer would need to collect additional samples.

Another possible challenge for complying with the requirement to collect head, middle, and tail samples for automatic sampling is the possibility of process dynamics that cause the fuel manufacturer to terminate the batch earlier than planned. Any number of factors may cause the early termination, and the termination may involve different levels of urgency. We are aware that such an early termination may not allow for an orderly process of collecting all the required fuel samples. EPA is finalizing as proposed at 40 CFR 1090.1315(a)(10) that in-line blending waivers may allow for failing to perform required tests. The allowance for reduced sampling and testing is limited to unforeseen circumstances. When the unforeseen circumstances allow for it, fuel manufacturers should collect required samples whenever possible. This may involve shifting toward an earlier collection when there is uncertainty about blending duration for the batch, and there should be an effort to adjust plans for an earlier collection when the adjusted batch termination allows for it. However, to ensure that fuel manufacturers do not always rely on this reduced-sampling option, EPA is

[4] 40 CFR 1090.1315.

[5] ASTM D4177–22e1, ''Standard Practice for Automatic Sampling of Petroleum and Petroleum Products,'' approved July 1, 2022.

only allowing fuel manufacturers to exercise this reduced-sampling option for no more than 10 percent of their in-line blending batches for the calendar year.[6] If a fuel manufacturer exceeds the 10 percent limit, EPA may consider that their in-line blending waiver has proven inadequate in practice.[7] We received no comments on the proposed reduced sampling requirements and are therefore finalizing this provision as proposed.

3. Contingency Plans for Equipment Failure

Some current in-line blending waivers include provisions that describe how the fuel manufacturer would respond if their essential test equipment fails, which we believe is an important contingency to plan for. EPA is therefore adding a requirement at 40 CFR 1090.1315(a)(11) for in-line blending waivers to include this element of emergency planning. Rather than specifying a standard practice, fuel manufacturers will be required to describe their contingency plans for alternative sampling and testing in cases involving failure of the automatic compositor or other essential equipment. Such contingency plans might appropriately consider a wide range of possible scenarios. The overall goal of this contingency plan is to preserve the ability to collect an appropriate sample to properly represent the batch for purposes of demonstrating that the fuel meets all applicable per-gallon standards. EPA is including in the regulation the specific example of collecting a second composite sample with a redundant system. Such an approach would minimize the risk of shipping fuel without proper documentation for compliance, or alternatively avoid the burden of finding a different sampling method to demonstrate compliance.

A commenter suggested that the regulation identify a second, redundant compositor as an example of the contingency plan, rather than requiring the second compositor ''where possible.'' As discussed in RTC section 2.1, we agree that the regulation should simply identify the second compositor as an example of appropriate contingency planning and have changed the regulation accordingly.

4. Alternative Compliance Demonstration To Remedy Noncompliance

The current regulation contains a general requirement to demonstrate that a batch of fuel, fuel additive, or regulated blendstock meets all applicable per-gallon standards before any portion of the batch leaves the facility.[8] In-line blending waivers create an exception to that general requirement, with the understanding that the terms and conditions for a specific facility's blending process includes process controls to give adequate assurance that fuel from in-line blending will comply with all applicable per-gallon standards. The question of possible remedies by a fuel manufacturer arises when considering the possibility of test results showing that fuel coming out of an in-line blending process does not in fact meet all applicable per-gallon standards. To the extent that fuel has already left the facility, EPA would expect to take appropriate action to address the violation of failing to meet standards. However, fuel manufacturers may be able to take further measures before the blended fuel leaves the facility to demonstrate that the fuel meets all applicable per-gallon standards. Such remedies would involve additional testing, and it may also involve modifying or further blending the fuel to comply. Therefore, EPA is allowing fuel manufacturers to specify an alternative sampling demonstration in their contingency plan if an automatic sampling test result fails to meet an applicable per-gallon standard, as opposed to being subject to EPA action to address the violation of failing to meet standards.

The amendment at 40 CFR 1090.1315(a)(12) identifies two example remedies that would be available as long as the fuel remains at the facility. First, we describe batch certification based on manual sampling in a tank if the fuel manufacturer collects the entire batch of blended fuel represented by the noncompliant test result in the tank before it leaves the fuel manufacturing facility gate. Second, we describe batch certification based on secondary automatic sampling as fuel comes out of a holding tank used to collect the fuel that failed to meet a per-gallon standard. Such approved alternative sampling demonstrations would allow the fuel manufacturer to disregard the earlier failing result if the subsequent valid measurements show that all shipped fuel meets all applicable per-gallon standards. Commenters did not object to the proposed requirement, but instead focused on proper wording for the new provision, which we address in RTC section 2.1.

C. Process for Amending In-Line Blending Waivers

Section II.B describes additional information for fuel manufacturers to include in in-line blending waivers. In most cases, fuel manufacturers already include this information in their approved in-line blending waivers. However, in some cases, fuel manufacturers will likely need to make updates to their approved in-line blending waivers to comport with these changes. We proposed an implementation date of March 31, 2025, for the new specifications for in-line blending waivers. Multiple commenters requested additional lead time to adjust to the new provisions. In response to these comments and as further discussed in RTC section 1.2, EPA agrees with commenters that additional lead time is appropriate and therefore is finalizing the requirement that all existing approved in-line blending waivers comply with the new specifications by January 1, 2026.[9]

To accommodate the timely review of these anticipated changes and other periodic updates to fuel manufacturers' in-line blending waivers, EPA is also finalizing the revised process for amending approved in-line blending waivers. Specifically, EPA is requiring that requests for an amended waiver include a description of the intended changes and a comparison document that comprehensively and clearly identifies the proposed changes to the waiver, and also include a statement attesting to the truthfulness of the submitted information, as described in section III.B. These specifications are intended to standardize the format and substance of the information submitted for the requested approval, with the intent of streamlining EPA review of the submitted material. As stated in the proposal, EPA believes that it is particularly important for the comparison document to include all

[6] We note that we have already allowed fuel manufacturers to use this approach of a 10 percent limit under the current regulations as a way to address situations where reduced sampling and testing of in-line blending batches is necessary.

[7] 40 CFR 1090.20(d) and (e).

[8] 40 CFR 1090.1310(b).

[9] We note that fuel manufacturers must also comply with the associated attestation engagement requirements related to the new in-line blending waiver provisions starting with either the 2025 or 2026 compliance period, whichever is the earliest compliance period for which the waiver is in effect (*i.e.,* fuel manufacturers that update or already have an approved in-line blending waiver that complies with 40 CFR 1090.1315(a)(7) through (13) by December 31, 2025, must comply with associated attestation engagement requirements in 1090.1850(b) as part of their attestation engagement report for the 2025 compliance period due June 1, 2026).

intended changes to the approved in-line blending waiver so that EPA staff can focus their review on the suggested amendments to the waiver instead of previously approved elements of the waiver.

While these specifications for requests to amend in-line blending waivers will facilitate timely review by EPA staff, we are aware that fuel manufacturers depend on timely processing of their requests even when circumstances lead to a protracted review period. EPA is therefore finalizing as proposed the provision deeming approval of a waiver amendment request to be effective 60 days after EPA acknowledges receiving the request if there is no further EPA response to the request. Keying the date to our acknowledgement is important to avoid a case where the fuel manufacturer submits the request in a way that does not come directly to our attention. An EPA response to the request may be in the form of denying the request, identifying deficiencies, or requiring additional information. Under this approach, if EPA identifies deficiencies or requires additional information, the deemed approval date would be 60 days after EPA acknowledges receipt of the subsequent submission that addresses the deficiencies or includes the requested information.

Considering the timing items together, fuel manufacturers can expect requests to amend their in-line blending waivers to comply with the new requirements to be deemed approved for the 2026 compliance period if the requests are submitted by November 1, 2025.

We received no comments opposing the creation of this automatic approval process for in-line blending waiver updates and are therefore finalizing this provision as proposed. Thus, as proposed, waiver amendment requests will be deemed to be approved effective 60 days after EPA acknowledges receiving the request if there is no further EPA response to the request.

Commenters requested that we clarify how to determine when various changes to blending and testing practices would trigger a need to submit a request for updating an approved waiver. As discussed in RTC section 2.1, we are amending the final rule at 40 CFR 1090.1315(c)(1) to address these concerns.

D. Changes to Manual Sampling Provisions

EPA is finalizing as proposed the option to collect spot samples or tap samples as a default method in addition to the currently specified ''running'' or ''all-levels'' sampling. In the streamlining rule, a fuel manufacturer was required to collect a ''running'' or ''all-levels'' sample from the top of the tank and could use tap sampling or spot sampling to collect upper, middle, and lower samples only ''if a running or all-levels sample is impractical for a given storage configuration.'' [10] Since finalization of the streamlining rule, stakeholders expressed concern over the ambiguity of the term ''impractical'' and contended that tap or spot sampling is as robust as running or all-levels sampling. As stated in the proposal, EPA agrees that testing with spot samples or tap samples can be used to routinely collect tank samples for testing. Homogeneity requirements further ensure that spot samples and tap samples can properly represent the batch. EPA is therefore allowing spot sampling and tap sampling to be treated on par with running or all-levels sampling.

We received no comments on the proposed change to the manual sampling provisions and are therefore finalizing this provision as proposed.

E. Homogeneity Samples Used for Batch Certification

The streamlining rule added provisions describing a much more detailed approach for demonstrating that a batch can be considered homogeneous when drawing manual samples for certification.[11] Industry efforts to comply with these more detailed specifications have led to requests for EPA to provide further clarification and adjustments to accommodate several specific circumstances. We address comments received on homogeneity samples used for batch certification in RTC section 2.2.

1. Waivers From the Homogeneity Requirement

Under the current regulations, the homogeneity requirement is waived for several certain situations.[12] In this action, EPA is finalizing as proposed the waiver of the homogeneity requirement for three additional circumstances. First, as stated in the proposal, we recognize that homogeneity testing is impractical for horizontal tanks used for storing ethanol denaturant. EPA is therefore waiving the homogeneity requirement for horizontal tanks with a circular or elliptical cross section and with a volume less than 42,000 gallons to align with current practice for storing ethanol denaturant. This waiver includes a requirement to draw samples from the approximate mid-depth of the product level to ensure that the measured parameters best represent the batch. We received no comments on the proposed waiver of the homogeneity requirement under this circumstance and are therefore finalizing this provision as proposed.

Second, EPA is waiving the homogeneity requirement for certified butane and certified pentane. Certified butane and certified pentane are stored under pressure, which makes it impractical to collect homogeneity samples using the methods of ASTM D4057.[13] We received no comments on the proposed waiver of the homogeneity requirement under this circumstance and are therefore finalizing this provision as proposed.

Third, as discussed in the proposal, we are aware that a small number of fuel tanks allow for tap sampling only at ground level, along with sampling from the roof. Homogeneity testing with such a tank configuration therefore depends on sampling from the roof. Section II.D describes how EPA allows tap sampling as a method that is equivalent to running or all-levels sampling. Based on those same concerns, we are aware that homogeneity testing is not possible with a tank that has only a single location for tap sampling when it is not an option to sample from the roof. EPA is allowing an alternative homogeneity demonstration when inclement weather prevents sampling from the roof for such a fuel tank based on prior approval of a mixing process that has been shown to achieve homogeneity. The mixing demonstration must apply for the specific tank configuration and include consideration of a range of product types, fill levels, and other relevant parameters to ensure that the specific circumstances that apply for a given certification support the conclusion that the mixed fuel would meet homogeneity specifications. Anyone relying on this waiver from the homogeneity requirement would be required to keep records documenting EPA approval of the mixing procedure, the specific actions taken to follow the approved mixing procedure, and the forcing weather event. We received no comments opposing the creation of provisions for an alternative homogeneity demonstration when inclement weather prevents roof sampling and are therefore finalizing this provision as proposed. However, one commenter suggested that we allow

[10] 40 CFR 1090.1335(b).

[11] 40 CFR 1090.1337.

[12] 40 CFR 1090.1337(a).

[13] ASTM D4057–22, ''Standard Practice for Manual Sampling of Petroleum and Petroleum Products,'' approved May 1, 2022.

for additional flexibilities related to safety issues, which we are not finalizing for reasons discussed in RTC section 2.2.

2. Homogeneity Testing Requirements

EPA is finalizing clarifications to the homogeneity testing requirements for special cases.[14] The first case addresses homogeneity test results that fall below the lower range for a given parameter. The homogeneity demonstration depends on showing that multiple samples collected in different places inside the tank have measured values that are consistent. As discussed in the proposal, test results are not helpful for comparing results across samples if measured values are at or below the lower limit of the test method. As proposed, EPA is disallowing using measurements for demonstrating homogeneity if multiple measured values are at or below the pooled limit of quantitation (PLOQ), laboratory limit of quantitation (LLOQ), or the valid range of the test method. In those cases, EPA is requiring that homogeneity testing instead be based on one of the following: (1) Testing with a different qualifying, valid test method for the same parameter; or (2) Testing a different parameter identified in 40 CFR 1090.1337(d) and (e). For example, if a fuel manufacturer tested a summer gasoline for both RVP (required) and sulfur, and multiple sulfur measurements using ASTM D2622 [15] were below the valid range of the test method, the fuel manufacturer could not use those values to demonstrate homogeneity. In this situation, the fuel manufacturer would need to perform homogeneity testing by one of the following methods: (1) Measuring sulfur with an approved alternative test method; (2) Measuring benzene with the referee test method or an approved alternative test method; or (3) Measuring density or API gravity using one of the test methods specified in 40 CFR 1090.1337(d)(1). Commenters suggested that EPA allow for parties to use test results outside of the valid range of the method for sulfur and benzene measured for homogeneity testing. We address these comments and describe why we are finalizing 40 CFR 1090.1337(f)(2) as proposed in RTC section 2.2.

The second case relates to testing that includes results for more than the required number of parameters. Homogeneity testing for gasoline and transmix gasoline product (TGP) involves measurements of at least two parameters, while homogeneity testing for diesel fuel involves measurements of at least one parameter. A laboratory may have commercial or other reasons to perform measurements that include more than the minimum number of tests for demonstrating homogeneity. We proposed a provision that if more than the required parameters are tested, homogeneity testing fails when testing for any parameter other than density or API gravity does not meet the applicable homogeneity criterion. We did not receive any comments on this testing requirement and are therefore finalizing this provision as proposed.

The third case is for density or API gravity results that fall above the current scope of ASTM D4052.[16] For valid testing, ASTM D4052 currently specifies an upper limit of 66° API. EPA is allowing the temporary option to use test results above 66° API for homogeneity testing with ASTM D4052. Calculations for samples that exceed 66° API would be based on the same equation that applies for results that are 51–66° API. This allowance applies for testing performed with ASTM D4052 through December 31, 2026. This temporary provision allows for continued testing for this commonly used test method, with the expectation that the ongoing ASTM process for updating the test method will allow for valid measurements above 66° API by the end of 2026. EPA is aware that ASTM has started the process to update the precision statements for ASTM D4052, which would allow for expanding the acceptable upper API gravity range in the specified timeframe. Commenters sought further clarification of the proposed provisions related to allowing for temporary expanded scope of ASTM D4052. In response to these comments and as further discussed in RTC section 2.2, we are finalizing two adjustments to the proposed provisions to more carefully address the transition to a revised test method with updated precision statements. First, parties may request to continue using the temporary expanded scope of ASTM D4052 beyond December 31, 2026, in case additional time is necessary for ASTM to update the test method. Second, parties may request to use the updated version of ASTM D4052 if it includes appropriately updated precision statements. Commenters also identified the need to accommodate a similar problem for the API gravity range of 45–51° for renewable diesel fuel. We note that this interim provision as proposed, and as modified for the final rule, applies for any fuel that has an API gravity that falls outside the range of the test method, including renewable diesel fuel.

F. Retaining Samples

The streamlining rule required fuel manufacturers and oxygenate producers to retain untested (or less tested) samples for summer gasoline and tested (or most tested) samples for winter gasoline, diesel fuel, and oxygenate.[17] The requirement for such parties to retain tested samples (other than summer gasoline) was based on minimizing any test differences for cases involving EPA duplication of measurements already made to certify a batch. The requirement for retaining untested samples of summer gasoline was based on ASTM 5191,[18] which calls for RVP measurements to be from an aliquot that is the first test specimen withdrawn from a sample container.

Prior to the proposal, industry stakeholders had expressed concern about the burden of complying with these sample retention requirements, and we acknowledged that the advantage of repeating a measurement on a tested sample is offset by the risk that the sampling process could introduce errors caused by changing the characteristics of the sample. Accordingly, we proposed to simplify the sample retention regulations by requiring parties to retain only an untested sample that is representative of the batch. A commenter requested that a single representative sample (tested or untested) be retained instead of an untested sample as proposed. They argued that the proposed approach would result in the collection of unnecessary samples resulting in an increased burden to industry. We believe that the commenter's approach is appropriate in all cases except for summer gasoline. Keeping a tested sample of summer gasoline would prevent any repeat testing for RVP because the RVP test methods require measurements with untested samples for a valid test result.

Therefore, in response to these comments and as further discussed in RTC section 2.2, we are finalizing that fuel manufacturers must retain an untested sample that is representative of a batch of summer gasoline, and in other

[14] 40 CFR 1090.1337(f).

[15] ASTM D2622–16, ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry,'' approved January 1, 2016.

[16] ASTM D4052–18a, ''Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter,'' approved December 15, 2018.

[17] 40 CFR 1090.1345.

[18] ASTM D5191–22, ''Standard Test Method for Vapor Pressure of Petroleum Products and Liquid Fuels (Mini Method),'' approved July 1, 2022.

cases they must retain any (tested or untested) sample that represents the batch. This approach relies on the principle that demonstrating homogeneity allows for any sample from the batch to be used for measurements to establish test values to characterize the batch. Untested samples allow for testing summer gasoline for RVP, and any representative sample provides a useful starting point for measuring any other parameters.

G. Homogeneity Testing of PCG

The regulations established by the streamlining rule specify requirements that apply for a refiner or blending manufacturer that adds blendstock to previously certified gasoline (PCG) to produce a new batch of gasoline.[19] Refiners and blending manufacturers can meet the requirements based on either ''compliance by subtraction'' or ''compliance by addition.'' The streamlining rule established that homogeneity requirements apply to the blendstocks and finished gasoline for compliance by addition but did not address homogeneity for compliance by subtraction for the PCG.[20] Compliance by subtraction in many cases does not depend on homogeneity testing because the relevant fuel parameters for the PCG are already known, as the PCG previously underwent certification testing consistent with the sampling and testing requirements in 40 CFR part 1090, subpart N. However, we proposed to clarify a requirement to apply homogeneity requirements for compliance by subtraction if a batch of PCG was mixed with other batches of PCG or if the batch of PCG was exempt from homogeneity testing under 40 CFR 1090.1337(a)(4). Homogeneity testing for these cases ensures that tested samples properly represent the batch after blending.

In response to a comment and as further discussed in RTC section 2.4, we are finalizing additional provisions to describe how homogeneity requirements apply uniquely for PCG sampled from a pipeline. Much like reduced spot sampling for small batches for in-line blending as described in section II.B.2, the final rule includes a provision waiving the homogeneity testing requirement for batch volumes less than 1 million gallons. We are similarly specifying that the homogeneity demonstration must be based on two samples for batch volumes between 1 million and 2 million gallons, and on three samples for batches with volume greater than 2 million gallons. Following a successful homogeneity demonstration, the multiple homogeneity samples must be composited for testing to measure sulfur, benzene, and oxygenate to represent the batch.

We are also finalizing the clarification that, for any blending or sampling scenario, 40 CFR 1090.1337(a)(4) allows for demonstrating compliance without meeting homogeneity requirements by relying on the worst-case test result, which in these cases would involve reporting the lowest value of each measured parameter to characterize the batch of blended fuel.

H. Precision and Accuracy Demonstration

The streamlining rule carried the principles for the Performance-based Measurement System (PBMS) from 40 CFR part 80 into 40 CFR part 1090. The streamlining rule added specifications to clarify how to apply quality-control testing requirements for meeting precision and accuracy requirements. As discussed in the proposal, demonstrating precision and accuracy is critical for ensuring that test results are valid and properly represent the sample.[21] In reviewing program implementation for quality-control testing, we recognized the need to address two shortcomings. First, while in-house testing for accuracy requires that test results meet specifications, the option to demonstrate compliance with accuracy requirements by periodically participating in a crosscheck program does not identify a ''fail'' condition for nonconforming test results. Second, for both precision and accuracy, the regulations do not describe the consequence for failing to meet requirements.

EPA is finalizing a requirement that any of the following outcomes would result in a failed test result from a crosscheck program and thus are not valid for demonstrating compliance with accuracy requirements:

- The crosscheck program does not have a robust accepted reference value (ARV) based on the check standard requirements in Section 6.2 of ASTM D6299.[22]
- The difference between the test result and the ARV is greater than the maximum allowable difference for accuracy under 40 CFR 1090.1375.
- The measured value lies outside of the three-sigma range for the data from the relevant inter-laboratory crosscheck program.[23]

We are adopting the first of these two criteria as proposed. We also proposed two additional fail criteria, both of which commenters described as being overly restrictive. The first of these proposed fail criteria was based on the difference between the test result and the ARV being greater than the method-defined limit for check standard accuracy. We agree that this criterion was too restrictive and have removed this criterion from the final rule. The second of these proposed fail criteria was based on the measured value lying outside of two Z-scores.[24] We also agree that this criterion was too restrictive; however, to preserve the principle of staying within a reasonable statistical boundary, we have revised the requirement for the final rule to stipulate that results must fall within the three-sigma range of the data from the relevant interlaboratory crosscheck program. This adjustment provides a clear standard for evaluating results, without being overly restrictive. We further discuss these issues in RTC section 2.5.

If test results from a crosscheck program are found to be invalid for demonstrating compliance, EPA is finalizing the option for a laboratory to make timely corrections to avoid a compliance or enforcement consequence. Specifically, the laboratory would need to respond to a problematic test result by performing a root cause analysis and correcting the problem, which we understand to already be standard practice across the industry. The laboratory would need to document the findings of the root cause analysis and the steps taken to correct the problem. Under this approach, the laboratory would have a grace period to continue testing for 45 days without being out of compliance, an increase of 10 days from the proposed 35-day grace period. After that grace period, the laboratory would need to demonstrate that they again meet accuracy and precision requirements. The laboratory would be considered to continue to meet accuracy requirements if, after correcting the problems identified by the root cause analysis, in-house testing meets accuracy requirements using a check standard qualified by a third party. Alternatively, the laboratory

[19] 40 CFR 1090.1320.

[20] Note that the finished gasoline created in a PCG compliance by subtraction situation must meet the homogeneity requirements.

[21] 40 CFR 1090.1375.

[22] ASTM D6299–23a, ''Standard Practice for Applying Statistical Quality Assurance and Control Charting Techniques to Evaluate Analytical Measurement System Performance,'' approved December 1, 2023.

[23] The three-sigma range, assuming a normal distribution, will contain 99.7 percent of the observations.

[24] The Z-score is a standardized dimensionless measure of the difference between an individual result in a data set and the sample arithmetic mean.

could participate in the next crosscheck program and receive test results meeting specifications. We are also including a third option to demonstrate compliance based on a non-VCSB correlation program administered by a third party. We believe the deadline for correcting issues represents a reasonable timeframe for taking remedial action and getting new test results. Commenters suggested a longer grace period to resolve issues, and greater flexibility in demonstrating such a resolution. The extra 10 days for the compliance deadline and the option to demonstrate compliance based on a non-VCSB correlation program administered by a third party are intended to address those concerns. We discuss these changes from the proposed rule in RTC section 2.5.

As discussed in the proposal, failing to meet precision or accuracy requirements indicates that test instruments are not suitable for generating valid test results for certification. As a result, EPA is specifying that presumed fuel parameters [25] would apply any time a laboratory fails to meet precision or accuracy requirements that prevent it from demonstrating compliance with standards using valid test results. For meeting accuracy requirements by participating in a crosscheck program, the presumed fuel parameters would apply only if the laboratory failed to correct the problems identified by the root cause analysis and repeat testing with valid test results within the specified timeframe. On the other hand, if corrective action is not taken to remedy the failing result within the specified timeframe, the presumed fuel parameters would apply relative to certification for parameter measurements with the test instruments failing to meet precision or accuracy requirements starting on the date the laboratory received the first failing report from the crosscheck program.

One commenter suggested minor wording changes for the penalty-related provisions. A different commenter advocated for allowing a demonstration of appropriate parameter values for assessing penalties, rather than relying on the presumed values identified in 40 CFR 1090.1710(g). However, we note that the penalty provisions at 40 CFR 1090.1710(g) already include a process for EPA to approve alternative parameter values based on any relevant information. Since the regulation already addresses the concern, we are including minor wording changes, consistent with the comments, but are otherwise finalizing as proposed the penalty-related provisions at 40 CFR 1090.1375(e).

It bears noting that these final revisions narrowly address failures to meet precision and accuracy requirements in quality-control testing under 40 CFR 1090.1375. Any broader or different failure to meet testing specifications under 40 CFR part 1090 would be treated as its own violation based on the circumstances that apply.

I. Excluding SQC Data Points

EPA is finalizing provisions to address exclusion of certain outlier test results from statistical quality control (SQC) testing. The regulations currently incorporate by reference ASTM D6299–20; however, neither 40 CFR part 1090 nor ASTM D6299–20 clearly addresses how to handle suspected outlier results obtained as part of SQC testing.[26] Since the streamlining rule was promulgated in 2020, however, ASTM has updated this method to ASTM D6299–23a, which allows for the exclusion of outliers in SQC testing. Fuel manufacturers have asked EPA to update its incorporation by reference of ASTM D6299–20 in 40 CFR part 1090 to ASTM D6299–23a to also address outliers as part of SQC testing. EPA is finalizing as proposed the reference to the updated standard in the regulations.

As discussed in the proposal, the purpose of SQC testing is to ensure that a fuel manufacturer or their third-party laboratory is conducting valid tests to ensure compliance with EPA's fuel quality requirements. Under ASTM D6299–23a, excluding an SQC test result can be appropriate under two scenarios:

- Scenario 1: When identified as an outlier using an appropriate statistical test, such as the Generalized Extreme Studentized Deviate (GESD), and evidence gathered from an investigation supports the exclusion. Supporting evidence could include a transcription error or other assignable cause that is not part of the normal process and needs to be properly documented.
- Scenario 2: During what is perceived to be normal operations of the SQC process, an SQC test result might fall outside of the Upper or Lower Control Limit, which is a strong indication of a system that is out-of-statistical-control (OOS). However, an immediate retest SQC sample should be performed to confirm the OOS event. If the retest indicates the system is in control as described in ASTM D6299–23a, then the OOS is not confirmed and the original SQC result might be excluded following further statistical analysis as addressed in section A1.5.4.1 of ASTM D6299–23a.

To provide clarity, EPA is finalizing as proposed the option for outliers to be excluded from SQC samples—but not certification samples—under the certain circumstances outlined in ASTM D6299–23a.

However, as discussed in the proposal, we are concerned that parties may dub certain test results as outliers even though the test result is valid and should be included as part of SQC simply because the party does not like the test result. Therefore, EPA is also finalizing as proposed recordkeeping requirements for exclusion events. If SQC data are excluded using the protocols outlined in ASTM D6299–23a, the laboratory would need to document the result as well as the assignable cause and justification for exclusion. EPA expects that SQC exclusions should be visible on the user's quality control chart while at the same time be excluded from ongoing SQC statistics. Under this approach, if EPA determines that the assignable cause for a test result treated as an outlier was not consistent with the circumstances described in ASTM D6299–23a, then such a test result would need to be retroactively included in the party's SQC. Furthermore, if documentation of the result as well as the assignable cause and justification are not maintained, EPA is finalizing the requirement that the test result also be included as part of the party's SQC.

We did not receive any comments on excluding SQC data points and are therefore finalizing this provision as proposed.

J. Testing for Oxygenates in PCG Under Compliance by Subtraction

EPA is finalizing as proposed a separate procedure for blending manufacturers that make a new batch of fuel with PCG that was a gasoline before oxygenate blending (BOB) and do not want to account for oxygenate added downstream under the compliance by subtraction provisions at 40 CFR 1090.1320(a)(1).[27] In the streamlining

[25] 40 CFR 1090.1710(g).

[26] 40 CFR 1090.95(c)(30) and 1090.1375.

[27] Under EPA's fuel quality regulations, a gasoline manufacturer may add additional blendstocks to PCG to create a new batch of gasoline so long as the gasoline manufacturer certifies the new batch as meeting all applicable per-gallon standards, and properly accounts for the sulfur and benzene levels of the gasoline manufacturer's annual average compliance calculations. The regulations at 40 CFR 1090.1320 provide two options for the certification of a new batch using PCG. First, the gasoline manufacturer may directly measure the gasoline and sulfur levels of the added blendstock and report those measurements and the volume as a positive batch thereby adding those values to the gasoline manufacturer's annual sulfur and benzene

Continued

rule, a blending manufacturer certifying a batch using the PCG by subtraction procedures was required to create a hand blend of the PCG if the PCG was a BOB to determine the parameters of the PCG that would be used for the blending manufacturer's compliance calculations.[28] EPA established this requirement to ensure consistent accounting of sulfur and benzene levels of the PCG and believes that this approach is reasonable in the case where both the manufacturer of the PCG (a BOB in this case) and the manufacturer of the new finished fuel have accounted for oxygenate added downstream. However, after finalization of the streamlining rule, one stakeholder suggested that the creation of a hand blend for the PCG would not result in an accurate accounting of sulfur and benzene levels of the new finished fuel if the manufacturer of such fuel did not account for oxygenate added downstream. Rather, this stakeholder highlighted that testing both the PCG and the finished fuel without the addition of oxygenates would result in the correct sulfur and benzene levels of the reported sulfur and benzene values for average annual compliance if the manufacturer did not intend to account for oxygenate added downstream. Thus, in this circumstance there is no need to create a hand blend. EPA agrees with this assessment and as such is finalizing as proposed clarifications to the regulations to accommodate the scenario where a blending manufacturer complies by subtraction for PCG and does not account for oxygenate added downstream. Under this scenario, the blending manufacturer would test and report the sulfur and benzene values of the PCG and the finished fuel without the addition of oxygenates, which would be netted during the fuel manufacturer's annual compliance demonstration to report the correct sulfur and benzene values of the added blendstock. As discussed in the proposal, EPA still believes blending manufacturers that use the compliance by subtraction provisions to certify batches of fuels produced from PCG and elect to account for oxygenate added downstream should follow the existing requirement to create a hand blend of both the PCG and the finished fuel and are therefore not changing that requirement.

We did not receive any comments on testing for oxygenates in PCG under compliance by subtraction provisions and are therefore finalizing this provision as proposed.

K. Noncompliant Certified Butane or Certified Pentane Test Results

We proposed to clarify the treatment of certified butane or certified pentane when a certified butane or certified pentane blender obtains a test result under the quality assurance testing program that exceeds a per-gallon standard for certified butane or certified pentane in 40 CFR 1090.250 or 1090.255, respectively. We proposed that the volume of certified butane or certified pentane associated with the test result would be in violation of the per-gallon standard and that the certified butane or certified pentane blender would have to obtain sulfur or benzene credits calculated using the PCG by addition procedures in 40 CFR 1090.1320(a)(2) to offset any sulfur or benzene levels that exceeded the per-gallon standard.

Commenters requested that we further clarify which products and parties would be in violation when certified butane or certified pentane is found to be noncompliant with a per-gallon standard and that we allow for the use of both PCG by subtraction and PCG by addition procedures when this situation arises. In response to these comments and as further discussed in RTC section 2.4, we are finalizing clarified provisions and providing additional flexibility for the use of PCG by subtraction procedures to address the per-gallon exceedance.

III. Other Technical Amendments

A. Definition of Batch

EPA is finalizing as proposed the modified definition of batch to better align with how the sampling and testing regulatory provisions establish the values for the regulated parameters for batches. Under the streamlining rule, a batch was defined as a ''quantity of fuel, fuel additive, or regulated blendstock that has a homogeneous set of properties.'' [29] The definition notes further that ''[t]his also includes fuel, fuel additive, or regulated blendstock for which homogeneity testing is not required under § 1090.1337(a).'' Since this definition was promulgated in the streamlining rule, industry stakeholders have identified that the definition appears inconsistent because it says that a batch must be homogeneous, but the regulations also allow for certifying a batch without demonstrating homogeneity. It is also the case that fuel produced with in-line blending procedures is not subject to any homogeneity requirement. To address these concerns, EPA is revising the definition of batch to mean ''a quantity of fuel, fuel additive, or regulated blendstock with properties that can be characterized by a single set of values using the measurement procedures in subpart N of this part.'' We believe this framing better reflects our intent to have the values established through the sampling and testing provisions reflect the volume identified as the batch for manual sampling in cases where homogeneity has been determined and in cases where a party is allowed to certify a batch without demonstrating homogeneity. The revised definition also aligns with the requirement that fuel manufacturers using in-line blending must collect a single composite sample that represents the whole batch being certified.

We did not receive any comments on the proposed revision to the definition of batch and are therefore finalizing this definition as proposed.

B. Truthful Reporting

EPA is finalizing as proposed clarifications to a requirement that applies to all information submitted to the Agency. Parties that submit information to EPA must, among other things, ensure that the information is complete, accurate, and not misleading according to the submitter's personal knowledge and belief. This requirement is codified at 18 U.S.C. 1001 and in several other statutory provisions. EPA's data systems—such as DCFuel and the EPA Moderated Transaction System (EMTS)—require the submitter to actively acknowledge this responsibility. For DCFuel, the submitter confirms that the information ''meets all the requirements of the'' applicable regulations by actively checking the certification box. Similarly, when information is submitted through EMTS, the submitter certifies that, ''the information shown is a correct and accurate account of the transaction(s) that have taken place'' or, ''under penalty of law, that the information provided in this document is, to the best of [the submitter's] knowledge and belief, true, accurate, and complete. [The submitter is] aware that there are significant penalties for submitting false information, including the possibility of fines and

compliance calculations; this procedure is called compliance by addition. The gasoline manufacturer may also determine the sulfur and benzene levels of the new blendstocks by measuring the sulfur and benzene levels of the PCG and the finished fuel then subtracting the PCG from the finished fuel to determine the values of the added blendstock; as such, this procedure is called compliance by subtraction. Gasoline manufacturers often use the compliance by subtraction method for PCG because it is often impractical to directly measure the sulfur and benzene values of blendstocks.

[28] 40 CFR 1090.1320(a)(1).

[29] 40 CFR 1090.80.

imprisonment for knowing violations.'' When information is submitted to EPA through email, however, there was no equivalent certification made, though the same requirement to submit complete, accurate, and not misleading information still applied. Therefore, EPA is finalizing the proposed statement in 40 CFR 1090.20(g) to ensure that the regulated community is aware that this obligation applies to all information submitted under 40 CFR part 1090, regardless of the form of that submission. We note that the statutory requirement to submit complete, accurate, and not misleading information applies with or without the regulatory clarification.

We did not receive any comments on the proposed provision to require truthful reporting and are therefore finalizing this provision as proposed.

C. Clarification of RVP Standard in Federal 7.8 psi RVP Areas

EPA is finalizing as proposed a correction to the RVP standards for federal 7.8 psi RVP areas to allow for the use of 9.0 psi RVP summer gasoline in federal 7.8 psi RVP areas during the month of May. Prior to the streamlining rule, gasoline used in federal 7.8 psi RVP areas had to meet a 9.0 psi RVP standard during the month of May and a 7.8 psi RVP standard for the remainder of the summer season (*i.e.,* June 1 to September 15). In the gasoline RVP standards specified in 40 CFR part 1090.215, EPA inadvertently modified the RVP standard for federal 7.8 psi RVP areas for the month of May in transcribing the previous RVP standards table in 40 CFR 80.27. This revision fixes that transcription error.

We did not receive any comments on the proposed clarification of the RVP standard in Federal 7.8 psi RVP areas and are therefore finalizing this provision as proposed.

D. National Fuel Survey Program Notifications

EPA is finalizing as proposed the requirement that independent surveyors include additional information in notifications to EPA and branded fuel manufacturers when the surveyor identifies potential non-compliance as part of the NFSP. Under the current NFSP requirements, the independent surveyor utilizes information about retail outlets to identify potential locations and ultimately randomly selects retail outlets for sampling. When the independent surveyor collects samples, it tests the sample to determine whether it meets the applicable fuel quality standards. If a test result exceeds one or more applicable standards, the independent surveyor is required to notify EPA, the retailer, and the branded fuel manufacturer (if applicable) within 24 hours of identifying the issue. The regulations in the streamlining rule did not specify that the surveyor indicate the contact information of the retail outlet in the notification provided to EPA or the branded fuel manufacturer (if applicable), even though the independent surveyor has this information readily available. Based on EPA's experience with the NFSP to date, we believe that including such information as part of the notifications for potentially non-compliant samples will help EPA and branded fuel manufacturers more expeditiously resolve these issues consistent with EPA's original intent in setting up the NFSP. As such, EPA is finalizing the requirement that any notification to EPA or a branded fuel manufacturer of a potential non-compliant sample include the retail outlet's contact information, including name, title, mailing address, telephone number, and email address of a representative of the retail outlet, if available.

We did not receive any comments on the proposed notifications under the NFSP and are therefore finalizing this provision as proposed.

E. Fuel Certification With Domestic Marine Vessels

Several stakeholders requested flexibility to meet testing requirements for fuel certification when loading gasoline or diesel fuel onto domestic marine vessels, specifically by sampling and testing with the procedures that apply for importing fuel on marine vessels as specified in 40 CFR 1090.1605. EPA is finalizing this flexibility with minor edits subject to the stipulations that each vessel compartment is sampled and tested independently, and that no additional product loading or blending occurs after sampling and certification have been completed. The marine vessel is also not permitted to navigate beyond 15 miles from the fuel manufacturing facility or to discharge fuel until demonstrating compliance with all applicable per-gallon standards. This condition is intended to allow fuel manufacturers to free up dock space while waiting on test results. However, the fuel manufacturer is still accountable for any noncompliance and maintains responsibility for addressing any noncompliance before the fuel is discharged. EPA selected the 15-mile limit based on discussions with industry and believes this distance would be sufficient to allow for vessels to travel to free up dock space and still return to port to bring fuel back to the fuel manufacturing facility if an issue is identified with the fuel after it has left the dock.

In response to a comment and as further discussed in RTC section 2.6, we are finalizing this flexibility with minor edits to clarify the proposed language for fuel certification with domestic marine vessels.

F. Technical Corrections

EPA is finalizing as proposed numerous technical amendments to 40 CFR part 1090. These amendments are being made to correct minor inaccuracies and clarify the current regulations. These changes are described in table III.F–1, and we address comments on these corrections and clarifications in RTC section 3.

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Table III.F-1: Miscellaneous Technical Corrections and Clarifications to Fuel Quality Regulations

Part and Section of Title 40	Description of Revision
§ 1090.50(a)	Removing explanatory text that noted that the rounding provisions at § 1090.50 are consistent with ASTM E29 and NIST SP 811.
§§ 1090.55(b)(1), 1090.215(d)(1), and 1090.1335(b)(3)	Changing the term "retail station" to "retail outlet" to be consistent with the defined terms in § 1090.80.
§ 1090.55(b)(2)	Adding cross-references to § 1090.1335 to ensure that auditors for in-line blending waivers have experience with sampling VCSBs.
§ 1090.55(b)(3)	Clarifying that auditing in-line blending operations requires an auditor to be familiar with the in-line blending waiver provisions of § 1090.1315 and to demonstrate work experience and be proficient with the automatic sampling procedures specified in § 1090.1335(c).

§ 1090.80	Adding missing definitions of "Distillate global marine fuel", "ECA associated area", "Emission control area (ECA)", "Fuel additive manufacturing facility", "Regulated blendstock import facility", and "Regulated blendstock production facility".
§ 1090.85(g)	Adding paragraph to clarify that generic terms may also be used to refer to specific fuel, fuel additive, or regulated blendstock types.
§ 1090.90	Adding missing acronym for volume additive reconciliation (VAR).
§ 1090.110(c)	Removing requirement for detergent blenders to demonstrate compliance with §§ 1090.260(a) and 1090.1240 because it is duplicative of existing requirements at §§ 1090.100(a) and 1090.110(a).
§ 1090.215(c)	Adding paragraph to clarify that the most stringent RVP standard applies when more than one summer gasoline RVP standard applies in the same geographic area.
§§ 1090.220(e) and 1090.1320(b)	Clarifying that parties may not blend certified butane and certified pentane into previously certified summer reformulated gasoline (RFG) or summer RBOB under § 1090.1320(b).
§ 1090.515(d)	Adding the term "other" prior to nonroad engines to clarify that the provision that limits the use of 500 ppm LM diesel in nonroad engines does not include locomotive and marine engines that are allowed to use it.
§§ 1090.605, 1090.610, 1090.615, 1090.620, 1090.625, 1090.630, 1090.635, 1090.640, 1090.645, and 1090.650	Amending to use consistent language for all exemption provisions and clarifying which exemption provisions also apply to fuel additives and regulated blendstocks. .
§1090.605(a)(1)	Updating national security exemption to remove obsolete references to engine and vehicle emission standards.
§§ 1090.700, 1090.715, 1090.725, 1090.740, and 1090.745	Clarifying and simplifying the existing equations for sulfur and benzene, but not changing the overall calculations.
§ 1090.905(c)(1)(viii)(A), (c)(2)(viii)(A), and (c)(8)(vii)(A)	Clarifying that batch reports must include whether the 1-psi waiver applies to the batch of summer gasoline, beginning with the 2026 compliance period.
§ 1090.905(c)(3)(i)(H)	Removing requirement to report RVP standard and RVP test results for gasoline produced from PCG using compliance by subtraction because it is duplicative of the reporting requirement at § 1090.905(c)(3)(ii).
§ 1090.915(c)(5)	Clarifying that oxygenate producers may report sulfur levels as allowed under § 1090.1330 instead of only through testing.
§ 1090.1000(e)(2)(i)(A)	Clarifying that a certified butane producer must test certified butane before transferring the certified butane batch for delivery.
§ 1090.1105	Clarifying that the PTD requirements of this section apply to exempt fuel additive and regulated blendstock in addition to exempt fuel.

§ 1090.1110(e)	Clarifying which PTD requirements apply to gasoline detergent and which PTD requirements apply to gasoline.
§ 1090.1215(a)	Clarifying that distillate global marine fuel manufacturers must comply with the recordkeeping requirements of this section.
§ 1090.1230(b)(8)	Removing recordkeeping requirements for the sampling and testing of undenatured ethanol because they are duplicative of the general recordkeeping requirements for all sampling and testing at § 1090.1205(c).
§ 1090.1240(b)(2)(ii)(B)	Clarifying that the total volume of detergent must be calculated in gallons.
§ 1090.1255(a)	Clarifying that a manufacturer or distributor of 500 ppm LM diesel fuel using transmix must comply with the recordkeeping requirements of this section.
§ 1090.1315(a)(1)	Amending to allow for an RCO's delegate to submit in-line blending waiver requests.
§ 1090.1315(c)(1)	Clarifying that changing analyzer location is a material change in the context of an in-line blending waiver only if that involves changing the location for drawing samples of blended fuel.
§ 1090.1335(b)	Adding a reference to the latest version of ASTM D4057 for manual sampling and updating the regulation to include proper cites to content in ASTM D4057.
§ 1090.1335(b)(4)	Adding a statement for manual sampling to clarify that, once the batch meets homogeneity specifications, any properly drawn sample may be used to represent the batch.
§ 1090.1335(c)	Reorganizing paragraph content to align with manual sampling.
§ 1090.1337(b)	Clarifying how samples tested for homogeneity may be used to certify a batch of fuel.
§ 1090.1337(c)	Removing separate reference to tap sampling, since that is just one kind of spot sampling.
§ 1090.1337(d)	Clarifying that the homogeneity parameters for gasoline apply equally for TGP.[30]
§ 1090.1337(d)	Allowing for homogeneity testing based on density as being equivalent to API gravity.
§ 1090.1337(e)	Expanding paragraph to describe homogeneity testing parameters for oxygenate and certified ethanol denaturant.
§ 1090.1337(f)	Adjusting wording to allow for a passing result for homogeneity testing if the variation among measured values is exactly equal to the pass-fail criterion.
§ 1090.1340(a)(1)	Clarifying that a hand blend from the worst-case BOB sample is required if fuel manufacturers rely on worst-case results instead of performing homogeneity testing.

[30] Although we proposed to include gasoline treated as blendstock (GTAB) as a product that required homogeneity testing, commenters noted that such homogeneity testing would be unnecessary. We agree. As such, we are not finalizing the requirement for GTAB to undergo homogeneity testing. We further address this issue in RTC section 2.2.

§ 1090.1350(c)(4)	Clarifying that the specified recording precision applies for all measured oxygenate compounds.
§ 1090.1355(b)	Updating for consistent reference to test methods rather than test procedures.
§ 1090.1360(b)(1)(i)	Clarifying the absolute fuel parameters by removing text that is duplicative of the PBMS requirements at § 1090.1350(a).
§ 1090.1365(a)(3)	Clarifying that qualifying a test method applies for all instruments needed for those measurements.
§ 1090.1365(b)(3)	Clarifying that laboratories qualifying an alternative method for oxygenate measurements must include all the oxygenate compounds identified in the referee method (ASTM D5599).
§ 1090.1365(b)(3), table 3	Referencing an older version of ASTM D5191 to properly identify the version corresponding to the specified reproducibility value for gasoline RVP measurements to qualify alternative measurement procedures.
§ 1090.1365(c)(3)(i)	Narrowing the scope of the demonstration to exclude fuel additives and regulated blendstocks (other than butane) that are not covered by PBMS.
§ 1090.1375(c)	Simplifying the instruction to select a test fuel for quality testing by requiring that the fuel sample have an ARV representing fuel that is typical for testing, rather than requiring selecting a sample with an ARV that is connected to a standard. This is especially important for RVP measurements, where there might be multiple standards.
§ 1090.1375(d)	Decreasing the crosscheck program requirements for RVP testing from three to two times per year. This is based on RVP standards applying only for summer gasoline.
§1090.1395(a)(1)(i)	Clarifying that baseline fuel for detergent testing must contain between 8.0 and 10.0 volume percent ethanol instead of denatured fuel ethanol (DFE). This is consistent with the previous provisions at 40 CFR part 80.
§1090.1420(a)(2)	Clarifying that the two references to “10 volume percent” are referring to 10 volume percent ethanol and not 10 volume percent DFE.
§ 1090.1450(c)(3)(ii) and (v)	Clarifying that summer gasoline samples that are not subject to EPA’s federal RVP standards under § 1090.630 do not need to be tested for RVP under the National Sampling and Testing Oversight Program (NSTOP).
§ 1090.1605(b)(1)(i)	Making explicit the assumption that fuel in an individual compartment on a marine vessel is homogeneous.

§ 1090.1605(b)(1)(ii)	Clarifying: 1. That RVP measurements are on individual samples, not composite samples; 2. That requirements related to testing hand blends apply as specified in § 1090.1310(c)(1) and (2) for marine imports that will include oxygenate blending; and 3. How to demonstrate that a composite sample is valid.
§ 1090.1610(a)(1)(i)(A)	Removing the word "fuel" to account for parameter measurements in fuel additives, etc.
§ 1090.1800(a)(3)	Adding § 1090.1800(a)(3) to clarify that gasoline manufacturers that transact sulfur/benzene credits for a compliance period but that did not produce gasoline in that compliance period must still undergo an annual attestation audit for the credit transactions.
§§ 1090.1810, 1090.1815, 1090.1820, 1090.1825, 1090.1830, 1090.1835, 1090.1840, 1090.1845	Amending to use consistent language for all attestation engagement provisions.

§§ 1090.1, 1090.5, 1090.15, 1090.20, 1090.80, 1090.90, 1090.95, 1090.100, 1090.105, 1090.110, 1090.130, 1090.140, 1090.145, 1090.155, 1090.160, 1090.165, 1090.175, 1090.180, 1090.200, 1090.210, 1090.215, 1090.230, 1090.265, 1090.285, 1090.290, 1090.295, 1090.300, 1090.310, 1090.315, 1090.325, 1090.500, 1090.510, 1090.520, 1090.605, 1090.610, 1090.615, 1090.620, 1090.625, 1090.630, 1090.635, 1090.640, 1090.645, 1090.650, 1090.700, 1090.710, 1090.715, 1090.720, 1090.725, 1090.730, 1090.735, 1090.740, 1090.745, 1090.800, 1090.805, 1090.815, 1090.820, 1090.900, 1090.905, 1090.910, 1090.915, 1090.925, 1090.930, 1090.935, 1090.1000, 1090.1005, 1090.1010, 1090.1015, 1090.1100, 1090.1105, 1090.1110, 1090.1115, 1090.1120, 1090.1205, 1090.1210, 1090.1215, 1090.1230, 1090.1240, 1090.1245, 1090.1250, 1090.1255, 1090.1320, 1090.1335, 1090.1340, 1090.1350, 1090.1355, 1090.1365, 1090.1370, 1090.1375, 1090.1390, 1090.1395, 1090.1400, 1090.1405, 1090.1410, 1090.1415, 1090.1420, 1090.1450, 1090.1515, 1090.1600, 1090.1610, 1090.1615, 1090.1710, 1090.1715, 1090.1800, 1090.1805, 1090.1810, 1090.1815, 1090.1820, 1090.1825, 1090.1830, 1090.1835, 1090.1840, 1090.1845, 1090.1850	Correcting typographical, grammatical, and consistency errors.

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IV. Updates to the Boutique Fuels List

We are using this final action to provide a current list of boutique fuels. Section 1541(b) of the Energy Policy Act of 2005 required EPA, in consultation with the Department of Energy (DOE), to determine the total number of fuels approved into all SIPs, under Clean Air Act (CAA) section 211(c)(4)(C), as of September 1, 2004, and publish a list of such fuels including the state and Petroleum Administration for Defense District (PADD) in which they are used for public review and comment. EPA originally published the required list on December 28, 2006.[31]

Additionally, we are required to remove any fuels from the published list if the fuel either ceases to be included in a SIP or is identical to a federal fuel.[32] Since we last published an updated boutique fuel list on December 4, 2020, such a change has occurred.[33] Specifically, the requirements for the sale of gasoline with an RVP of 7.0 psi in the Kansas City, KS–MO area have been removed from the Kansas and Missouri state implementation plans.[34] We are also clarifying that the

[31] 71 FR 78192.

[32] CAA section 211(c)(4)(C)(v)(III).

[33] 85 FR 78412, 78427.

[34] EPA published a final rule on March 12, 2021 (86 FR 14000) that removed Kansas' gasoline rule. EPA published a second final rule on March 12, 2021 (86 FR 14007) that removed Missouri's gasoline rule. Both rules were effective on April 12, 2021.

requirement for the sale of gasoline with an RVP of 7.0 psi in El Paso, TX extends until September 16th of each year. In table IV–1, we are providing an updated list of boutique fuels that includes all the boutique fuels that are currently in approved SIPs. We maintain a list of boutique fuels on our State Fuels website.[35] We will continue to update that website as changes to boutique fuels occur and periodically announce updates in the **Federal Register** for fuels that are either removed or added.

Table IV-1: Total Number of Fuels Approved in SIPs Under CAA Section 211(c)(4)(C)

Type of fuel control	PADD	Region-state
RVP of 7.8 psi	2	5—Indiana
	3	6—Texas (May 1 – October 1)*
RVP of 7.0 psi	2	5—Michigan
	3	4—Alabama
	3	6—Texas (May 1 – September 16)*
Low Emission Diesel	3	6—Texas
Cleaner Burning Gasoline (Summer)	5	9—Arizona (May 1 – September 30)*
Cleaner Burning Gasoline (Winter)	5	9—Arizona (October 1 – April 30)
Winter Gasoline (aromatics and sulfur)	5	9—Nevada

* Dates refer to summer gasoline programs with different RVP control periods from the federal RVP control period, which runs from May 1st through September 15th for fuel manufacturers and June 1st through September 15th for downstream parties.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0731.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net regulatory burden on the small entities subject to the rule.

The small entities directly regulated by EPA's fuel quality regulations are small refiners, which are defined at 13 CFR 121.201. This action makes relatively minor corrections and modifications to EPA's fuel quality regulations, and we do not anticipate that there will be any significant cost increases associated with these changes. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or Tribal governments. Requirements for the private sector do not exceed $100 million in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action will be implemented at the Federal level and potentially affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments would be affected only to the extent they produce, purchase, and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health

[35] EPA's State Fuels website is available at *https://www.epa.gov/gasoline-standards/state-fuels.*

risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Except for the standards discussed in this section, the standards included in the regulatory text as incorporated by reference were all previously approved for incorporation by reference (IBR) and no change is included in this action.

In accordance with the requirements of 1 CFR 51.5, we are incorporating by reference the use of attestation standards from the American Institute of Certified Public Accountants (AICPA). The referenced standards may be obtained from AICPA, 220 Leigh Farm Rd., Durham, NC 27707–8110, (919) 402–4500, or *https://www.aicpa-cima.org.* We are incorporating by reference the following standards from AICPA:

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Standard or Test Method	Part and Section of Title 40	Summary
AICPA Code of Professional Conduct, updated through December 2023	§§ 1090.95 and 1090.1800	This updated document describes standardized accounting practices for performing audits.
Statement on Quality Management Standards (SQMS) No. 1, A Firm's System of Quality Management, Issued June 2022	§§ 1090.95 and 1090.1800	This new standard describes requirements for designing quality standards.
Statement on Quality Management Standards (SQMS) No. 2, Engagement Quality Reviews, Issued June 2022	§§ 1090.95 and 1090.1800	This new standard describes quality standards for performing attestation engagements.
Statement on Quality Management Standards (SQMS) No. 3, Amendments to QM Sections 10, "A Firm's System of Quality Management" and 20, "Engagement Quality Reviews;" Issued March 2023	§§ 1090.95 and 1090.1800	This new standard describes amended requirements for designing quality standards and performing attestation engagements.
Statement on Standards for Attestation Engagements (SSAE) No. 19, Agreed-Upon Procedures Engagements, Issued December 2019	§§ 1090.95 and 1090.1800	This updated document describes standardized practices for performing attestation engagements.

In accordance with the requirements of 1 CFR 51.5, we are incorporating by reference the use of certain standards and test methods from ASTM International. The referenced standards and test methods may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428–2959, (610) 832–9585, or *https://www.astm.org.* We are incorporating by reference the following standards from ASTM International:

Standard or Test Method	Part and Section of Title 40	Summary
ASTM D86–23ae1, Standard Test Method for Distillation of Petroleum Products and Liquid Fuels at Atmospheric Pressure, approved December 1, 2023	§§ 1090.95 and 1090.1350	This updated standard describes procedures to characterize a fuel's distillation parameters.
ASTM D975–24a, Standard Specification for Diesel Fuel, approved August 1, 2024	§§ 1090.80 and 1090.95	This updated standard describes parameters to characterize a range of properties and grades of diesel fuel.

ASTM D1319–20a, Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption, approved August 1, 2020	§§ 1090.95 and 1090.1350	This updated standard describes procedures to measure the aromatic content of diesel fuel.
ASTM D2163–23e1, Standard Test Method for Determination of Hydrocarbons in Liquefied Petroleum (LP) Gases and Propane/Propene Mixtures by Gas Chromatography, approved March 1, 2023	§§ 1090.95 and 1090.1350	This updated standard describes procedures to measure the purity and benzene content of butane and pentane
ASTM D2622–24, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry, approved July 1, 2024	§§ 1090.95, 1090.1350, 1090.1360, and 1090.1375	This updated standard describes procedures to measure sulfur content.
ASTM D3231–24, Standard Test Method for Phosphorus in Gasoline, approved March 1, 2024	§§ 1090.95 and 1090.1350	This updated standard describes procedures to measure the phosphorus content of gasoline.
ASTM D3237–22, Standard Test Method for Lead in Gasoline by Atomic Absorption Spectroscopy, approved October 1, 2022	§§ 1090.95 and 1090.1350	This updated standard describes procedures to measure the lead content of gasoline.
ASTM D4052–22, Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter, approved May 1, 2022	§§ 1090.95 and 1090.1337	This updated standard describes procedures to measure fuel density.
ASTM D4057–22, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, approved May 1, 2022	§§ 1090.95, 1090.1335, and 1090.1605	This updated standard describes procedures to normalize manual sampling procedures for measuring fuel parameters.
ASTM D4177–22e1, Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, approved July 1, 2022	§§ 1090.95, 1090.1315, and 1090.1335	This updated standard describes procedures to normalize automatic sampling procedures for an in-line blending configuration.
ASTM D4814–24a, Standard Specification for Automotive Spark-Ignition Engine Fuel, approved July 1, 2024	§§ 1090.80, 1090.95, and 1090.1395	This updated standard describes parameters to characterize a range of properties and grades of motor gasoline.
ASTM D5186–24, Standard Test Method for Determination of the Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels By Supercritical Fluid Chromatography, approved July 1, 2024	§§ 1090.95 and 1090.1350	This updated standard describes procedures to measure the aromatic content of diesel fuel.

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J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

EPA believes this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action makes relatively minor corrections and modifications to EPA's existing fuel quality regulations and therefore will not cause emissions increases from these sources.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Amendatory Instructions

Amendatory instructions are the standard terms that OFR uses to give specific instructions to agencies on how to change the CFR. OFR's historical guidance was to include amendatory instructions accompanying each individual change that was being made (*e.g.,* each sentence or individual paragraph). The piecemeal amendments served as an indication of changes EPA was making. Due to the extensive number of technical and conforming amendments included in this action, however, EPA is utilizing OFR's new amendatory instruction ''revise and republish'' for revisions that become effective in this action.[36] Therefore, instead of the past practice of piecemeal amendments for revisions to the CFR, EPA is using the ''revise and republish'' instruction to both revise regulatory text and republish in their entirety certain sections of 40 CFR part 1090 that contain the regulatory text being revised. To indicate those portions of provisions where changes are being revised, EPA has created a red-line version of 40 CFR part 1090 that incorporates the changes. This red-line version is available in the docket for this action, as well as on EPA's website at *https://www.epa.gov/diesel-fuel-standards/fuels-regulatory-streamlining.* This red-line version provides further context to assist the public in reviewing the regulatory text changes. As previously noted, EPA did not reopen those unchanged provisions for comment. Republishing provisions that are unchanged in this action is consistent with guidance from OFR.

[36] OFR's Document Drafting Handbook (Chapter 2, 2–38) explains that agencies ''[u]se [r]epublish to set out unchanged text for the convenience of the reader, often to provide context for your regulatory changes.'' *https://www.archives.gov/federal-register/write/handbook.* Additional information on OFR's mandatory use of ''revise and republish'' is available at *https://www.archives.gov/federal-register/write/ddh/revise-republish.*

VII. Statutory Authority

Statutory authority for this action comes from sections 114, 202, 203, 204, 205, 206, 207, 208, 209, 211, 213, 216, and 301 of the Clean Air Act, 42 U.S.C. 7414, 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7545, 7547, 7550, and 7601.

List of Subjects in 40 CFR Part 1090

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Oil imports, Petroleum, Renewable fuel.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR part 1090 as follows:

PART 1090—REGULATION OF FUELS, FUEL ADDITIVES, AND REGULATED BLENDSTOCKS

■ 1. The authority citation for part 1090 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7522–7525, 7541, 7542, 7543, 7545, 7547, 7550, and 7601.

Subpart A—General Provisions

■ 2. Amend § 1090.1 by revising and republishing paragraph (a) to read as follows:

§ 1090.1 Applicability and relationship to other parts.

(a) This part specifies fuel quality standards for gasoline and diesel fuel introduced into commerce in the United States. Additional requirements apply for fuel used in certain marine applications, as specified in paragraph (b) of this section.

(1) The regulations include standards for fuel parameters that directly or indirectly affect vehicle, engine, and equipment emissions, air quality, and public health. The regulations also include standards and requirements for fuel additives and regulated blendstocks that are components of any fuel regulated under this part.

(2) This part also specifies requirements for any person who engages in activities associated with the production, distribution, storage, and sale of any fuel, fuel additive, or regulated blendstock, such as collecting and testing samples for regulated parameters, reporting information to EPA to demonstrate compliance with fuel quality requirements, and performing other compliance measures to implement the standards. A party that produces and distributes other related products, such as heating oil, may need to meet certain reporting, recordkeeping, labeling, or other requirements of this part.

* * * * *

■ 3. Amend § 1090.5 by:

■ a. Revising paragraphs (b)(3) and (c)(4); and

■ b. Adding paragraph (d).

The revisions and addition read as follows:

§ 1090.5 Implementation dates.

* * * * *

(b) * * *

(3) Unless otherwise specified, a regulated party must use the provisions of 40 CFR part 80 in 2021 to demonstrate compliance with regulatory requirements for the 2020 calendar year. This applies to calculating credits for the 2020 compliance period, and to any sampling, testing, reporting, or auditing related to any fuel, fuel additive, or regulated blendstock produced or imported in 2020.

* * * * *

(c) * * *

(4) The independent surveyor may collect only one summer or winter gasoline sample for each participating gasoline manufacturing facility instead of the minimum two samples required under § 1090.1450(c)(2)(i).

(d) The following requirements apply beginning with the 2025 or 2026 compliance period:

(1) Fuel manufacturers operating under an approved in-line blending waiver under § 1090.1315 as of July 1, 2025, must have an approved in-line blending waiver that complies with all the provisions of § 1090.1315(a)(7) through (13) no later than January 1, 2026. Such fuel manufacturers must comply with the in-line blending waiver auditing requirements of § 1090.1850(b) starting with either the 2025 or 2026 compliance period, whichever is the earliest compliance period for which they have an approved in-line blending waiver that complies with all the provisions of § 1090.1315(a)(7) through (13).

(2) Gasoline manufacturers must comply with the batch reporting requirements in § 1090.905(c)(1)(viii)(A)(*2*), (c)(2)(viii)(A)(*2*), and (c)(8)(vii)(A)(*2*) beginning with the 2026 compliance period.

■ 4. Amend § 1090.15 by revising paragraph (e) to read as follows:

§ 1090.15 Confidential business information.

* * * * *

(e) EPA may disclose the information specified in paragraphs (b) through (d) of this section on its website, or otherwise make it available to interested parties, without additional notice, notwithstanding any claims that the information is entitled to confidential treatment under 40 CFR part 2, subpart B or 5 U.S.C. 552(b)(4).

■ 5. Amend § 1090.20 by:
■ a. Revising paragraph (f); and
■ b. Adding paragraph (g).

The revision and addition read as follows:

§ 1090.20 Approval of submissions under this part.

* * * * *

(f) Any person who has an approval revoked or voided under this part is liable for any resulting violation of the requirements of this part.

(g) Submitting false, misleading, or incomplete information is a violation of law.

■ 6. Amend § 1090.50 by revising paragraph (a) to read as follows:

§ 1090.50 Rounding.

(a) Unless otherwise specified, round values to the number of significant digits necessary to match the number of decimal places of the applicable standard or specification. Perform all rounding as specified in 40 CFR 1065.20(e)(1) through (6).

* * * * *

■ 7. Amend § 1090.55 by revising and republishing paragraph (b) to read as follows:

§ 1090.55 Requirements for independent parties.

* * * * *

(b) *Technical ability.* The third party must meet all the following requirements in order to demonstrate their technical capability to perform specified activities under this part:

(1) An independent surveyor that conducts a survey under subpart O of this part must have personnel familiar with petroleum marketing, the sampling and testing of gasoline and diesel fuel at retail outlets, and the designing of surveys to estimate compliance rates for fuel parameters nationwide. The independent surveyor must demonstrate this technical ability in plans submitted under subpart O of this part.

(2) A laboratory attempting to qualify alternative procedures must contract with an independent third party to verify the accuracy and precision of measured values as specified in § 1090.1365. The independent third party must demonstrate work experience and a good working knowledge of the VCSB methods specified in §§ 1090.1335, 1090.1365, and 1090.1370, with training and expertise corresponding to a bachelor's degree in chemical engineering, or combined bachelor's degrees in chemistry and statistics.

(3) Any person auditing in-line blending operations must be familiar with the waiver provisions of § 1090.1315 and be proficient with the sampling procedures specified in § 1090.1335(c).

* * * * *

■ 8. Amend § 1090.80 by:
■ a. Revising the definitions ''Auditor'', ''Automated detergent blending facility'', and ''Batch'';
■ b. Removing the definition ''California diesel'';
■ c. Adding the definition ''California diesel fuel'' in alphabetical order;
■ d. Revising the definitions ''Certified ethanol denaturant producer'', ''Detergent additive package'', ''Detergent blender'', and ''Diesel fuel manufacturer'';
■ e. Adding the definition ''Distillate global marine fuel'' in alphabetical order;
■ f. Revising the definitions ''Downstream location'', ''E0'', and ''E85'';
■ g. Adding the definition ''ECA associated area'' in alphabetical order;
■ h. Revising the definition ''ECA marine fuel'';
■ i. Adding the definition ''Emission control area (ECA)'' in alphabetical order;
■ j. Revising the definitions ''Fuel additive'' and ''Fuel additive manufacturer'';
■ k. Adding the definition ''Fuel additive manufacturing facility'' in alphabetical order;
■ l. Revising the definitions ''Fuel manufacturing facility'', ''Gasoline before oxygenate blending (BOB)'', ''Gasoline manufacturer'', ''Global marine fuel'', ''Marine engine'', ''Non-automated detergent blending facility'', and ''Reformulated gasoline (RFG)'';
■ m. Adding the definition ''Regulated blendstock import facility'' in alphabetical order;
■ n. Revising the definition ''Regulated blendstock producer'';
■ o. Adding the definition ''Regulated blendstock production facility'' in alphabetical order;
■ p. Revising the definitions ''Sampling strata'' and ''Transmix processor'';
■ q. Removing the definition ''Volume Additive Reconciliation (VAR) Period'';
■ r. Adding the definition ''Volume additive reconciliation (VAR) period'' in alphabetical order; and
■ s. Revising the definition ''Wholesale purchaser-consumer (WPC)''.

The revisions and additions read as follows:

§ 1090.80 Definitions.

* * * * *

Auditor means any person who conducts audits under subpart S of this part.

Automated detergent blending facility means any facility (including, but not limited to, a truck or individual storage tank) at which detergent is blended with gasoline by means of an injector system calibrated to automatically deliver a specified amount of detergent.

* * * * *

Batch means a quantity of fuel, fuel additive, or regulated blendstock with properties that can be characterized by a single set of values using the measurement procedures in subpart N of this part.

* * * * *

California diesel fuel means diesel fuel designated by a diesel fuel manufacturer as for use in California.

* * * * *

Certified ethanol denaturant producer means any person who certifies ethanol denaturant as meeting the requirements in § 1090.275.

* * * * *

Detergent additive package means an additive package containing detergent and may also contain carrier oils and other active components such as corrosion inhibitors, antioxidants, metal deactivators, and handling solvents.

Detergent blender means any person who owns, leases, operates, controls, or supervises the blending operation of a detergent blending facility, or who imports detergent-additized gasoline.

* * * * *

Diesel fuel manufacturer means a fuel manufacturer that owns, leases, operates, controls, or supervises a diesel fuel manufacturing facility.

* * * * *

Distillate global marine fuel means global marine fuel that is distillate fuel.

* * * * *

Downstream location means any point in the fuel distribution system other

than a fuel manufacturing facility through which fuel passes after it leaves the fuel manufacturing facility gate at which it was certified (*e.g.,* fuel at facilities of distributors, pipelines, terminals, carriers, retailers, oxygenate blenders, and WPCs).

E0 means gasoline that contains no ethanol.

* * * * *

E85 means a fuel that contains more than 50 and no more than 83 volume percent ethanol and is used, intended for use, or made available for use in flex-fuel vehicles or flex-fuel engines. E85 is not gasoline.

ECA associated area has the meaning given in 40 CFR 1043.20.

ECA marine fuel means diesel fuel, distillate fuel, or residual fuel used, intended for use, or made available for use in C3 marine vessels while the vessels are operating within an ECA, or an ECA associated area.

Emission control area (ECA) has the meaning given in 40 CFR 1043.20.

* * * * *

Fuel additive has the same meaning as *additive* in 40 CFR 79.2(e).

* * * * *

Fuel additive manufacturer means any person who owns, leases, operates, controls, or supervises a fuel additive manufacturing facility.

Fuel additive manufacturing facility means any facility where fuel additive is produced or imported.

* * * * *

Fuel manufacturing facility means any facility where fuel is produced, imported, or recertified. Fuel manufacturing facilities include refineries, fuel blending facilities, transmix processing facilities, import facilities, and any facility where fuel is recertified.

* * * * *

Gasoline before oxygenate blending (BOB) means gasoline for which a gasoline manufacturer has accounted for oxygenate added downstream under § 1090.710. BOB is subject to all the requirements and standards that apply to gasoline, unless subject to a specific alternative standard or requirement under this part.

Gasoline manufacturer means a fuel manufacturer that owns, leases, operates, controls, or supervises a gasoline manufacturing facility.

* * * * *

Global marine fuel means diesel fuel, distillate fuel, or residual fuel used, intended for use, or made available for use in steamships or Category 3 marine vessels while the vessels are operating in international waters or in any waters outside the boundaries of an ECA. Global marine fuel is subject to the provisions of MARPOL Annex VI. (Note: This part regulates only distillate global marine fuel.)

* * * * *

Marine engine has the meaning given in 40 CFR 1042.901.

* * * * *

Non-automated detergent blending facility means any facility (including a truck or individual storage tank) at which detergent additive is blended using a hand-blending technique or any other non-automated method.

* * * * *

Reformulated gasoline (RFG) means gasoline that is certified under § 1090.1000(b) and that meets the standards and requirements in § 1090.220.

* * * * *

Regulated blendstock import facility means any facility where regulated blendstock is imported into the United States.

Regulated blendstock producer means any person who produces or imports regulated blendstock in the United States, or any person who owns, leases, operates, controls, or supervises a facility where regulated blendstock is produced or imported.

Regulated blendstock production facility means any facility where regulated blendstock is produced.

* * * * *

Sampling strata means the following types of areas sampled during a survey:

(1) Densely populated areas.

(2) Transportation corridors.

(3) Rural areas.

* * * * *

Transmix processor means any person who owns, leases, operates, controls, or supervises a transmix processing facility in the United States. A transmix processor is a fuel manufacturer.

* * * * *

Volume additive reconciliation (VAR) period means the following:

(1) For an automated detergent blending facility, the VAR period is a time period lasting no more than 31 days or until an adjustment to a detergent concentration rate that increases the initial rate by more than 10 percent, whichever occurs first. The concentration setting for a detergent injector may be adjusted by more than 10 percent above the initial rate without terminating the VAR period, provided the purpose of the change is to correct a batch misadditization prior to the transfer of the batch to another party, or to correct an equipment malfunction and the concentration is immediately returned to no more than 10 percent above the initial rate of concentration after the correction.

(2) For a non-automated detergent blending facility, the VAR period constitutes the blending of one batch of gasoline.

* * * * *

Wholesale purchaser-consumer (WPC) means any person who is an ultimate consumer of fuels and who purchases or obtains fuels for use in motor vehicles, nonroad vehicles, nonroad engines, or nonroad equipment, including locomotive or marine engines, and, in the case of liquid fuels, receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that person.

* * * * *

■ 9. Amend § 1090.85 by adding paragraph (g) to read as follows:

§ 1090.85 Explanatory terms.

* * * * *

(g) *Generic terms.* Certain terms that are generically defined in this part (*e.g.,* ''fuel manufacturing facility'' or ''importer'') may also be used to refer to a specific fuel, fuel additive, or regulated blendstock type (*e.g.,* ''diesel fuel manufacturing facility'' or ''gasoline importer'').

■ 10. Amend § 1090.90 by:

■ a. Revising the entry ''PLOQ''; and

■ b. Adding the entry ''VAR'' in alphabetical order.

The revision and addition read as follows:

§ 1090.90 Acronyms and abbreviations.

* * * * * * *	
PLOQ	pooled limit of quantitation.
* * * * * * *	
VAR	volume additive reconciliation.
* * * * * * *	

■ 11. Amend § 1090.95 by:
■ a. Revising paragraphs (a), (b), and (c)(1), (3), and (6) through (8);
■ b. Removing paragraph (c)(9) and redesignating paragraphs (c)(10) through (37) as paragraphs (c)(9) through (36);
■ c. Revising newly redesignated paragraphs (c)(9), (10), (12) through (14), (17), (19), (20), (23), (24), (29), (31), and (35);
■ d. Removing paragraph (c)(38) and redesignating paragraphs (c)(39) and (40) as paragraphs (c)(37) and (38); and
■ e. In paragraph (d)(1), remove the text ''May 17, 1999'' and add, in its place, the text ''May 17, 1999; IBR approved for § 1090.1395(b)''.

The revisions read as follows:

§ 1090.95 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the U.S. EPA and at the National Archives and Records Administration (NARA). Contact the U.S. EPA at: U.S. EPA, Air and Radiation Docket and Information Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460; (202) 566–1742. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov.* The material may be obtained from the sources in the following paragraphs of this section.

(b) American Institute of Certified Public Accountants, 220 Leigh Farm Rd., Durham, NC 27707–8110; (919) 402–4500; *www.aicpa-cima.org.*

(1) AICPA Code of Professional Conduct, updated through December 2023; IBR approved for § 1090.1800(b).

(2) Statements on Quality Control Standards (SQCS) No. 8, QC Section 10: A Firm's System of Quality Control, current as of July 1, 2019; IBR approved for § 1090.1800(b).

(3) Statement on Quality Management Standards (SQMS) No. 1, A Firm's System of Quality Management, Issued June 2022; IBR approved for § 1090.1800(b).

(4) Statement on Quality Management Standards (SQMS) No. 2, Engagement Quality Reviews, Issued June 2022; IBR approved for § 1090.1800(b).

(5) Statement on Quality Management Standards (SQMS) No. 3, *Amendments to QM Sections 10,* A Firm's System of Quality Management, *and 20,* Engagement Quality Reviews, Issued March 2023; IBR approved for § 1090.1800(b).

(6) Statement on Standards for Attestation Engagements (SSAE) No. 19, Agreed-Upon Procedures Engagement, Issued December 2019; IBR approved for § 1090.1800(b).

(c) * * *

(1) ASTM D86–23ae1, Standard Test Method for Distillation of Petroleum Products and Liquid Fuels at Atmospheric Pressure, approved December 1, 2023 (''ASTM D86''); IBR approved for § 1090.1350(b).

* * * * *

(3) ASTM D975–24a, Standard Specification for Diesel Fuel, approved August 1, 2024 (''ASTM D975''); IBR approved for § 1090.80.

* * * * *

(6) ASTM D1319–20a, Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption, approved August 1, 2020 (''ASTM D1319''); IBR approved for § 1090.1350(b).

(7) ASTM D2163–23e1, Standard Test Method for Determination of Hydrocarbons in Liquefied Petroleum (LP) Gases and Propane/Propene Mixtures by Gas Chromatography, approved March 1, 2023 (''ASTM D2163''); IBR approved for § 1090.1350(b).

(8) ASTM D2622–24, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry, approved July 1, 2024 (''ASTM D2622''); IBR approved for §§ 1090.1350(b); 1090.1360(d); 1090.1375(c).

(9) ASTM D3231–24, Standard Test Method for Phosphorus in Gasoline, approved March 1, 2024 (''ASTM D3231''); IBR approved for § 1090.1350(b).

(10) ASTM D3237–22, Standard Test Method for Lead in Gasoline by Atomic Absorption Spectroscopy, approved October 1, 2022 (''ASTM D3237''); IBR approved for § 1090.1350(b).

* * * * *

(12) ASTM D4052–22, Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter, approved May 1, 2022 (''ASTM D4052''); IBR approved for § 1090.1337(d) and (f).

(13) ASTM D4057–22, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, approved May 1, 2022 (''ASTM D4057''); IBR approved for §§ 1090.1335(b); 1090.1605(b).

(14) ASTM D4177–22e1, Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, approved July 1, 2022 (''ASTM D4177''); IBR approved for §§ 1090.1315(a); 1090.1335(c).

* * * * *

(17) ASTM D4814–24a, Standard Specification for Automotive Spark-Ignition Engine Fuel, approved July 1, 2024 (''ASTM D4814''); IBR approved for §§ 1090.80; 1090.1395(a).

* * * * *

(19) ASTM D5186–24, Standard Test Method for Determination of the Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels By Supercritical Fluid Chromatography, approved July 1, 2024 (''ASTM D5186''); IBR approved for § 1090.1350(b).

(20) ASTM D5191–22, Standard Test Method for Vapor Pressure of Petroleum Products and Liquid Fuels (Mini Method), approved July 1, 2022 (''ASTM D5191''); IBR approved for § 1090.1360(d).

* * * * *

(23) ASTM D5599–22, Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection, approved April 1, 2022 (''ASTM D5599''); IBR approved for § 1090.1360(d).

(24) ASTM D5769–22, Standard Test Method for Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry, approved July 1, 2022 (''ASTM D5769'');

IBR approved for §§ 1090.1350(b); 1090.1360(d).

* * * * *

(29) ASTM D6299–23a, Standard Practice for Applying Statistical Quality Assurance and Control Charting Techniques to Evaluate Analytical Measurement System Performance, approved December 1, 2023 (''ASTM D6299''); IBR approved for §§ 1090.1300; 1090.1370(c); 1090.1375(a), (b), (c), and (d); and 1090.1450(c).

* * * * *

(31) ASTM D6667–21, Standard Test Method for Determination of Total Volatile Sulfur in Gaseous Hydrocarbons and Liquefied Petroleum Gases by Ultraviolet Fluorescence, approved April 1, 2021 (''ASTM D6667''); IBR approved for §§ 1090.1360(d); 1090.1375(c).

* * * * *

(35) ASTM D6751–24, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, approved March 1, 2024 (''ASTM D6751''); IBR approved for § 1090.1350(b).

* * * * *

Subpart B—General Requirements and Provisions for Regulated Parties

■ 12. Amend § 1090.100 by revising the introductory text and paragraph (d) to read as follows:

§ 1090.100 General provisions.

This subpart provides an overview of the general requirements and provisions applicable to any regulated party under this part. A person who meets the definition of more than one type of regulated party must comply with the requirements applicable to each of those types of regulated parties. For example, a fuel manufacturer that also transports fuel must meet the requirements applicable to a fuel manufacturer and a distributor. A regulated party is required to comply with all applicable requirements of this part, regardless of whether they are identified in this subpart. Any person who produces, sells, transfers, supplies, dispenses, or distributes fuel, fuel additive, or regulated blendstock must comply with all applicable requirements.

* * * * *

(d) *Importers.* In addition to the requirements of paragraphs (a) through (c) of this section and §§ 1090.105 and 1090.155, an importer must also comply with subpart Q of this part.

■ 13. Amend § 1090.105 by revising paragraphs (a)(1), (a)(8), (b)(4), and (b)(8) to read as follows:

§ 1090.105 Fuel manufacturers.

* * * * *

(a) * * *

(1) *Producing compliant gasoline.* A gasoline manufacturer must produce or import gasoline that meets the standards in subpart C of this part and must comply with the ABT requirements of subpart H of this part.

* * * * *

(8) *Annual attestation engagement.* A gasoline manufacturer must submit annual attestation engagement reports to EPA under subpart S of this part.

(b) * * *

(4) *Certification and designation.* (i) A diesel fuel or ECA marine fuel manufacturer must certify and designate the diesel fuel or ECA marine fuel they produce under subpart K of this part.

(ii) A distillate global marine fuel manufacturer must designate the distillate global marine fuel they produce under subpart K of this part.

* * * * *

(8) *Distillate global marine fuel manufacturers.* A distillate global marine fuel manufacturer does not need to comply with the requirements of paragraphs (b)(1), (2), (3), and (6) of this section for distillate global marine fuel that is exempt from the standards in subpart D of this part, as specified in § 1090.650.

§ 1090.110 [Amended]

■ 14. Amend § 1090.110 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

■ 15. Amend § 1090.130 by revising paragraphs (d), (f), and (g) to read as follows:

§ 1090.130 Certified butane blenders.

* * * * *

(d) *PTDs.* On each occasion when a certified butane blender transfers custody of or title to any gasoline blended with certified butane, the transferor must provide to the transferee PTDs under subpart L of this part.

* * * * *

(f) *Survey.* A certified butane blender may participate in the applicable fuel surveys under subpart O of this part.

(g) *Annual attestation engagement.* A certified butane blender must submit annual attestation engagement reports to EPA under subpart S of this part.

■ 16. Amend § 1090.140 by revising paragraphs (d), (f), and (g) to read as follows:

§ 1090.140 Certified pentane blenders.

* * * * *

(d) *PTDs.* On each occasion when a certified pentane blender transfers custody of or title to any gasoline blended with certified pentane, the transferor must provide to the transferee PTDs under subpart L of this part.

* * * * *

(f) *Survey.* A certified pentane blender may participate in the applicable fuel surveys under subpart O of this part.

(g) *Annual attestation engagement.* A certified pentane blender must submit annual attestation engagement reports to EPA under subpart S of this part.

■ 17. Amend § 1090.145 by revising paragraph (g) to read as follows:

§ 1090.145 Transmix processors.

* * * * *

(g) *Annual attestation engagement.* A transmix processor must submit annual attestation engagement reports to EPA under subpart S of this part.

■ 18. Amend § 1090.155 by revising paragraphs (a)(1), (b)(1), and (b)(3) to read as follows:

§ 1090.155 Fuel additive manufacturers.

* * * * *

(a) * * *

(1) *Gasoline additive standards.* A gasoline additive manufacturer must comply with the applicable requirements of subpart C of this part.

* * * * *

(b) * * *

(1) *Diesel fuel additive standards.* A diesel fuel additive manufacturer must comply with the applicable requirements of subpart D of this part.

* * * * *

(3) *PTDs.* On each occasion when a diesel fuel additive manufacturer transfers custody of or title to any diesel fuel additive, the transferor must provide to the transferee PTDs under subpart L of this part.

* * * * *

■ 19. Amend § 1090.160 by revising paragraphs (a) and (b) to read as follows:

§ 1090.160 Distributors, carriers, and resellers.

* * * * *

(a) *Gasoline and diesel fuel standards.* A distributor, carrier, or reseller must comply with the applicable requirements of subparts C and D of this part.

(b) *Registration.* A distributor or carrier must register with EPA under subpart I of this part if they are part of the 500 ppm LM diesel fuel distribution chain in a compliance plan submitted under § 1090.515(g).

* * * * *

■ 20. Amend § 1090.165 by revising paragraphs (a) and (c) to read as follows:

§ 1090.165 Retailers and WPCs.

* * * * *

(a) *Gasoline and diesel fuel standards.* A retailer or WPC must comply with the applicable requirements of subparts C and D of this part.

* * * * *

(c) *Fuels produced through fuel dispensers.* A retailer or WPC that produces gasoline (*e.g.,* E15) through a fuel dispenser with anything other than PCG and DFE is also a blending manufacturer and must comply with the applicable requirements in § 1090.105.

■ 21. Amend § 1090.175 by revising paragraphs (c) and (d) to read as follows:

§ 1090.175 Auditors.

* * * * *

(c) *Attestation engagements.* An auditor must conduct audits under subpart S of this part.

(d) *Independence requirements.* In order to perform an annual attestation engagement under subpart S of this part, an auditor must meet the independence requirements in § 1090.55 unless they are a certified internal auditor under § 1090.1800(b)(1)(i).

■ 22. Amend § 1090.180 by revising paragraphs (a) and (c) to read as follows:

§ 1090.180 Pipeline operators.

* * * * *

(a) *Gasoline and diesel fuel standards.* A pipeline operator must comply with the applicable requirements of subparts C and D of this part.

* * * * *

(c) *Transmix requirements.* A pipeline operator must comply with all applicable requirements of subpart F of this part.

Subpart C—Gasoline Standards

■ 23. Amend § 1090.200 by revising paragraph (c)(2)(i) to read as follows:

§ 1090.200 Overview and general requirements.

* * * * *

(c) * * *

(2) * * *

(i) Importers that import gasoline by rail or truck using the provisions of § 1090.1610 to meet the alternative per-gallon standards of §§ 1090.205(d) and 1090.210(c).

* * * * *

■ 24. Amend § 1090.210 by revising paragraph (c)(1) to read as follows:

§ 1090.210 Benzene standards.

* * * * *

(c) * * *

(1) An importer that imports gasoline by rail or truck under § 1090.1610 must comply with a benzene per-gallon standard of 0.62 volume percent instead of the standards specified in paragraphs (a) and (b) of this section.

* * * * *

■ 25. Revise and republish § 1090.215 to read as follows:

§ 1090.215 Gasoline RVP standards.

Except as specified in subpart G of this part and paragraph (d) of this section, all gasoline designated as summer gasoline or located at any location in the United States during the summer season is subject to a maximum RVP per-gallon standard in this section.

(a)(1) *Federal 9.0 psi maximum RVP per-gallon standard.* Gasoline designated as summer gasoline or located at any location in the United States during the summer season must meet a maximum RVP per-gallon standard of 9.0 psi unless the gasoline is subject to one of the lower maximum RVP per-gallon standards specified in paragraphs (a)(2) through (5) of this section.

(2) *Federal 7.8 maximum RVP per-gallon standard.* (i) Except as specified in paragraph (a)(2)(ii) of this section, gasoline designated as 7.8 psi summer gasoline, or located in the following areas during the summer season, must meet a maximum RVP per-gallon standard of 7.8 psi:

TABLE 1 TO PARAGRAPH (a)(2)(i)—FEDERAL 7.8 psi RVP AREAS

Area designation	State	Counties
Denver-Boulder-Greeley-Ft. Collins-Loveland.	Colorado	Adams Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer,[1] Weld.[2]
Reno	Nevada	Washoe.
Portland	Oregon	Clackamas (only the Air Quality Maintenance Area), Multnomah (only the Air Quality Maintenance Area), Washington (only the Air Quality Maintenance Area).
Salem	Oregon	Marion (only the Salem Area Transportation Study), Polk (only the Salem Area Transportation Study).
Beaumont-Port Arthur	Texas	Hardin, Jefferson, Orange.
Salt Lake City	Utah	Davis, Salt Lake.

[1] That portion of Larimer County, CO that lies south of a line described as follows: Beginning at a point on Larimer County's eastern boundary and Weld County's western boundary intersected by 40 degrees, 42 minutes, and 47.1 seconds north latitude, proceed west to a point defined by the intersection of 40 degrees, 42 minutes, 47.1 seconds north latitude and 105 degrees, 29 minutes, and 40.0 seconds west longitude, thence proceed south on 105 degrees, 29 minutes, 40.0 seconds west longitude to the intersection with 40 degrees, 33 minutes and 17.4 seconds north latitude, thence proceed west on 40 degrees, 33 minutes, 17.4 seconds north latitude until this line intersects Larimer County's western boundary and Grand County's eastern boundary. (Includes part of Rocky Mtn. Nat. Park.)

[2] That portion of Weld County, CO that lies south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.

(ii) Gasoline designated as 9.0 psi summer gasoline may be located in the areas specified in table 1 to paragraph (a)(2)(i) of this section between May 1 and May 31.

(3) *RFG maximum RVP per-gallon standard.* Gasoline designated as Summer RFG or located in an RFG covered area during the summer season must meet a maximum RVP per-gallon standard of 7.4 psi.

(4) *California gasoline.* Gasoline designated as California gasoline or used in areas subject to the California reformulated gasoline regulations must comply with those regulations under Title 13, California Code of Regulations, sections 2250–2273.5.

(5) *SIP-controlled gasoline.* Gasoline designated as SIP-controlled gasoline or used in areas subject to a SIP-approved state fuel rule that requires an RVP of less than 9.0 psi must meet the requirements of the federally approved SIP.

(b) *Ethanol 1.0 psi waiver.* (1) Except as specified in paragraph (b)(3) of this section, any gasoline subject to a federal 9.0 psi or 7.8 psi RVP standard in paragraph (a)(1) or (2) of this section that meets the requirements of paragraph (b)(2) of this section is not in violation of this section if its RVP does

not exceed the applicable standard by more than 1.0 psi.

(2) To qualify for the special regulatory treatment specified in paragraph (b)(1) of this section, gasoline must meet the applicable RVP standard in paragraph (a)(1) or (2) of this section prior to the addition of ethanol and must contain ethanol at a concentration of at least 9 volume percent and no more than 10 volume percent.

(3)(i) RFG and SIP-controlled gasoline that does not allow for the ethanol 1.0 psi waiver does not qualify for the special regulatory treatment specified in paragraph (b)(1) of this section.

(ii) Gasoline subject to the 9.0 psi RVP standard in paragraph (a)(1) of this section in the following areas is excluded from the special regulatory treatment specified in paragraph (b)(1) of this section:

TABLE 2 TO PARAGRAPH (b)(3)(ii)—AREAS EXCLUDED FROM THE ETHANOL 1.0 psi WAIVER

State	Counties	Effective date
Illinois	All	April 28, 2025.
Iowa	All	April 28, 2025.
Minnesota	All	April 28, 2025.
Missouri	All	April 28, 2025.
Nebraska	All	April 28, 2025.
Ohio	All	April 28, 2025.
South Dakota	All	April 28, 2025.
Wisconsin	All	April 28, 2025.

(c) *Gasoline subject to more than one RVP standard.* Gasoline located in an area of the United States subject to more than one RVP standard specified in paragraphs (a)(1) through (5) of this section must meet the most stringent standard.

(d) *Exceptions.* The RVP standard in paragraph (a) of this section for the area in which the gasoline is located does not apply to that gasoline if the person(s) who produced, imported, sold, offered for sale, distributed, offered to distribute, supplied, offered for supply, dispensed, stored, transported, or introduced the gasoline into commerce can demonstrate one of the following:

(1) The gasoline is designated as winter gasoline and was not sold, offered for sale, supplied, offered for supply, dispensed, or introduced into commerce for use during the summer season and was not delivered to any retail outlet or WPC during the summer season.

(2) The gasoline is designated as summer gasoline for use in an area other than the area in which it is located and was not sold, offered for sale, supplied, offered for supply, dispensed, or introduced into commerce in the area in which the gasoline is located. In this case, the standard that applies to the gasoline is the standard applicable to the area for which the gasoline is designated.

■ 26. Amend § 1090.220 by revising paragraph (e) to read as follows:

§ 1090.220 RFG standards.

* * * * *

(e) *Certified butane and certified pentane blending limitation.* Certified butane and certified pentane must not be blended with Summer RFG or Summer RBOB under § 1090.1320(b).

■ 27. Revise and republish § 1090.230 to read as follows:

§ 1090.230 Limitation on use of gasoline-ethanol blends.

(a) No person may sell, introduce, cause, or permit the sale or introduction of gasoline containing greater than 10 volume percent ethanol (*e.g.,* E15) into any model year 2000 or older light-duty gasoline motor vehicle, any heavy-duty gasoline motor vehicle or engine, any highway or off-highway motorcycle, or any gasoline-powered nonroad engine, vehicle, or equipment.

(b) Paragraph (a) of this section does not prohibit a person from producing, selling, introducing, causing, or allowing the sale or introduction of gasoline containing greater than 10 volume percent ethanol into any flex-fuel vehicle or flex-fuel engine.

■ 28. Amend § 1090.265 by revising paragraph (c) to read as follows:

§ 1090.265 Gasoline additive standards.

* * * * *

(c) Any person who blends any fuel additive that does not meet the requirements of paragraphs (a) and (b) of this section is a gasoline manufacturer and must comply with all the requirements applicable to a gasoline manufacturer under this part.

* * * * *

■ 29. Amend § 1090.285 by revising the introductory text to read as follows:

§ 1090.285 RFG covered areas.

The RFG covered areas are as follows:

* * * * *

■ 30. Amend § 1090.290 by revising paragraph (d)(4) to read as follows:

§ 1090.290 Changes to RFG covered areas and procedures for opting out of RFG.

* * * * *

(d) * * *

(4) EPA will publish a document in the **Federal Register** announcing the approval of an RFG opt-out request and its effective date.

* * * * *

■ 31. Amend § 1090.295 by revising paragraph (d) to read as follows:

§ 1090.295 Procedures for relaxing the federal 7.8 psi RVP standard.

* * * * *

(d) EPA will publish a document in the **Federal Register** announcing the approval of any federal 7.8 psi gasoline relaxation request and its effective date.

* * * * *

Subpart D—Diesel Fuel and ECA Marine Fuel Standards

■ 32. Amend § 1090.300 by revising paragraph (h) to read as follows:

§ 1090.300 Overview and general requirements.

* * * * *

(h) No person may introduce used motor oil, or used motor oil blended with diesel fuel, into the fuel system of model year 2007 or later diesel fuel motor vehicles or engines or model year 2011 or later nonroad diesel fuel vehicles or engines (not including locomotive or marine engines).

■ 33. Amend § 1090.310 by revising paragraph (c) to read as follows:

§ 1090.310 Diesel fuel additives standards.

* * * * *

(c) The provisions of this section do not apply to additives used in 500 ppm LM diesel fuel or ECA marine fuel.

■ 34. Revise and republish § 1090.315 to read as follows:

§ 1090.315 Heating oil, kerosene, ECA marine fuel, and jet fuel provisions.

Heating oil, kerosene, ECA marine fuel, or jet fuel must not be sold for use in motor vehicles or nonroad equipment and are not subject to the ULSD standards in § 1090.305 unless it is also designated as ULSD under § 1090.1015(a).

■ 35. Amend § 1090.325 by revising paragraph (c)(1) to read as follows:

§ 1090.325 ECA marine fuel standards.

* * * * *

(c) * * *

(1) Residual fuel made available for use in a steamship or C3 marine vessel if the U.S. government exempts or excludes the vessel from MARPOL Annex VI fuel standards. Diesel fuel and other distillate fuel used in diesel fuel engines operated on such vessels is subject to the standards in this section instead of the standards in § 1090.305 or § 1090.320.

* * * * *

Subpart F—Transmix and Pipeline Interface Provisions

■ 36. Amend § 1090.500 by revising paragraph (c)(3)(ii) to read as follows:

§ 1090.500 Gasoline produced from blending transmix into PCG.

* * * * *

(c) * * *

(3) * * *

(ii) A letter signed by the RCO, or their delegate, stating that the information contained in the submission is true to the best of their belief must accompany the petition.

* * * * *

■ 37. Amend § 1090.510 by revising the section heading to read as follows:

§ 1090.510 Diesel fuel and distillate fuel produced from TDP.

* * * * *

■ 38. Amend § 1090.515 by revising paragraph (d) to read as follows:

§ 1090.515 500 ppm LM diesel fuel produced from TDP.

* * * * *

(d) *Use restrictions.* 500 ppm LM diesel fuel may only be used in locomotive or marine engines that are not required to use ULSD under 40 CFR 1033.815 or 40 CFR 1042.660, respectively. No person may use 500 ppm LM diesel fuel in locomotive or marine engines that are required to use ULSD, in any other nonroad vehicle or engine, or in any motor vehicle engine.

* * * * *

■ 39. Amend § 1090.520 by revising paragraph (b) to read as follows:

§ 1090.520 Handling practices for pipeline interface that is not transmix.

* * * * *

(b) During the summer season, a pipeline operator must not cut pipeline interface from two batches of gasoline subject to different RVP standards that are shipped adjacent to each other by pipeline into the batch of gasoline that is subject to the more stringent RVP standard. For example, during the summer season, a pipeline operator must not cut pipeline interface from a batch of RFG shipped adjacent to a batch of conventional gasoline into the batch of RFG.

Subpart G—Exemptions

■ 40. The heading of subpart G is revised to read as set forth above.

■ 41. Revise and republish § 1090.605 to read as follows:

§ 1090.605 Exemptions for national security and military use.

(a) Fuel, fuel additive, or regulated blendstock that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in the following tactical military vehicles, engines, or equipment, including locomotive or marine engines, is exempt from the standards specified in this part:

(1) Tactical military vehicles, engines, or equipment, including locomotive or marine engines, that have an EPA national security exemption from the emission standards in this chapter. See 40 CFR part 85, subpart R, and 40 CFR 1068.225.

(2) Tactical military vehicles, engines, or equipment, including locomotive or marine engines, that are not subject to a national security exemption from vehicle or engine emissions standards specified in paragraph (a)(1) of this section but, for national security purposes (*e.g.,* for purposes of readiness, including training, for deployment overseas), need to be fueled on the same fuel as the vehicles, engines, or equipment that EPA has granted such a national security exemption.

(b) The exempt fuel, fuel additive, or regulated blendstock must meet all the following requirements:

(1) The fuel, fuel additive, or regulated blendstock must be accompanied by PTDs that meet the requirements of subpart L of this part.

(2) The fuel, fuel additive, or regulated blendstock must be segregated from non-exempt fuel, fuel additive, or regulated blendstock at all points in the distribution system.

(3) The fuel, fuel additive, or regulated blendstock must be dispensed from a fuel dispenser stand, fueling truck, or tank that is labeled with the appropriate designation of the exempt fuel, fuel additive, or regulated blendstock.

(4) The fuel, fuel additive, or regulated blendstock must not be used in any vehicles, engines, or equipment, including locomotive or marine engines, other than those specified in paragraph (a) of this section.

■ 42. Revise and republish § 1090.610 to read as follows:

§ 1090.610 Exemptions for temporary research, development, and testing.

(a) *Requests for an exemption.* (1) Any person may receive an exemption from the standards specified in this part for fuel, fuel additive, or regulated blendstock used for research, development, or testing (''R&D'') purposes under paragraph (b) of this section by submitting the information specified in paragraph (c) of this section as specified in § 1090.10 and meeting the requirements of paragraph (d) of this section.

(2) Any person who performs emissions certification testing for a motor vehicle or motor vehicle engine under 42 U.S.C. 7525 or nonroad engine or nonroad vehicle under 42 U.S.C. 7546 is exempt from the standards specified in this part for the fuel, fuel additive, or regulated blendstock they use for emissions certification testing if they have an exemption under 40 CFR parts 85 and 86 to perform such testing.

(3) Any person who performs research, development, or testing of a fuel additive is exempt from the standards specified in this part for such fuel additive if the fuel additive is exempt under 40 CFR 79.4(b)(2).

(b) *Criteria for an R&D exemption.* For an R&D exemption to be granted, the person requesting an exemption must do all the following:

(1) Demonstrate that the exemption is for an appropriate R&D purpose.

(2) Demonstrate that an exemption is necessary.

(3) Design an R&D program that is reasonable in scope.

(4) Have a degree of control consistent with the purpose of the R&D program and EPA's monitoring requirements.

(5) Meet the requirements specified in paragraphs (c) and (d) of this section.

(c) *Information required to be submitted.* To aid in demonstrating each of the elements in paragraph (b) of this section, the person requesting an exemption must include, at a minimum, all the following information:

(1) A concise statement of the purpose of the R&D program demonstrating that

the R&D program has an appropriate R&D purpose.

(2) An explanation of why the stated purpose of the R&D program is unable to be achieved in a practicable manner without meeting the requirements of this part.

(3) A demonstration of the reasonableness of the scope of the R&D program, including all the following:

(i) An estimate of the R&D program's duration in time (including beginning and ending dates).

(ii) An estimate of the maximum number of vehicles, engines, and equipment involved in the program, and the number of miles and engine hours that will be accumulated on each.

(iii) The manner in which the information on the vehicles, engines, or equipment used in the R&D program will be recorded and made available to EPA upon request.

(iv) An estimate of the volume of fuel, fuel additive, or regulated blendstock expected to be used in the R&D program that does not comply with the requirements of this part, as applicable.

(v) A list of how all applicable standards of this part would or would not apply to the fuel, fuel additive, or regulated blendstock expected to be used in the R&D program.

(4) With regard to control, a demonstration that the R&D program affords EPA a monitoring capability, including all the following:

(i) A description of the technical and operational aspects of the R&D program.

(ii) The site of the R&D program (including facility name, street address, city, county, state, and ZIP code).

(iii) The manner in which information on the vehicles, engines, or equipment used in the R&D program will be recorded and made available to EPA upon request.

(iv) The manner in which information on the fuel, fuel additive, or regulated blendstock used in the R&D program (including quantity, properties, name, address, telephone number, and contact person of the supplier, and the date received from the supplier) will be recorded and made available to EPA upon request.

(v) The manner in which the person will ensure that fuel, fuel additive, or regulated blendstock used in the R&D program will be segregated from non-exempt fuel, fuel additive, or regulated blendstock and how fuel dispensers will be labeled to ensure that fuel, fuel additive, or regulated blendstock used in the R&D program is not dispensed for use in motor vehicles or nonroad engines, vehicles, or equipment, including locomotive or marine engines, that are not part of the R&D program.

(vi) The name, business address, telephone number, and title of the person in the organization requesting an exemption from whom further information on the application may be obtained.

(vii) The name, business address, telephone number, and title of the person in the organization requesting an exemption who is responsible for recording and making available the information specified in this paragraph (c), and the location where such information will be maintained.

(viii) Any other information requested by EPA to determine whether the R&D program satisfies the criteria in paragraph (b) of this section.

(d) *Additional requirements.* (1) Fuel, fuel additive, or regulated blendstock used in the R&D program must meet all the following requirements:

(i) The fuel, fuel additive, or regulated blendstock must be accompanied by PTDs that meet the requirements of subpart L of this part.

(ii) The fuel, fuel additive, or regulated blendstock must be designated as exempt fuel, fuel additive, or regulated blendstock by the fuel, fuel additive, or regulated blendstock manufacturer or supplier, as applicable.

(iii) The fuel, fuel additive, or regulated blendstock must be segregated from non-exempt fuel, fuel additive, or regulated blendstock at all points in the distribution system.

(iv) The fuel, fuel additive, or regulated blendstock must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a retail outlet or WPC facility, unless the WPC facility is associated with the R&D program that uses the fuel, fuel additive, or regulated blendstock.

(2) At the completion of the R&D program, any emission control systems or elements of design that are damaged or rendered inoperative must be replaced on vehicles, engines, or equipment remaining in service or the responsible person will be liable for a violation of 42 U.S.C. 7522(a)(3), unless sufficient evidence is supplied that the emission controls or elements of design were not damaged.

(e) *Approval of exemption.* EPA may grant an R&D exemption upon a demonstration that the requirements of this section have been met. The R&D exemption approval may include such terms and conditions as EPA determines necessary to monitor the exemption and to carry out the purposes of this part, including restoration of emission control systems.

(1) The volume of fuel, fuel additive, or regulated blendstock used in the R&D program must not exceed the amount estimated in paragraph (c)(3)(iv) of this section, unless EPA grants an approval for a greater amount.

(2) Any R&D exemption granted under this section will expire at the completion of the R&D program or 1 year from the date of approval, whichever occurs first, and may only be extended upon re-application consistent with the requirements of this section.

(3) If any information required in paragraph (c) of this section changes after approval of the R&D exemption, the responsible person must notify EPA in writing immediately.

(f) *Notification of completion.* Any person with an approved R&D exemption under this section must notify EPA in writing within 30 days after completion of the R&D program.

■ 43. Revise and republish § 1090.615 to read as follows:

§ 1090.615 Exemptions for racing and aviation.

Fuel, fuel additive, or regulated blendstock that is used in aircraft, or is used in racing vehicles or racing boats in sanctioned racing events, is exempt from the standards in subparts C and D of this part if all the following requirements are met:

(a) The fuel, fuel additive, or regulated blendstock must be identified on PTDs and on any fuel dispenser from which the fuel, fuel additive, or regulated blendstock is dispensed as restricted for use either in aircraft or in racing motor vehicles or racing boats that are used only in sanctioned racing events.

(b) The fuel, fuel additive, or regulated blendstock must be segregated from non-exempt fuel, fuel additive, or regulated blendstock at all points in the distribution system.

(c) The fuel, fuel additive, or regulated blendstock must not made available for use as gasoline or diesel fuel subject to the standards in subpart C or D of this part, respectively, or dispensed for use in motor vehicles or nonroad engines, vehicles, or equipment, including locomotive or marine engines, except for those used only in aircraft or in sanctioned racing events.

■ 44. Revise and republish § 1090.620 to read as follows:

§ 1090.620 Exemptions for Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or

transported for use in the territories of Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, is exempt from the standards in subparts C and D of this part if all the following requirements are met:

(a) The fuel must be designated by the fuel manufacturer as gasoline, diesel fuel, or ECA marine fuel for use only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(b) The fuel must be used only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(c) The fuel must be accompanied by PTDs that meet the requirements of subpart L of this part.

(d) The fuel must be segregated from non-exempt fuel at all points from the point the fuel is designated as exempt fuel for use only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, while the exempt fuel is in the United States (including an ECA or an ECA associated area under 40 CFR 1043.20) but outside these territories.

■ 45. Amend § 1090.625 by:
■ a. Revising paragraphs (b)(5) and (c)(1);
■ b. Revising and republishing paragraph (d)(2); and
■ c. Revising paragraph (e).

The revisions and republication read as follows:

§ 1090.625 Exemptions for California gasoline and diesel fuel.

* * * * *

(b) * * *

(5) Each transferor and transferee of California gasoline or diesel fuel produced outside the state of California must maintain copies of PTDs as specified in subpart M of this part.

* * * * *

(c) * * *

(1) Comply with the sampling and testing provisions specified in subpart N of this part, as applicable.

* * * * *

(d) * * *

(2) Redesignates the California gasoline as gasoline under this part without recertification and does all the following:

(i) Demonstrates that the gasoline meets all applicable requirements for California reformulated gasoline under Title 13 of the California Code of Regulations.

(ii) Properly redesignates the gasoline under § 1090.1010(b)(2)(vi).

(iii) Generates PTDs under subpart L of this part.

(iv) Keeps records under subpart M of this part.

(v) Does not include the redesignated California gasoline in their average standard compliance calculations.

(e) *California diesel fuel used outside of California.* California diesel fuel may be used in any part of the United States outside of the state of California without recertification if the manufacturer or distributor of the California diesel fuel redesignates the California diesel fuel as diesel fuel under this part and does all the following:

(1) Demonstrates that the diesel fuel meets all applicable requirements for California diesel fuel under Title 13 of the California Code of Regulations.

(2) Properly redesignates the diesel fuel under § 1090.1015(b)(3)(iii).

(3) Generates PTDs under subpart L of this part.

(4) Keeps records under subpart M of this part.

■ 46. Revise and republish § 1090.630 to read as follows:

§ 1090.630 Exemptions for Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands summer gasoline.

Summer gasoline that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands is exempt from the RVP standards in § 1090.215 if all the following requirements are met:

(a) The summer gasoline must be designated by the fuel manufacturer as summer gasoline for use only in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands.

(b) The summer gasoline must be used only in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands.

(c) The summer gasoline must be accompanied by PTDs that meet the requirements of subpart L of this part.

(d) The summer gasoline must be segregated from non-exempt gasoline at all points from the point the summer gasoline is designated as exempt fuel for use only in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands, while the exempt summer gasoline is in the United States but outside these states or territories.

■ 47. Amend § 1090.635 by revising the section heading to read as follows:

§ 1090.635 Exemptions for refinery extreme, unusual, and unforeseen hardship.

* * * * *

■ 48. Revise and republish § 1090.640 to read as follows:

§ 1090.640 Exemptions for E85.

(a) Gasoline that is used to produce E85 is exempt from the gasoline deposit control requirements in § 1090.260.

(b) Any person who uses the exemption in paragraph (a) of this section must keep records to demonstrate that such exempt gasoline was used to produce E85 and was not distributed from a terminal for use as gasoline.

■ 49. Revise and republish § 1090.645 to read as follows:

§ 1090.645 Exemptions for exports of fuel, fuel additive, and regulated blendstock.

(a) Fuel, fuel additive, or regulated blendstock that is exported for sale outside of the United States is exempt from the standards in subparts C and D of this part if all the following requirements are met:

(1) The fuel, fuel additive, or regulated blendstock must be designated for export by the fuel manufacturer, fuel additive manufacturer, or regulated blendstock producer.

(2) The fuel, fuel additive, or regulated blendstock designated for export must be accompanied by PTDs that meet the requirements of subpart L of this part.

(3) The fuel manufacturer, fuel additive manufacturer, or regulated blendstock producer must keep records that demonstrate that the fuel, fuel additive, or regulated blendstock was ultimately exported from the United States.

(4) The fuel, fuel additive, or regulated blendstock must be segregated from non-exempt fuel, fuel additive, or regulated blendstock at all points from the point the fuel, fuel additive, or regulated blendstock is designated for export to the point where it is ultimately exported from the United States.

(b) Fuel, fuel additive, or regulated blendstock certified and designated for export may be certified for use in the United States if all the applicable requirements of this part are met.

(c) Any fuel dispensed from a retail outlet within the geographic boundaries of the United States is not exempt under this section.

■ 50. Revise and republish § 1090.650 to read as follows:

§ 1090.650 Exemptions for distillate global marine fuel.

(a) Distillate global marine fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in steamships or Category 3 marine vessels is exempt from the standards in subpart D of this part when operating outside of ECA boundaries if all the following requirements are met:

(1) The fuel must not exceed 0.50 weight percent sulfur (5,000 ppm).

(2) The fuel must be accompanied by PTDs that meet the requirements of subpart L of this part.

(3) The fuel must be designated as distillate global marine fuel.

(4) The fuel must be segregated from non-exempt fuel at all points in the distribution system.

(5) The fuel must not be used in vehicles, engines, or equipment other than in steamships or Category 3 marine vessels.

(b)(1) Fuel that does not meet the requirements specified in paragraph (a) of this section is subject to the standards, requirements, and prohibitions that apply for ULSD under this part.

(2) Any person who produces, imports, sells, offers for sale, supplies, offers for supply, stores, dispenses, or transports distillate global marine fuel without meeting the applicable recordkeeping requirements of subpart M of this part must not claim the fuel is exempt from the standards, requirements, and prohibitions that apply for ULSD under this part.

Subpart H—Averaging, Banking, and Trading Provisions

■ 51. Amend § 1090.700 by:
■ a. Revising and republishing paragraphs (a) and (b); and
■ b. Revising paragraphs (e)(7) and (8).

The revisions and republications read as follows:

§ 1090.700 Compliance with average standards.

(a) *Compliance with the sulfur average standard.* For each of their facilities, a gasoline manufacturer must demonstrate compliance with the sulfur average standard in § 1090.205(a) by using the equations in paragraphs (a)(1) and (2) of this section.

(1) *Compliance sulfur value calculation.* (i) The compliance sulfur value is determined as follows:

Equation 1 to paragraph (a)(1)(i)

$$CSV_y = S_{tot,y} + D_{s,(y-1)} + D_{S\_Oxy\_Total,y} - C$$

Where:

CSV_y = Compliance sulfur value for compliance period y, in ppm-gallons.

$S_{tot,y}$ = Total amount of sulfur produced during compliance period y, per paragraph (a)(1)(ii) of this section, in ppm-gallons.

$Ds_{,(y-1)}$ = Sulfur deficit from compliance period y–1, per § 1090.715(a)(1), in ppm-gallons.

$D_{S\_Oxy\_Total,y}$ = Total sulfur deficit from downstream BOB recertification during compliance period y, per § 1090.740(b)(1), in ppm-gallons.

C_S = Sulfur credits used by the gasoline manufacturer, per § 1090.720, in ppm-gallons.

(ii) The total amount of sulfur produced is determined as follows:

Equation 2 to paragraph (a)(1)(ii)

$$S_{tot,y} = \sum_{i=1}^{n} (V_i \cdot S_i)$$

Where:

$S_{tot,y}$ = Total amount of sulfur produced during compliance period y, in ppm-gallons.

V_i = Volume of gasoline produced or imported in batch i, in gallons.

S_i = Sulfur content of batch i, in ppm.

i = Individual batch of gasoline produced or imported during the compliance period.

n = Number of batches of gasoline produced or imported during the compliance period.

If the calculation of $S_{tot,y}$ results in a negative number, replace it with zero.

(2) *Sulfur compliance calculation.* (i) Compliance with the sulfur average standard in § 1090.205(a) is achieved if the following equation is true:

Equation 3 to paragraph (a)(2)(i)

$$CSV_y \leq V_{tot} \cdot S_{std}$$

Where:

CSV_y = Compliance sulfur value for compliance period y, per paragraph (a)(1)(i) of this section, in ppm-gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

S_{std} = Gasoline sulfur average standard, per § 1090.205(a), in ppm.

(ii) Compliance with the sulfur average standard in § 1090.205(a) is not achieved if a deficit is incurred two or more consecutive years. A gasoline manufacturer incurs a deficit under § 1090.715 if the following equation is true:

Equation 4 to paragraph (a)(2)(ii)

$$CSV_y > V_{tot} \cdot S_{std}$$

Where:

CSV_y = Compliance sulfur value for compliance period y, per paragraph (a)(1)(i) of this section, in ppm-gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

S_{std} = Sulfur average standard, per § 1090.205(a), in ppm.

(b) *Compliance with the benzene average standards.* For each of their facilities, a gasoline manufacturer must demonstrate compliance with the benzene average standard in § 1090.210(a) by using the equations in paragraphs (b)(1) and (2) of this section and with the maximum benzene average standard in § 1090.210(b) by using the equations in paragraphs (b)(3) and (4) of this section.

(1) *Compliance benzene value calculation.* (i) The compliance benzene value is determined as follows:

Equation 5 to paragraph (b)(1)(i)

$$CBV_y = Bz_{tot,y} + D_{BZ,(y-1)} + D_{BZ\_OXy\_\_Total,y} - C_{BZ}$$

Where:

CBV_y = Compliance benzene value for compliance period y, in benzene gallons.

$Bz_{tot,y}$ = Total amount of benzene produced during compliance period y, per paragraph (b)(1)(ii) of this section, in benzene gallons.

$D_{Bz,(y-1)}$ = Benzene deficit from compliance period y − 1, per § 1090.715(a)(2), in benzene gallons.

$D_{Bz\_Oxy\_Total,y}$ = Total benzene deficit from downstream BOB recertification during compliance period y, per § 1090.740(b)(3), in benzene gallons.

C_{Bz} = Benzene credits used by the gasoline manufacturer, per § 1090.720, in benzene gallons.

(ii) The total amount of benzene produced is determined as follows:

Equation 6 to paragraph (b)(1)(ii)

$$Bz_{tot,y} = \sum_{i=1}^{n} \left(\frac{V_i \cdot Bz_i}{100} \right)$$

Where:

$Bz_{tot,y}$ = Total amount of benzene produced during compliance period y, in benzene gallons.

V_i = Volume of gasoline produced or imported in batch i, in gallons.

Bz_i = Benzene content of batch i, in volume percent.

i = Individual batch of gasoline produced or imported during the compliance period.

n = Number of batches of gasoline produced or imported during the compliance period.

If the calculation of $Bz_{tot,y}$ results in a negative number, replace it with zero.

(2) *Benzene average compliance calculation.* (i) Compliance with the benzene average standard in § 1090.210(a) is achieved if the following equation is true:

Equation 7 to paragraph (b)(2)(i)

$$CBV_y \leq V_{tot} \cdot \frac{Bz_{avg\_std}}{100}$$

Where:

CBV_y = Compliance benzene value for compliance period y, per paragraph (b)(1)(i) of this section, in benzene gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

Bz_{avg_std} = Benzene average standard, per § 1090.210(a), in volume percent.

(ii) Compliance with the benzene average standard in § 1090.210(a) is not achieved if a deficit is incurred two or more consecutive years. A gasoline manufacturer incurs a deficit under § 1090.715 if the following equation is true:

Equation 8 to paragraph (b)(2)(ii)

$$CBV_y > V_{tot} \cdot \frac{Bz_{avg\_std}}{100}$$

Where:

CBV_y = Compliance benzene value for compliance period y, per paragraph (b)(1)(i) of this section, in benzene gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

Bz_{avg_std} = Benzene average standard, per § 1090.210(a), in volume percent.

(3) *Average benzene concentration calculation.* The average benzene concentration is determined as follows:

Equation 9 to paragraph (b)(3)

$$Bz_{avg,y} = \frac{\sum_{i=1}^{n}(V_i \cdot Bz_i)}{V_{tot}}$$

Where:

$Bz_{avg,y}$ = Average benzene concentration for compliance period y, in volume percent.

V_i = Volume of gasoline produced or imported in batch i, in gallons.

Bz_i = Benzene content of batch i, in volume percent.

i = Individual batch of gasoline produced or imported during the compliance period.

n = Number of batches of gasoline produced or imported during the compliance period.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

(4) *Maximum benzene average compliance calculation.* Compliance with the maximum benzene average standard in § 1090.210(b) is achieved if the following equation is true:

Equation 10 to paragraph (b)(4)

$$BZ_{avg,y} \leq BZ_{max\_std}$$

Where:

$Bz_{avg,y}$ = Average benzene concentration for compliance period y, per paragraph (b)(3) of this section, in volume percent.

Bz_{max_std} = Maximum benzene average standard, per § 1090.210(b), in volume percent.

(5) *Rounding and reporting benzene values.* (i) The total amount of benzene produced, as calculated in paragraph (b)(1)(ii) of this section, must be rounded to the nearest whole benzene gallon in accordance with § 1090.50.

(ii) The average benzene concentration, as calculated in paragraph (b)(3) of this section, must be rounded and reported to two decimal places in accordance with § 1090.50.

* * * * *

(e) * * *

(7) Gasoline imported by rail or truck using the provisions of § 1090.1610 to meet the alternative per-gallon standards of §§ 1090.205(d) and 1090.210(c).

(8) Gasoline exempt under subpart G of this part from the average standards in subpart C of this part (*e.g.,* California gasoline, racing fuel, etc.).

■ 52. Amend § 1090.710 by revising the introductory text to read as follows:

§ 1090.710 Downstream oxygenate accounting.

The requirements of this section apply to BOB for which a gasoline manufacturer accounts for the effects of the oxygenate blending that occurs downstream of the fuel manufacturing facility gate in the gasoline manufacturer's average standard compliance calculations under this subpart. This section also includes requirements for oxygenate blenders to ensure that oxygenate is added in accordance with the blending instructions specified by the gasoline manufacturer in order to ensure fuel quality standards are met.

* * * * *

■ 53. Amend § 1090.715 by revising and republishing paragraph (a) to read as follows:

§ 1090.715 Deficit carryforward.

(a) A gasoline manufacturer incurs a compliance deficit if they exceed the average standard specified in subpart C of this part for a given compliance period. The deficit incurred must be determined as specified in paragraph (a)(1) of this section for sulfur and paragraph (a)(2) of this section for benzene.

(1) The sulfur deficit incurred is determined as follows:

Equation 1 to paragraph (a)(1)

$$D_{s,y} = CSV - V_{tot} \cdot S_{std}$$

Where:

$D_{S,y}$ = Sulfur deficit incurred for compliance period y, in ppm-gallons.

CSV_y = Compliance sulfur value for compliance period y, per § 1090.700(a)(1), in ppm-gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

S_{std} = Sulfur average standard, per § 1090.205(a), in ppm.

(2) The benzene deficit incurred is determined as follows:

Equation 2 to paragraph (a)(2)

$$D_{Bz,y} = CBV_y - V_{tot} \cdot \frac{Bz_{avg\_std}}{100}$$

$D_{Bz,y}$ = Benzene deficit incurred for compliance period y, in benzene gallons.

CBV_y = Compliance benzene value for compliance period y, per § 1090.700(b)(1)(i), in benzene gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

Bz_{avg_std} = Benzene average standard, per § 1090.210(a), in volume percent.

* * * * *

■ 54. Amend § 1090.720 by revising paragraphs (c)(5) and (d) to read as follows:

§ 1090.720 Credit use.

* * * * *

(c) * * *

(5) A gasoline manufacturer must only use credits that they own at the time of use.

(d) *Credit reporting.* A gasoline manufacturer that generates, transacts, or uses credits under this subpart must submit reports to EPA that include all information regarding credits as specified in § 1090.905 using forms and procedures specified by EPA.

* * * * *

■ 55. Amend § 1090.725 by revising paragraphs (a)(2)(vi), (c)(1), (d)(1), and (f) to read as follows:

§ 1090.725 Credit generation.

(a) * * *

(2) * * *

(vi) Importation of gasoline by rail or truck using the alternative sampling and testing requirements in § 1090.1610.

* * * * *

(c) * * *

(1) The number of sulfur credits generated is determined as follows:

Equation 1 to paragraph (c)(1)

$$C_{S,y} = V_{tot} \cdot S_{std} - CSV_y$$

Where:

$C_{S,y}$ = Sulfur credits generated for compliance period y, in ppm-gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

S_{std} = Sulfur average standard, per § 1090.205(a), in ppm.

CSV_y = Compliance sulfur value for compliance period y, per § 1090.700(a)(1), in ppm-gallons.

* * * * *

(d) * * *

(1) The number of benzene credits generated is determined as follows:

Equation 2 to paragraph (d)(1)

$$C_{Bz,y} = V_{tot} \cdot \frac{Bz_{avg\_std}}{100} - CBV_y$$

Where:

$C_{Bz,y}$ = Benzene credits generated for compliance period y, in benzene gallons.

V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

Bz_{avg_std} = Benzene average standard, per § 1090.210(a), in volume percent.

CBV_y = Compliance benzene value for compliance period y, per § 1090.700(b)(1)(i), in benzene gallons.

* * * * *

(f) *Credit generation reporting.* A gasoline manufacturer that generates credits under this section must submit reports to EPA that contain all information regarding credit generation as specified in § 1090.905 using forms and procedures specified by EPA.

■ 56. Amend § 1090.730 by revising paragraphs (f) and (h) to read as follows:

§ 1090.730 Credit transfers.

* * * * *

(f) No person may transfer credits if the transfer would cause them to incur a compliance deficit under § 1090.715.

* * * * *

(h) The transferor and the transferee must submit reports to EPA that include all information regarding the transaction as specified in § 1090.905 using forms and procedures specified by EPA.

■ 57. Amend § 1090.735 by revising paragraph (a) to read as follows:

§ 1090.735 Invalid credits and remedial actions.

* * * * *

(a) Invalid credits must not be used to achieve compliance with an average standard specified in subpart C of this part, regardless of the good faith belief that the credits were validly generated.

* * * * *

■ 58. Amend § 1090.740 by:

■ a. Revising paragraphs (a)(2) and (4); and

■ b. Revising and republishing paragraph (b).

The revisions and republication read as follows:

§ 1090.740 Downstream BOB recertification.

(a) * * *

(2) A gasoline manufacturer must comply with applicable requirements of this part and incur deficits to be included in their compliance calculations under § 1090.700 for each facility at which the gasoline manufacturer recertifies BOB.

* * * * *

(4) A party that only recertifies BOB that contains a greater amount of a specified oxygenate (*e.g.,* a party adds 15 volume percent ethanol instead of 10 volume percent ethanol to an E10 BOB) or a different oxygenate at an equal or greater amount (*e.g.,* a party adds 16 volume percent isobutanol instead of 10 volume percent ethanol to an E10 BOB) does not incur deficits under this section, does not need to submit reports under subpart J of this part, and does not need to arrange for an auditor to conduct an audit under subpart S of this part. The party must still comply with all other applicable provisions of this part (*e.g.,* register and keep records under subparts I and M of this part, respectively).

(b) A gasoline manufacturer that recertifies a BOB under this section must calculate sulfur and benzene deficits for each batch and the total deficits for sulfur and benzene as follows:

(1) *Total sulfur deficit from downstream BOB recertification.* Calculate the total sulfur deficit from downstream BOB recertification for each facility as follows:

Equation 1 to paragraph (b)(1)

$$D_{S\_Oxy\_Total,y} = \sum_{i=1}^{n} D_{S\_Oxy\_Batch,i}$$

Where:

$D_{S\_Oxy\_Total,y}$ = Total sulfur deficit from downstream BOB recertification during compliance period y, in ppm-gallons.

$D_{S\_Oxy\_Batch,i}$ = Sulfur deficit for batch i of recertified BOB, per paragraph (b)(2) of this section, in ppm-gallons.

i = Individual batch of BOB recertified during compliance period y.

n = Number of batches of BOB recertified during compliance period y.

(2) *Sulfur deficits from downstream BOB recertification.* Calculate the sulfur deficit from BOB recertification for each individual batch of BOB recertified as follows:

Equation 2 to paragraph (b)(2)

$$D_{S\_Oxy\_Batch,i} = V_{BOB} \cdot PSV \cdot \left(\frac{1}{1 - (PTD_{Oxy} - ACTUAL_{Oxy})} - 1 \right)$$

Where:

$D_{S\_Oxy\_Batch,i}$ = Sulfur deficit for batch i of recertified BOB, in ppm-gallons.

V_{BOB} = Volume of BOB in the batch being recertified, in gallons.

PSV = Presumed sulfur value of recertified BOB, in ppm. For purposes of this equation, PSV equals 11 ppm.

PTD_{Oxy} = Volume fraction of oxygenate that would have been added to the BOB as specified on PTDs.

$ACTUAL_{Oxy}$ = Volume fraction of oxygenate that was actually added to the BOB. If no oxygenate was added to the BOB, then $ACTUAL_{Oxy}$ equals 0.

(3) *Total benzene deficit from downstream BOB recertification.* Calculate the total benzene deficit from downstream BOB recertification for each facility as follows:

Equation 3 to paragraph (b)(3)

$$D_{Bz\_Oxy\_Total,y} = \sum_{i=1}^{n} D_{Bz\_Oxy\_Batch,i}$$

Where:

$D_{Bz\_Oxy\_Total,y}$ = Total benzene deficit from downstream BOB recertification during compliance period y, in benzene gallons.

$D_{Bz\_Oxy\_Batch,i}$ = Benzene deficit for batch i of recertified BOB, per paragraph (b)(4) of this section, in benzene gallons.

i = Individual batch of BOB recertified during compliance period y.

n = Number of batches of BOB recertified during compliance period y.

(4) *Benzene deficits from downstream BOB recertification.* Calculate the benzene deficit from BOB recertification for each individual batch of BOB recertified as follows:

Equation 4 to paragraph (b)(4)

$$D_{Bz\_Oxy\_Batch,i} = V_{BOB} \cdot \frac{PBV}{100} \cdot \left(\frac{1}{1 - (PTD_{Oxy} - ACTUAL_{Oxy})} - 1 \right)$$

Where:

$D_{Bz\_Oxy\_Batch,i}$ = Benzene deficit for batch i of recertified BOB, in benzene gallons.
V_{BOB} = Volume of BOB in the batch being recertified, in gallons.
PBV = Presumed benzene value of recertified BOB, in volume percent. For purposes of this equation, PBV equals 0.68 volume percent.
PTD_{Oxy} = Volume fraction of oxygenate that would have been added to the BOB as specified on PTDs.
$ACTUAL_{Oxy}$ = Volume fraction of oxygenate that was actually added to the BOB. If no oxygenate was added to the BOB, then $ACTUAL_{Oxy}$ equals 0.

(5) *Deficit rounding.* The deficits calculated in paragraphs (b)(1) through (4) of this section must be rounded and reported to the nearest sulfur ppm-gallon or benzene gallon in accordance with § 1090.50, as applicable.

* * * * *

■ 59. Revise and republish § 1090.745 to read as follows:

§ 1090.745 Informational annual average calculations.

(a) A gasoline manufacturer must calculate and report annual average sulfur and benzene concentrations for each of their facilities as specified in this section. The values calculated and reported under this section are not used to demonstrate compliance with average standards under this part.

(b) A gasoline manufacturer must calculate and report their unadjusted average sulfur concentration as follows:

Equation 1 to paragraph (b)

$$S_{avg,y} = \frac{\sum_{i=1}^{n}(V_i \cdot S_i)}{V_{tot}}$$

Where:

$S_{avg,y}$ = Facility unadjusted average sulfur concentration for compliance period y, in ppm. Round and report $S_{avg,y}$ to two decimal places.
V_i = Volume of gasoline produced or imported in batch i, in gallons.
S_i = Sulfur content of batch i, in ppm.
i = Individual batch of gasoline produced or imported during the compliance period.
n = Number of batches of gasoline produced or imported during the compliance period.
V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

(c) A gasoline manufacturer must calculate and report their net average sulfur concentration as follows:

Equation 2 to paragraph (c)

$$S_{net\_avg,y} = \frac{CSV_y}{V_{tot}}$$

Where:

$S_{net\_avg,y}$ = Facility net average sulfur concentration for compliance period y, in ppm. Round and report $S_{net\_avg,y}$ to two decimal places.
CSV_y = Compliance sulfur value for compliance period y, per § 1090.700(a)(1), in ppm-gallons.
V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

(d) A gasoline manufacturer must calculate and report their net average benzene concentration as follows:

Equation 3 to paragraph (d)

$$B_{net\_avg,y} = \frac{CBV}{V_{tot}}$$

Where:

$B_{net\_avg,y}$ = Facility net average benzene concentration for compliance period y, in volume percent. Round and report $B_{net\_avg,y}$ to two decimal places.
CBV_y = Compliance benzene value for compliance period y, per § 1090.700(b)(1)(i), in benzene gallons.
V_{tot} = Total volume of gasoline produced or imported during the compliance period, in gallons.

Subpart I—Registration

■ 60. Amend § 1090.800 by revising paragraph (d) to read as follows:

§ 1090.800 General provisions.

* * * * *

(d) *RCO submission.* Registration information must be submitted by the RCO. The RCO may delegate responsibility to a person who is familiar with the requirements of this part and who is no lower in the organization than a fuel manufacturing facility manager, or equivalent.

* * * * *

■ 61. Amend § 1090.805 by revising and republishing paragraph (b) to read as follows:

§ 1090.805 Contents of registration.

* * * * *

(b) *Additional information required for certified pentane producers.* In addition to the information in paragraph (a) of this section, a certified pentane producer must also submit the following information:

(1) A description of the certified pentane production facility that demonstrates that the facility is capable of producing certified pentane that is compliant with the requirements of this part without significant modifications to the existing facility.

(2) A description of how certified pentane will be shipped from the certified pentane production facility to the certified pentane blender(s) and the associated quality assurance practices that demonstrate that contamination during distribution can be adequately controlled so as not to cause certified pentane to be in violation of the standards in this part.

■ 62. Amend § 1090.815 by revising paragraph (a)(4) to read as follows:

§ 1090.815 Deactivation (involuntary cancellation) of registration.

(a) * * *

(4) Any required attestation engagement report has not been received within 30 days of the required submission date.

* * * * *

■ 63. Amend § 1090.820 by revising paragraph (b)(3) to read as follows:

§ 1090.820 Changes of ownership.

* * * * *

(b) * * *

(3) A letter, signed by the RCO from the company that currently owns or will own the company or facility and, if possible, documentation from the company that previously registered the company or facility that details the effective date of the transfer of ownership of the company or facility and summarizes any changes to the registration information.

* * * * *

Subpart J—Reporting

■ 64. Amend § 1090.900 by revising paragraphs (c) and (d) to read as follows:

§ 1090.900 General provisions.

* * * * *

(c) *Report deadlines.* All annual, batch, and credit transaction reports required under this subpart, except attestation engagement reports, must be submitted by March 31 for the preceding compliance period (*e.g.,* reports covering the calendar year 2021 must be submitted to EPA by no later than March 31, 2022). Attestation engagement reports must be submitted by June 1 for the preceding compliance period (*e.g.,* attestation engagement reports covering calendar year 2021 must be submitted to EPA by no later than June 1, 2022). Independent survey

quarterly reports must be submitted by the deadlines in table 1 to paragraph (a)(4) in § 1090.925.

(d) *RCO submission.* Reports must be signed and submitted by the RCO or their delegate.

■ 65. Amend § 1090.905 by:
■ a. Revising the section heading;
■ b. Revising paragraphs (a)(2)(iv)(E), (b)(2)(vi)(E), (c)(1)(viii), and (c)(2)(ii), (iii), and (viii);
■ c. In paragraphs (c)(3)(i)(F) and (G), removing the text ''BOB'' and add, in its place, the text ''BOB and the blending manufacturer is accounting for downstream oxygenate under § 1090.710''.
■ d. Removing paragraph (c)(3)(i)(H);
■ e. Redesignating paragraphs (c)(3)(i)(I) and (J) as paragraphs (c)(3)(i)(H) and (I); and
■ f. Revising paragraphs (c)(4) introductory text, (c)(5)(i)(E), and (c)(8)(vii)(A).

The revisions read as follows:

§ 1090.905 Reports by gasoline manufacturers.

(a) * * *
(2) * * *
(iv) * * *

(E) The total sulfur deficit from downstream BOB recertification, per § 1090.740(b)(1).

* * * * *

(b) * * *
(2) * * *
(vi) * * *

(E) The total benzene deficit from downstream BOB recertification, per § 1090.740(b)(3).

* * * * *

(c) * * *
(1) * * *

(viii) For all batches of summer gasoline:

(A)(*1*) The applicable RVP standard, as specified in § 1090.215.

(*2*) Whether the ethanol 1.0 psi waiver under § 1090.215(b) applies.

(B) The tested RVP of the batch, in psi, and the test method used to measure the RVP. If the gasoline is Summer RFG that is designated as ''Intended for Oxygenate Blending'' under § 1090.1010(a)(4), report the tested RVP of the hand blend.

* * * * *

(2) * * *

(ii) The batch number.

(iii) The date the batch was produced or imported.

* * * * *

(viii) For all batches of summer BOB:

(A)(*1*) The applicable RVP standard, as specified in § 1090.215, for the neat CBOB or hand blend of RBOB and oxygenate prepared under § 1090.1340.

(*2*) Whether the ethanol 1.0 psi waiver under § 1090.215(b) applies for the neat CBOB or hand blend of RBOB and oxygenate prepared under § 1090.1340.

(B) The tested RVP of the neat CBOB or hand blend of RBOB and oxygenate prepared under § 1090.1340, in psi, and the test method used to measure the RVP.

* * * * *

(4) For blendstock(s) added to PCG by a gasoline manufacturer complying by addition under § 1090.1320(a)(2), report each blendstock as a separate batch and all the following information:

* * * * *

(5) * * *
(i) * * *

(E) The volume percentage of butane in batches of butane, or pentane in batches of pentane, provided by the certified butane or certified pentane supplier.

* * * * *

(8) * * *
(vii) * * *

(A)(*1*) The applicable RVP standard, as specified in § 1090.215.

(*2*) Whether the ethanol 1.0 psi waiver under § 1090.215(b) applies.

* * * * *

■ 66. Amend § 1090.910 by:
■ a. Revising the section heading; and
■ b. Revising the introductory text and paragraphs (a)(1)(ix) and (x).

The revisions read as follows:

§ 1090.910 Reports by gasoline manufacturers that recertify BOB to gasoline.

A gasoline manufacturer that recertifies BOB under § 1090.740 must report the information of this section, as applicable.

(a) * * *
(1) * * *

(ix) The sulfur deficit for the batch calculated under § 1090.740(b)(2).

(x) The benzene deficit for the batch calculated under § 1090.740(b)(4).

* * * * *

■ 67. Amend § 1090.915 by revising the section heading and paragraph (c)(5) to read as follows:

§ 1090.915 Reports by oxygenate producers and importers.

* * * * *

(c) * * *

(5) The sulfur content of the batch, in ppm, and the method used to determine the sulfur content.

* * * * *

■ 68. Amend § 1090.925 by:
■ a. Revising paragraph (b)(3) introductory text; and
■ b. Revising and republishing paragraph (c)(3).

The revisions read as follows:

§ 1090.925 Reports by independent surveyors.

* * * * *

(b) * * *

(3) For each diesel fuel sample collected at a retail outlet by the independent surveyor:

* * * * *

(c) * * *

(3) Summary statistics for each identified geographic area, including the following:

(i) The number of samples collected and tested.

(ii) The mean, median, and range expressed in appropriate units for each measured fuel parameter.

(iii) The standard deviation for each measured fuel parameter.

(iv) The estimated compliance rate for each measured fuel parameter subject to a per-gallon standard in subpart C or D of this part.

(v) A summary of potential noncompliance issues.

* * * * *

■ 69. Revise and republish § 1090.930 to read as follows:

§ 1090.930 Reports by auditors.

(a) Attestation engagement reports required under subpart S of this part must be submitted by an independent auditor registered with EPA and associated with a company, or companies, through registration under subpart I of this part. Each attestation engagement report must clearly identify the company and compliance level (*e.g.,* facility), time period, and scope covered by the report. Attestation engagement reports covered by this section include those required under this part and those required under 40 CFR part 80, subpart M, beginning with the report due June 1, 2022.

(b) An attestation engagement report must be submitted to EPA covering each compliance period by June 1 of the following calendar year. The auditor must make the attestation engagement report available to the company for which it was performed.

(c) The attestation engagement must comply with subpart S of this part and the attestation engagement report must clearly identify the methodologies followed and any findings, exceptions, and variances.

(d) A single attestation engagement report submission by the auditor may include procedures performed under this part and under 40 CFR part 80, subpart M. If a single submission method is used, the auditor must clearly and separately describe the procedures and findings for each program.

(e) The auditor must submit written acknowledgement from the RCO that the gasoline manufacturer has reviewed the attestation engagement report.

■ 70. Amend § 1090.935 by revising paragraphs (a)(1) introductory text and (a)(1)(i) to read as follows:

§ 1090.935 Reports by diesel fuel manufacturers.

(a) * * *

(1) For each compliance period, a diesel fuel manufacturer that produces ULSD must submit the following information:

(i) The EPA-issued company and facility identifiers for the diesel fuel manufacturer.

* * * * *

Subpart K—Batch Certification and Designation

■ 71. Amend § 1090.1000 by revising paragraphs (b)(2)(ii), (b)(4) introductory text, (b)(5), (c)(2)(ii), and (e)(2)(i)(A) to read as follows:

§ 1090.1000 Batch certification requirements.

* * * * *

(b) * * *

(2) * * *

(ii) Ensure that each batch of gasoline meets the applicable requirements of subpart C of this part using the applicable procedures specified in subpart N of this part. A transmix processor must also meet all applicable requirements of subpart F of this part to ensure that each batch of gasoline meets the applicable requirements of subpart C of this part.

* * * * *

(4) Any person who mixes summer gasoline with summer or winter gasoline that has a different designation must comply with one of the following:

* * * * *

(5) Any person who mixes summer gasoline with winter gasoline to transition any storage tank from winter to summer gasoline is exempt from the requirement in paragraph (b)(4)(ii) of this section but must ensure that the gasoline meets the applicable RVP standard in § 1090.215.

(c) * * *

(2) * * *

(ii) Ensure that each batch of diesel fuel or ECA marine fuel meets the applicable requirements of subpart D of this part using the applicable procedures specified in subpart N of this part. A transmix processor must also meet all applicable requirements specified in subpart F of this part to ensure that each batch of diesel fuel or ECA marine fuel meets the applicable requirements of subpart D of this part.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) Testing must occur after the most recent delivery into the certified butane producer's storage tank, before transferring the certified butane batch for delivery.

* * * * *

■ 72. Amend § 1090.1005 by revising the section heading to read as follows:

§ 1090.1005 Designation of batches of fuel, fuel additive, and regulated blendstock.

* * * * *

■ 73. Amend § 1090.1010 by revising paragraph (c)(2) to read as follows:

§ 1090.1010 Designation requirements for gasoline and regulated blendstocks.

* * * * *

(c) * * *

(2) The name of the specific oxygenate (*e.g.,* isobutanol).

* * * * *

■ 74. Amend § 1090.1015 by:

■ a. Revising the section heading; and

■ b. Revising the paragraph heading of paragraph (a), and paragraphs (b) introductory text, and (b)(3)(iii) through (v).

The revisions read as follows:

§ 1090.1015 Designation requirements for diesel fuel and distillate fuel.

(a) *Designation requirements for diesel fuel and distillate fuel manufacturers.*

* * * * *

(b) *Designation requirements for distributors of diesel fuel and distillate fuel.* A distributor of diesel fuel or distillate fuel must accurately and clearly designate each batch of diesel fuel or distillate fuel for which they transfer custody as follows:

* * * * *

(3) * * *

(iii) California diesel fuel may be redesignated as ULSD if the requirements specified in § 1090.625(e) are met.

(iv) Heating oil, kerosene, ECA marine fuel, or jet fuel may be redesignated as ULSD if it meets the ULSD standards in § 1090.305 and was designated as ULSD under paragraph (a) of this section.

(v) 500 ppm LM diesel fuel may be redesignated as ECA marine fuel, distillate global marine fuel, or heating oil. Any person who redesignates 500 ppm LM diesel fuel to ECA marine fuel or distillate global marine fuel must maintain records from the producer of the 500 ppm LM diesel fuel (*i.e.,* PTDs accompanying the fuel under § 1090.1115) to demonstrate compliance with the 500 ppm sulfur standard in § 1090.320(b).

* * * * *

Subpart L—Product Transfer Documents

■ 75. Amend § 1090.1100 by revising paragraph (c) to read as follows:

§ 1090.1100 General requirements.

* * * * *

(c) *Part 80 PTD requirements.* For any product subject to 40 CFR part 80, subpart M, a party must also include the applicable PTD information required under 40 CFR 80.1453.

■ 76. Revise and republish § 1090.1105 to read as follows:

§ 1090.1105 PTD requirements for exempt fuel, fuel additive, and regulated blendstock.

(a) In addition to the information required under § 1090.1100, on each occasion when any person transfers custody or title to any exempt fuel, fuel additive, or regulated blendstock under subpart G of this part, other than when the exempt fuel, fuel additive, or regulated blendstock is sold or dispensed to the ultimate end user at a retail outlet or WPC facility, the transferor must provide the transferee PTDs that include the following statements, as applicable:

(1) *National security exemption language.* For fuel, fuel additive, or regulated blendstock with a national security exemption specified in § 1090.605: ''This fuel is for use in vehicles, engines, or equipment under an EPA-approved national security exemption only.''

(2) *R&D exemption language.* For fuel, fuel additive, or regulated blendstock used for an R&D program specified in § 1090.610: ''This fuel is for use in research, development, and test programs only.''

(3) *Racing fuel language.* For fuel, fuel additive, or regulated blendstock used for racing purposes specified in § 1090.615: ''This fuel is for racing purposes only.''

(4) *Aviation fuel language.* For fuel, fuel additive, or regulated blendstock used in aircraft specified in § 1090.615: ''This fuel is for aviation use only.''

(5) *Territory fuel exemption language.* For fuel for use in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands specified in § 1090.620: ''This fuel is for use only in Guam, American Samoa, or the Northern Mariana Islands.''

(6) *California gasoline language.* For California gasoline specified in § 1090.625: ''California gasoline''.

(7) *California diesel fuel language.* For California diesel fuel specified in § 1090.625: ''California diesel fuel''.

(8) *Alaska, Hawaii, Puerto Rico, and U.S. Virgin Islands summer gasoline language.* For summer gasoline for use in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands specified in § 1090.630: ''This summer gasoline is for use only in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands.''

(9) *Exported fuel language.* For exported fuel, fuel additive, or regulated blendstock specified in § 1090.645: ''This fuel is for export from the United States only.''

(b) In statements required by paragraph (a) of this section, where ''fuel'' is designated in a statement, the specific fuel, fuel additive, or regulated blendstock type (*e.g.,* ''diesel fuel'' or ''gasoline'') may be used in place of the word ''fuel''.

■ 77. Amend § 1090.1110 by revising paragraphs (b)(2)(i) introductory text, (c)(1)(i) introductory text, and (e) to read as follows:

§ 1090.1110 PTD requirements for gasoline, gasoline additives, and gasoline regulated blendstocks.

* * * * *

(b) * * *

(2) * * *

(i) Except as specified in paragraph (b)(2)(ii) of this section, for batches of summer BOB, identification of the product with one of the following statements indicating the applicable RVP standard, as specified in § 1090.215:

* * * * *

(c) * * *

(1) * * *

(i) Except as specified in paragraph (c)(1)(ii) of this section, for summer gasoline, identification of the product with one of the following statements indicating the applicable RVP standard, as specified in § 1090.215:

* * * * *

(e) *Gasoline detergent language requirements.* (1) In addition to any other PTD requirements of this subpart, on each occasion when any person transfers custody or title to any gasoline detergent, the transferor must provide to the transferee PTDs that include the following information:

(i) The identity of the product being transferred as detergent.

(ii) The name of the registered detergent must be used to identify the detergent additive package on its PTD and the LAC on the PTD must be consistent with the requirements in § 1090.260.

(2) In addition to any other PTD requirements of this subpart, on each occasion when any person transfers custody or title to any gasoline, the transferor must provide to the transferee PTDs that include the following information:

(i) The identify of the gasoline being transferred as detergent-additized gasoline or non-detergent-additized gasoline.

(ii) [Reserved]

* * * * *

■ 78. Amend § 1090.1115 by revising the section heading and paragraph (a) to read as follows:

§ 1090.1115 PTD requirements for distillate fuel and residual fuel.

(a) *General requirements.* On each occasion when any person transfers custody or title of any distillate fuel or residual fuel, other than when fuel is sold or dispensed to the ultimate end user at a retail outlet or WPC facility, the transferor must provide the transferee PTDs that include the following information:

(1) The sulfur per-gallon standard that the transferor represents the distillate fuel or residual fuel to meet under subpart D of this part (*e.g.,* 15 ppm sulfur for ULSD or 1,000 ppm sulfur for ECA marine fuel).

(2) An accurate and clear statement of the applicable designation(s) of the distillate fuel or residual fuel under § 1090.1015 (*e.g.,* ''ULSD'', ''500 ppm LM diesel fuel'', or ''ECA marine fuel'').

(3) If the distillate fuel or residual fuel does not meet the sulfur standard in § 1090.305(b) for ULSD, the following statement: ''Not for use in highway vehicles or engines or nonroad, locomotive, or marine engines.''

* * * * *

■ 79. Amend § 1090.1120 by revising paragraph (b)(3)(iii) to read as follows:

§ 1090.1120 PTD requirements for diesel fuel additives.

* * * * *

(b) * * *

(3) * * *

(iii) The contribution to the sulfur content of the diesel fuel, in ppm, that would result if the diesel fuel additive package is used at the maximum recommended concentration.

* * * * *

Subpart M—Recordkeeping

■ 80. Amend § 1090.1205 by revising paragraphs (c) introductory text and (c)(1) through (4) to read as follows:

§ 1090.1205 Recordkeeping requirements for all regulated parties.

* * * * *

(c) *Sampling and testing.* Any party that performs any sampling and testing on any fuel, fuel additive, or regulated blendstock must keep records of the following information for each sample collected:

(1) The date, time, location, and identification of the storage tank, railcar, truck, or vessel from which the sample was collected.

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

(3) The results of all tests, including where more than one test is performed, as originally printed by the testing apparatus, or where no printed result is produced, the results as originally recorded by the person that performed the test.

(4) The test methodology used.

* * * * *

■ 81. Amend § 1090.1210 by revising paragraphs (d)(1) and (d)(2)(i) to read as follows:

§ 1090.1210 Recordkeeping requirements for gasoline manufacturers.

* * * * *

(d) * * *

(1) Records that reflect the storage and movement of the PCG or TGP and blendstock within the gasoline manufacturing facility to the point such PCG or TGP is used to produce gasoline or BOB.

(2) * * *

(i) The results of tests to determine the sulfur content, benzene content, oxygenate(s) content, and in the summer, RVP, for the PCG or TGP and volume of the PCG or TGP when received at the gasoline manufacturing facility.

* * * * *

■ 82. Amend § 1090.1215 by revising paragraphs (a), (b) introductory text, and (c) introductory text to read as follows:

§ 1090.1215 Recordkeeping requirements for diesel fuel, ECA marine fuel, and distillate global marine fuel manufacturers.

(a) *Overview.* In addition to the requirements in § 1090.1205, a diesel fuel, ECA marine fuel, or distillate global marine fuel manufacturer must keep records for each of their facilities that include the information in this section.

(b) *Diesel fuel and ECA marine fuel records.* For each batch of ULSD, 500 ppm LM diesel fuel, or ECA marine fuel, a diesel fuel or ECA marine fuel manufacturer must keep records of the following information:

* * * * *

(c) *Distillate global marine fuel records.* For distillate global marine fuel, a distillate global marine fuel manufacturer must keep records of the following information:

* * * * *

■ 83. Amend § 1090.1230 by revising paragraph (b)(8) to read as follows:

§ 1090.1230 Recordkeeping requirements for oxygenate producers.

* * * * *

(b) * * *

(8) The neat ethanol production quality control records or the test results on the neat ethanol, as applicable.

* * * * *

■ 84. Amend § 1090.1240 by revising paragraphs (b)(2)(i), (b)(2)(ii)(B), and (b)(2)(vi) to read as follows:

§ 1090.1240 Recordkeeping requirements for gasoline detergent blenders.

* * * * *

(b) * * *

(2) * * *

(i) The dates of the VAR period.

(ii) * * *

(B) For a facility that uses a gauge to measure the inventory of the detergent storage tank, the total volume of detergent must be calculated as follows:

Equation 1 to paragraph (b)(2)(ii)(B)

$$V_D = DI_i - DI_f + DI_a - DI_w$$

Where:

V_D = Volume of detergent, in gallons.
DI_i = Initial detergent inventory of the tank, in gallons.
DI_f = Final detergent inventory of the tank, in gallons.
DI_a = Sum of any additions to detergent inventory, in gallons.
DI_w = Sum of any withdrawals from detergent inventory for purposes other than the additization of gasoline, in gallons.

* * * * *

(vi) If the detergent injector is set below the applicable LAC, or adjusted by more than 10 percent above the concentration initially set in the VAR period, documentation establishing that the purpose of the change is to correct a batch misadditization prior to the end of the VAR period and prior to the transfer of the batch to another party or to correct an equipment malfunction and the date and adjustments of the correction.

* * * * *

■ 85. Amend § 1090.1245 by revising paragraph (b)(2) to read as follows:

§ 1090.1245 Recordkeeping requirements for independent surveyors.

* * * * *

(b) * * *

(2) Records related to a geographically focused E15 survey program under § 1090.1420(b).

* * * * *

■ 86. Amend § 1090.1250 by revising paragraph (b)(2) to read as follows:

§ 1090.1250 Recordkeeping requirements for auditors.

* * * * *

(b) * * *

(2) Copies of each attestation engagement report prepared and all related records developed to prepare each report.

■ 87. Amend § 1090.1255 by:

■ a. Revising the section heading; and

■ b. Revising paragraphs (a), (c)(4), and (d).

The revisions read as follows:

§ 1090.1255 Recordkeeping requirements for transmix, 500 ppm LM diesel fuel, and pipeline interface.

(a) *Overview.* In addition to the requirements in § 1090.1205, a transmix processor, transmix blender, transmix distributor, manufacturer or distributor of 500 ppm LM diesel fuel using transmix, or pipeline operator must keep records that include the information in this section.

* * * * *

(c) * * *

(4) Documents or information that demonstrates that the 500 ppm LM diesel fuel was only used in locomotive or marine engines that are not required to use ULSD under 40 CFR 1033.815 or 40 CFR 1042.660, respectively.

(d) *Pipeline interface.* A pipeline operator must keep records that demonstrate compliance with the pipeline interface handling practices in § 1090.520.

Subpart N—Sampling, Testing, and Retention

■ 88. Amend § 1090.1300 by revising paragraphs (b) and (d) to read as follows:

§ 1090.1300 General provisions.

* * * * *

(b) If you need to meet requirements for a quality assurance program at a minimum frequency, the first shipment of product you receive from each distributor triggers the testing requirement for that distributor. Perform testing with the first shipment of product to demonstrate compliance for the testing period. The following example illustrates the requirements for testing based on sampling the more frequent of every 90 days or 500,000 gallons of certified butane you receive from each distributor:

(1) If you receive an initial shipment of certified butane from a distributor on March 1, perform testing on that batch to show that it meets standards. A passing result qualifies all further shipments of certified butane from that distributor until May 29, as long as you receive less than 500,000 gallons of certified butane from that distributor during those 90 days. In that case, the testing period ends May 29 and the next testing period starts when you receive another shipment of certified butane from that distributor on or after May 30.

(2) If you receive a shipment from that distributor before May 29 that that causes the total volume of certified butane from that distributor to exceed 500,000 gallons over the testing period, the date that batch is received represents the end of the testing period. The next testing period starts when you receive another shipment of certified butane from that distributor.

* * * * *

(d) Anyone performing tests under this subpart must apply good laboratory practices for all sampling, measurement, and calculations related to testing required under this part. This requires performing these procedures in a way that is consistent with generally accepted scientific and engineering principles and properly accounting for all available relevant information. The following examples illustrate how to apply good laboratory practices:

(1) You may exclude outlier data points for quality testing under § 1090.1375 as specified in ASTM D6299 (incorporated by reference, see § 1090.95), subject to the following requirements:

(i) The justification for exclusion must be an assignable cause that is not part of the normal process and does not result from common causes.

(ii) You must meet requirements for documenting and supporting exclusion of data points as specified in § 1090.1375(a)(4).

(2) [Reserved]

* * * * *

■ 89. Amend § 1090.1310 by:

■ a. Revising paragraph (b) introductory text; and

■ b. Adding paragraph (f).

The revision and addition read as follows:

§ 1090.1310 Testing to demonstrate compliance with standards.

* * * * *

(b) A fuel manufacturer, fuel additive manufacturer, or regulated blendstock producer must perform the following measurements before fuel, fuel additive, or regulated blendstock from a given

batch leaves the facility, except as specified in paragraph (f) of this section and § 1090.1315:

* * * * *

(f) Refiners and blending manufacturers may meet the testing requirements of paragraph (b) of this section by loading gasoline or diesel fuel onto a marine vessel, subject to the following conditions:

(1) The marine vessel remains within 15 miles of the fuel manufacturing facility after loading.

(2) Each vessel compartment is sampled for meeting certification testing requirements as specified in § 1090.1605(b)(1).

(3) No additional loading or blending occurs after sampling and certification are complete.

(4) The refiner or blending manufacturer ensures that the fuel meets all applicable per-gallon standards before the fuel leaves the area specified in paragraph (f)(1) of this section.

■ 90. Amend § 1090.1315 by:

■ a. Revising the introductory text and paragraph (a) introductory text;

■ b. Adding paragraphs (a)(7) through (14); and

■ c. Revising paragraph (c).

The revisions and additions read as follows:

§ 1090.1315 In-line blending.

A fuel manufacturer using in-line blending equipment may qualify for a waiver from the requirement in § 1090.1310(b) to test every batch of fuel before the fuel leaves the fuel manufacturing facility. This section describes in-line blending waiver provisions that apply instead of or in addition to the requirements in § 1090.1335(c).

(a) Submit a request signed by the RCO, or their delegate, to EPA with the following information:

* * * * *

(7) Describe which blendstock parameters you intend to measure for managing the blending process and the typical sampling frequency for those measurements.

(8) Describe any circumstances in which it is not possible to meet the requirements for sampling frequency as specified in § 1090.1335(c)(3). Also describe how you will adjust target values to account for the greater measurement variability. For example, if the greater margin of error corresponds to a 2 percent increase in measurement variability, adjust target values of all parameters subject to per-gallon and average standards downward by at least 2 percent.

(9) Describe an alternative sampling plan to meet requirements to test head, middle, and tail samples for small batches. Your alternative sampling plan may allow you to collect a single sample anytime during the blend for a batch involving up to 8 hours of blending or up to 1 million gallons of fuel, and it may allow you to collect two evenly distributed samples during the blend for a batch involving up to 16 hours of blending or up to 2 million gallons of fuel.

(10) Describe your plans to meet requirements to test head, middle, and tail samples in cases where unforeseen circumstances cause the batch to be complete before blending the anticipated batch volume. Any failure to perform required tests must not occur in more than 10 percent of in-line blending batches for the calendar year.

(11) Describe contingency plans for alternative sampling and testing in cases involving failure of the automatic compositor or other essential equipment. For example, the contingency play may identify collecting a second composite sample with a redundant system.

(12) Describe any contingency plans for an alternative sampling demonstration if an automatic sampling test result fails to meet a per-gallon standard. For example, the plan may include certifying the batch based on manual sampling in a tank if you collect the whole batch in the tank before it leaves the fuel manufacturing facility gate. As another example, as long as the fuel remains at the facility, you may certify the batch based on secondary automatic sampling as fuel comes out of a holding tank that you use to collect the fuel that failed to meet a per-gallon standard.

(13) In the case of in-line blending into a marine vessel, describe an alternative, equivalent method for meeting the requirement in § 1090.1335(c)(4) to collect head-middle-tail samples.

(14) Include the following statement: ''The information in this submission is true, accurate, and complete to the best of my knowledge. I am aware that there are significant civil and criminal penalties for submitting false, misleading, or incomplete information.''

* * * * *

(c) The following provisions apply for amending an approved waiver under this section:

(1) You must submit an updated waiver request to EPA 60 days before making any material change to your in-line blending process. Material changes generally include anything that causes the previously approved waiver to be incorrect or incomplete. Examples of material changes may include changing analyzer hardware or programming, changing the analyzer's location for drawing samples of blended fuel, changing the piping configuration, changing the mixing control hardware or programming logic, changing sample compositors or compositor settings, or expanding fuel blending capacity. Changing the name of the company or business unit is an example of a change that is not material.

(2) The request must include a description of the intended changes and a comparison document that clearly and comprehensively identifies the proposed changes to the waiver. The request must also include the statement in paragraph (a)(14) of this section.

(3) Your request to amend a waiver under this section is deemed to be approved effective 60 days after EPA acknowledges receiving the request if there is no EPA response to the request. Such a response may be in the form of denying the request, identifying deficiencies, or requiring additional information. If we require that you correct a deficiency or submit additional information, your waiver request is deemed to be approved effective 60 days after EPA acknowledges receiving the responsive submission.

* * * * *

■ 91. Amend § 1090.1320 by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising and republishing paragraph (a)(1)(i);

■ c. Revising paragraphs (b) introductory text and (b)(1);

■ d. Adding paragraphs (b)(5) and (6); and

■ e. Revising paragraph (c)(1).

The revisions, republication, and additions read as follows:

§ 1090.1320 Adding blendstock to PCG.

* * * * *

(a) Sample and test using one of the following methods to exclude PCG from the compliance demonstration for sulfur content and benzene content:

(1) * * *

(i) Determine the sulfur content, benzene content, and oxygenate content of the PCG before blending blendstocks to produce a new batch of gasoline as follows:

(A) Sample and test the sulfur content, benzene content, and oxygenate content of each batch of PCG using the procedures in § 1090.1350. Demonstrate homogeneity for the consolidated batch as specified in § 1090.1337 if blending involves multiple batches of PCG, or if

a single batch of PCG was certified without demonstrating homogeneity under § 1090.1337(a)(4). The blending manufacturer does not need to test PCG for oxygenate content if they can demonstrate that the PCG does not contain oxygenates as specified in paragraph (a)(1)(i)(C) of this section or § 1090.1310(e)(1). For PCG sampled from a pipeline as specified in § 1090.1335(c), homogeneity provisions apply as specified in § 1090.1337, except that no homogeneity testing is required for a volume less than 1 million gallons. Evaluate homogeneity based on two evenly distributed samples if volume is between 1 million and 2 million gallons, and based on three evenly distributed samples if volume is greater than 2 million gallons. If multiple samples meet homogeneity requirements, composite the collected samples for testing sulfur, benzene, and oxygenate.

(B) If the PCG is a BOB and the blending manufacturer is accounting for downstream oxygenate under § 1090.710, also prepare a hand blend under § 1090.1340 and test the hand blend for sulfur content and benzene content.

(C) The blending manufacturer may use the PCG manufacturer's certification test results if the PCG was received directly from the PCG manufacturer by an in-tank transfer or tank-to-tank transfer within the same terminal as long as the results are from the PCG that is being transferred.

(D) If multiple samples do not meet homogeneity requirements, demonstrate compliance based on the lowest measured values as specified in § 1090.1337(a)(4).

(E) If you are unable to measure a PCG parameter, you must comply using either the presumed value for the PCG volume or an EPA-approved alternative value as described in § 1090.1710(g).

* * * * *

(b) A certified butane or certified pentane blender that blends certified butane or certified pentane into PCG, other than Summer RFG or Summer RBOB, to make a new batch of gasoline may comply with the following requirements instead of the requirements of paragraph (a) of this section:

(1) For summer gasoline, measure the RVP of the blended fuel. The fuel manufacturer may rely on test results from the certified butane or certified pentane producer for sulfur content and benzene content.

* * * * *

(5) If the quality assurance testing under paragraph (b)(4) of this section shows that certified butane or certified pentane fails to meet one or more of the standards specified in § 1090.250 or § 1090.255, the certified butane or certified pentane received from that distributor at that butane blending facility or pentane blending facility during that testing period is deemed to be in violation of the relevant per-gallon standard. Any later shipment of certified butane or certified pentane received from that distributor at that butane blending facility or pentane blending facility will also be deemed to be in violation of the relevant per-gallon standard unless another quality assurance test is conducted demonstrating that certified butane or certified pentane received from that distributor meets the standards specified in § 1090.250 or § 1090.255.

(6) If certified butane or certified pentane is deemed to be in violation under paragraph (b)(5) of this section, the certified butane or certified pentane blender must calculate its compliance obligations using paragraph (a)(1) or (2) of this section using the test results from the quality assurance program and obtain any necessary sulfur or benzene credits. For purposes of averaging, banking, and trading, the certified butane or certified pentane deemed to be in violation will be subject to the sulfur and benzene standards in §§ 1090.205 and 1090.210, respectively.

(c) * * *

(1) Calculate and incur sulfur and benzene deficits under the BOB recertification provisions of § 1090.740.

* * * * *

■ 92. Revise and republish § 1090.1335 to read as follows:

§ 1090.1335 Collecting, preparing, and testing samples.

(a) *General provisions.* Use good laboratory practice to collect samples to represent the batch you are testing. For example, take steps to ensure that a batch is always well mixed before sampling. Also, always take steps to prevent sample contamination, such as completely flushing sampling taps and piping and pre-rinsing sample containers with the product being sampled. Follow the procedures in paragraph (b) of this section for manual sampling. Follow the procedures in paragraph (c) of this section for automatic sampling. Additional requirements for measuring RVP are specified in paragraph (d) of this section. A description of how to determine compliance based on single or multiple tests on single or multiple samples is specified in paragraph (e) of this section.

(b) *Manual sampling.* Perform manual sampling using one of the methods specified in ASTM D4057 (incorporated by reference; see § 1090.95) to demonstrate compliance with standards as follows:

(1) Collect a ''running'' or ''all-levels'' sample from the top of the tank. Drawing a sample from a standpipe is acceptable only if it is slotted or perforated to ensure that the drawn sample properly represents the whole batch.

(2) Use tap sampling (or other spot sampling) to collect upper, middle, and lower samples. Collect samples that most closely match the recommendations in ASTM D4057. Adjust spot sampling for partially filled tanks as shown in Table 1, Table 5, or Table 6 of ASTM D4057, as applicable.

(3) If the procedures in paragraphs (b)(1) and (2) of this section are impractical for a given storage configuration, you may use alternative sampling procedures as specified in ASTM D4057. This applies primarily for sampling with railcars, trucks, retail outlets, and other downstream locations.

(4) Test results with manual sampling are valid only after you demonstrate homogeneity as specified in § 1090.1337. Once a batch meets homogeneity specifications, you may use any properly drawn sample to represent the batch, subject to the hand-blending provisions of § 1090.1340. The entire batch volume is noncompliant if a sample fails to meet any applicable per-gallon standard.

(5) Except as specified for marine vessels in § 1090.1605, you must not do certification testing with a composite sample from manual sampling.

(c) *Automatic sampling.* Perform automatic sampling as specified in ASTM D4177 (incorporated by reference; see § 1090.95), with the additional provisions specified in this paragraph (c). Automatic sampling is intended to apply for in-line blending, including configurations that involve a pipeline filling a tank that will be certified as compliant before it leaves the fuel manufacturing facility gate.

(1) Follow all specifications for automatic sampling in this paragraph (c) unless EPA approves an in-line blending waiver that authorizes specific exceptions under § 1090.1315.

(2) Configure the system to ensure a well-mixed stream at the sampling point. Align the start and end of sampling with the start and end of creating the batch.

(3) Set a sampling frequency to represent a batch by meeting one or more of the following specifications,

keeping records to show that the sampling frequency meets specifications:

(i) Collect 9,604 grabs.

(ii) Collect a number of grabs that achieves a margin of error of 0.01 or less as specified in Section 19.1.3 of ASTM D4177.

(iii) Collect grabs at regular intervals that do not exceed 20 seconds throughout the batch.

(4) Collect three samples for individual measurements in addition to the composite sample. Draw head, middle, and tail samples that come from the initial, middle, and final thirds of the estimated batch volume, respectively.

(5) If the composite sample fails to meet any applicable per-gallon standard, the entire batch volume is noncompliant. If one or more separate samples fail to meet any applicable per-gallon standard, the volume of noncompliant fuel is the volume starting with the last valid passing result before the failing result (or the start of the batch), up to the first valid passing result after the failing result (or the end of the batch).

(6) EPA may approve a different sampling strategy under an approved in-line blending waiver under § 1090.1315 if it is appropriate for a given facility or for a small-volume batch.

(d) *Sampling provisions related to measuring RVP of summer gasoline.* The following additional provisions apply for preparing samples to measure the RVP of summer gasoline:

(1) Meet the additional specifications for manual and automatic sampling in ASTM D5842 (incorporated by reference; see § 1090.95).

(2) If you measure other fuel parameters for a given sample in addition to RVP testing, always measure RVP first.

(e) *Testing and reporting to demonstrate compliance with standards.* Perform testing as specified in this subpart and report values to demonstrate compliance with per-gallon and average standards as follows:

(1) For parameters subject to per-gallon standards, report the highest measured value (or the lowest measured value for testing related to cetane index or other parameters that are subject to a standard representing a minimum value). This applies for repeat tests on a given sample and for testing multiple samples (including head, middle, and tail samples from automatic sampling).

(2) In the case of automatic sampling for parameters subject to average standards, report the result from the composite sample to represent the batch for demonstrating compliance with the average standard. For any repeat testing with the composite sample, calculate the arithmetic average from all tests to represent the batch.

(3) In the case of manual sampling for parameters subject to average standards, determine the value representing the batch as follows:

(i) For testing with only a single sample, report that value to represent the batch. If there are repeat tests with that sample, report the arithmetic average from all tests to represent the sample.

(ii) For testing with more than one sample, report the arithmetic average from all tested samples to represent the batch. If there are repeat tests for any sample, calculate the arithmetic average of those repeat tests to determine a single value to represent that sample before calculating the average value to represent the batch.

■ 93. Revise and republish § 1090.1337 to read as follows:

§ 1090.1337 Demonstrating homogeneity.

(a) Certification test results corresponding to manual sampling as specified in § 1090.1335(b) are valid only if collected samples meet the homogeneity specifications in this section, except that the homogeneity testing requirement does not apply in the following cases:

(1) There is only a single sample using the procedure specified in § 1090.1335(b)(2).

(2) Upright cylindrical tanks that have a liquid depth of less than 10 feet.

(3) Horizontal tanks with circular or elliptical cross section with a volume less than 42,000 gallons used for storing ethanol denaturant. Draw samples from the approximate mid-depth of the product level.

(4) You draw spot samples as specified in paragraph (c) of this section, test each sample for every parameter subject to a testing requirement, and use the worst-case test result for each parameter for purposes of reporting, meeting per-gallon and average standards, and all other aspects of compliance.

(5) Your tank configuration depends on roof sampling for homogeneity demonstration, but inclement weather prevents collecting roof samples and EPA has already approved a plan for a mixing procedure to ensure a homogeneous batch for your specific tank configuration. EPA approval of the mixing procedure will include consideration of product type, fill level, and other relevant parameters for specific tank configurations and batch characteristics. Keep records to document EPA approval of the mixing procedure, your actions to follow the approved mixing procedure, and the forcing weather event.

(6) Sampling occurs at a downstream location where it is not possible to collect separate samples and steps are taken to ensure that the batch is well mixed.

(7) The product being tested is certified butane or certified pentane.

(b) Any test to establish homogeneity is considered a certification test relative to a per-gallon standard for a given parameter if the test result is the worst-case value from all testing performed for the batch. Report the highest measured value as specified in § 1090.1335(e)(1).

(c) Use spot sampling as specified in § 1090.1335(b)(2) for homogeneity testing.

(d) Demonstrate homogeneity for gasoline and TGP using two of the procedures specified in this paragraph (d) with each sample. For summer gasoline, the homogeneity demonstration must include RVP measurement.

(1) Measure density or API gravity using ASTM D287, ASTM D1298, ASTM D4052, or ASTM D7777 (incorporated by reference, see § 1090.95).

(2) Measure the sulfur content as specified in § 1090.1360.

(3) Measure the benzene content as specified § 1090.1360.

(4) Measure the RVP as specified in § 1090.1360.

(e) Homogeneity requirements apply as follows for other products:

(1) Demonstrate homogeneity for diesel fuel using one of the procedures specified in paragraph (d)(1) or (2) of this section.

(2) Demonstrate homogeneity for certified ethanol denaturant and oxygenate based on measured sulfur content as specified in § 1090.1360, except that no homogeneity testing is required for DFE if you calculate sulfur content as specified in § 1090.1330.

(f) Consider the batch to be homogeneous for a given parameter if the measured values for all tested samples vary by no more than the published reproducibility of the test method multiplied by 0.75 ($R \times 0.75$). If reproducibility is a function of measured values, calculate reproducibility using the average value of the measured parameter representing all tested samples. Calculate using all meaningful significant figures as specified for the test method, even if § 1090.1350(c) describes a different precision. For cases that do not require a homogeneity demonstration under paragraph (a) of this section, the lack of homogeneity demonstration does not

prevent a quantity of fuel, fuel additive, or regulated blendstock from being considered a batch for demonstrating compliance with the requirements of this part. The following additional provisions apply for special cases:

(1) Do not use test results for a given test method for a parameter to demonstrate homogeneity if multiple measured values are at or below the test method's PLOQ, LLOQ, or valid range, as applicable. You may instead use a different test method as allowed under this subpart to get test results with the same parameter or with a different parameter.

(2) If you have homogeneity test results for more than the required number of parameters and not all parameters meet the criteria, all testing results except density or API gravity must meet applicable homogeneity criteria to demonstrate that the batch is homogeneous.

(3) If using ASTM D4052 (incorporated by reference; see § 1090.95) for measuring density or API gravity to demonstrate homogeneity through December 31, 2026, you may calculate the homogeneity criterion based on the reproducibility of the test method at the limit of the valid range for testing, even if measured results extend beyond the valid range. You may request to use an updated version of ASTM D4052 if the updated version has expanded the range of reproducibility to include your measured results. You may also request to use the provisions of this paragraph (f)(3) beyond December 31, 2026, if there is no updated version of ASTM D4052 with reproducibility that applies for your measured results.

■ 94. Amend § 1090.1340 by revising paragraphs (a) introductory text, (a)(1), and (a)(2)(iii) to read as follows:

§ 1090.1340 Preparing a hand blend from BOB.

(a) If you produce or import BOB and instruct downstream blenders to add oxygenate, you must meet the requirements of this subpart by blending oxygenate that reflects the anticipated sulfur content and benzene content of the oxygenate for blending into a BOB sample. To do this, prepare each hand blend by adding oxygenate to the BOB sample in a way that corresponds to your instructions to downstream blenders for the sampled batch of fuel. Prepare hand blends as follows:

(1) Take steps to avoid introducing high or low bias in sulfur content when selecting from available samples to prepare the hand blend. For example, if there are three samples with discrete sulfur content measurements, select the sample with the mid-range sulfur content. In other cases, randomly select the sample. If you omit the homogeneity demonstration under § 1090.1337(a)(4), prepare a single hand blend using the BOB sample that has the highest sulfur content.

(2) * * *

(iii) As an example, if you give instructions for a given batch of BOB to perform downstream blending to make E10, E15, and a blend that contains 8 volume percent butanol, prepare a hand blend for testing winter gasoline with 8 volume percent butanol, and prepare an E10 hand blend for testing summer gasoline.

* * * * *

■ 95. Amend § 1090.1345 by:

■ a. Revising paragraph (a)(5);

■ b. Adding paragraphs (a)(6) and (7); and

■ c. Redesignating paragraphs (c) through (e) as paragraphs (b) through (d).

The revision and additions read as follows:

§ 1090.1345 Retaining samples.

(a) * * *

(5) The nominal volume of retained liquid samples must be at least 330 ml.

(6) If you have only a single sample for testing, keep that sample after testing is complete. If you collect multiple samples from a single batch, keep any sample that represents the batch, except that samples of summer gasoline must be untested.

(7) If you test a hand blend under § 1090.1340, keep a sample of the BOB and a sample representative of the oxygenate used to prepare the hand blend.

* * * * *

■ 96. Amend § 1090.1350 by revising paragraphs (c)(4) and (5) to read as follows:

§ 1090.1350 Overview of test procedures.

* * * * *

(c) * * *

(4) Record oxygenate content to the nearest 0.01 mass percent for each measured oxygenate.

(5) Record diesel fuel aromatic content to the nearest 0.1 volume percent, or record cetane index to the nearest whole number.

* * * * *

■ 97. Amend § 1090.1355 by revising paragraphs (a), (b)(1), and (2) to read as follows:

§ 1090.1355 Calculation adjustments and corrections.

* * * * *

(a) Adjust measured values for total vapor pressure as follows:

Equation 1 to paragraph (a)

$RVP = 0.946 \cdot P_{total} - 0.347$

Where:

RVP = Reid vapor pressure, in psi.

P_{total} = Measured total vapor pressure, in psi.

(b) * * *

(1) If your test method involves a published procedure with a Pooled Limit of Quantitation (PLOQ), treat the PLOQ as your final result if your measured result is below the PLOQ.

(2) If your test method involves a published procedure with a limited scope but no PLOQ, treat the lower bound of the scope as your final result if your measured result is less than that value.

* * * * *

■ 98. Amend § 1090.1360 by revising paragraph (b)(1)(i) to read as follows:

§ 1090.1360 Performance-based Measurement System.

* * * * *

(b) * * *

(1) * * *

(i) Sulfur.

* * * * *

■ 99. Amend § 1090.1365 by:

■ a. Revising the introductory text and paragraphs (a)(3) and (4);

■ b. Revising and republishing paragraphs (b) and (c)(3);

■ c. Revising paragraphs (f)(2) and (5).

The revisions and republication read as follows:

§ 1090.1365 Qualifying criteria for alternative measurement procedures.

This section specifies how to qualify alternative procedures for measuring absolute and method-defined fuel parameters under the Performance-based Measurement System specified in § 1090.1360.

(a) * * *

(3) Except as specified in paragraph (d) of this section, testing to demonstrate compliance with the precision and accuracy specifications in this section apply only for the laboratory where the testing occurred. At a given laboratory, qualifying a test method applies for all associated instruments used for testing to certify fuel.

(4) If a procedure for measuring benzene or sulfur in gasoline has no published PLOQ and no published scope with a lower bound, you must establish a LLOQ.

* * * * *

(b) All alternative procedures must meet precision criteria based on a calculated maximum allowable standard deviation for a given fuel parameter as specified in this paragraph (b). The precision criteria apply for measuring

the parameters and fuels specified in paragraph (b)(4) of this section. Take the following steps to qualify the measurement procedure for measuring a given fuel parameter:

(1) The fuel must meet the parameter specifications in table 1 to paragraph (b)(4) of this section. This may require that you modify the fuel you typically produce to be within the specified range. Absent a specification (maximum or minimum), select a fuel representing values that are typical for your testing. Store and mix the fuel to maintain a homogenous mixture throughout the measurement period to ensure that each fuel sample drawn from the batch has the same properties.

(2) Measure the fuel parameter from a homogeneous fuel batch at least 20 times. Record each result in sequence. Do not omit any valid results unless you use good engineering judgment to determine that the omission is necessary and you document those results and the reason for excluding them. Perform this analysis over a 20-day period. You may make up to 4 separate measurements in a 24-hour period, as long as the interval between measurements is at least 4 hours. Do not measure RVP more than once from a single sample.

(3) An alternative procedure for measuring oxygenate in gasoline must account for every type of oxygenate covered by the referee method.

(4) Calculate the maximum allowable standard deviation as follows:

Equation 1 to Paragraph (b)(4)

$$\sigma_{max} = x_1 \cdot \frac{x_2}{x_3}$$

Where:

σ_{max} = Maximum allowable standard deviation.

x_1, x_2, and x_3 have the values from the following table:

TABLE 1 TO PARAGRAPH (b)(4)—PRECISION CRITERIA FOR QUALIFYING ALTERNATIVE PROCEDURES

Fuel, fuel additive, or regulated blendstock	Fuel parameter	Range	x_1	x_2 repeatability (r) or reproducibility (R) [1]	x_3	Fixed values of σ_{max}	Source [2]
ULSD	Sulfur	5 ppm minimum	1.5	r = 1.33	2.77	0.72	ASTM D3120–08.
500 ppm LM diesel fuel	Sulfur	350 ppm minimum	1.5	r = 21.3	2.77	11.5	ASTM D2622–16.
ECA marine fuel	Sulfur	700 ppm minimum	1.5	r = 37.1	2.77	20.1	ASTM D2622–16.
Butane	Sulfur		1.5	r = 0.1152 · x	2.77		ASTM D6667–14.
Gasoline	Sulfur		1.5	r = 0.4998 · $x^{0.54}$	2.77		ASTM D7039–15a.
Gasoline	Oxygenate		0.3	R = 0.13 · $x^{0.83}$	1		ASTM D5599–18.
Gasoline	RVP [3]		0.3	R = 0.40	1	0.12	ASTM D5191–15
Gasoline	Benzene		0.15	R = 0.221 · $x^{0.67}$	1		ASTM D5769–20.

[1] Calculate repeatability and reproducibility using the average value determined from testing. Use units as specified in § 1090.1350(c).
[2] Note that the listed procedure may be different than the referee procedure identified in § 1090.1360(d), or it may be an older version of the referee procedure.
[3] Use only 1-liter containers for testing to qualify alternative methods.

(c) * * *

(3) The measurement procedure meets the accuracy requirement as follows:

(i) Demonstrate accuracy for measuring sulfur in gasoline and butane using samples to represent sulfur values from 1 to 10 ppm, 11 to 20 ppm, and 21 to 95 ppm. You may omit any of these ranges if you do not perform testing with fuel in that range. Calculate the maximum allowable difference between the average measured value and the ARV for each applicable range as follows:

Equation 2 to Paragraph (c)(3)(i)

$$\Delta_{max} = 0.75 \cdot \sigma_{max}$$

Where:

Δ_{max} = Maximum allowable difference.

σ_{max} = Maximum allowable standard deviation, per paragraph (b)(4) of this section, using the sulfur content represented by the ARV.

(ii) Demonstrate accuracy for measuring sulfur in diesel fuel using test fuels meeting the specifications in table 2 to this section. For testing diesel fuel-related blendstocks and additives, use representative test samples meeting the appropriate sulfur specification. Table 2 to this paragraph also identifies the maximum allowable difference between average measured value and the ARV corresponding to the ARV at the upper end of each specified range. These values are based on calculations with the equation in paragraph (c)(3)(i) of this section, with parameter values set equal to the standard.

TABLE 2 TO PARAGRAPH (c)(3)(ii)—ACCURACY CRITERIA FOR QUALIFYING ALTERNATIVE PROCEDURES WITH DIESEL FUEL AND DIESEL FUEL-RELATED BLENDSTOCKS AND ADDITIVES

Fuel	Sulfur content (ppm)	Illustrated maximum allowable difference
ULSD	10–20	0.54
500 ppm LM diesel fuel	450–500	8.65
ECA marine fuel	900–1,000	15.1

* * * * *

(f) * * *

(2) Test with a range of fuels that are typical of those you will analyze at your laboratory. Use either consensus-named fuels or locally named reference materials. Consensus-named fuels are homogeneous fuel quantities sent around to different laboratories for analysis, which results in a ''consensus name'' representing the average value of the parameter for all participating laboratories. Locally named reference materials are fuel samples analyzed using the reference test method, either at your laboratory or at a reference installation, to establish an estimated value for the fuel parameter; locally named reference materials usually come from the fuel you produce.

* * * * *

(5) Perform testing at your laboratory as specified in paragraph (b) of this section to establish the repeatability of the alternative procedure. The repeatability must be as good as or better than that specified in paragraph (b)(4) of this section.

* * * * *

■ 100. Amend § 1090.1370 by revising paragraph (b) to read as follows:

§ 1090.1370 Qualifying criteria for reference installations.

* * * * *

(b) You may qualify a reference installation for VCSB procedures by participating in an inter-laboratory crosscheck program with at least 16 separate measurements that are not identified as outliers. This presumes that the results for the candidate reference installation are not outliers.

* * * * *

■ 101. Amend § 1090.1375 by:

■ a. Redesignating paragraph (a)(4) as (a)(5) and adding new paragraph (a)(4);

■ b. Revising paragraphs (c) introductory text, (c)(2), and (c)(4); and

■ c. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

§ 1090.1375 Quality control procedures.

* * * * *

(a) * * *

(4) Keep records to document any test results excluded for being out of control under Section 8.5 and A1.5.4.1 of ASTM D6299. Identify the assignable cause and include any appropriate additional supporting justification.

* * * * *

(c) *Accuracy demonstration.* For absolute fuel parameters (VCSB and non-VCSB) and for method-defined fuel parameters using non-VCSB methods, you must show that you meet accuracy criteria as specified in this paragraph (c). For method-defined VCSB procedures, you may meet accuracy requirements as specified in this paragraph (c) or by comparing your results to the accepted reference value in an inter-laboratory crosscheck program as specified in paragraph (d) of this section.

* * * * *

(2) Except as specified in paragraph (c)(3) of this section, test every instrument using a check standard meeting the specifications of ASTM D6299. Select a fuel sample with an ARV representing fuel that is typical for your testing.

* * * * *

(4) You meet accuracy requirements under this section if the difference between your measured value for the check standard and the ARV is less than the value from the following equation:

Equation 1 to paragraph (c)(4)

$$\Delta_{max} = 0.75 \cdot R \cdot \sqrt{1 + \frac{1}{L}}$$

Where:

Δ_{max} = Maximum allowable difference.

L = Total number of test results used to determine the ARV of a consensus-named fuel. For testing locally named fuels for which no consensus-based ARV applies, use L equal to ∞.

R = Reproducibility of the referee procedure identified in § 1090.1360(d), as noted in table 1 to § 1090.1365(b)(4) or in the following table:

TABLE 1 TO PARAGRAPH (c)(4)—CRITERIA FOR QUALIFYING ALTERNATIVE PROCEDURES

Tested product	Referee procedure [1]	Reproducibility (R) [2]
ULSD, 500 ppm diesel fuel, ECA marine fuel, diesel fuel additive, gasoline, gasoline regulated blendstock, and gasoline additive.	ASTM D2622	$R = 0.4273 \cdot x^{0.8015}$
Butane	ASTM D6667	$R = 0.3130 \cdot x$

[1] ASTM specifications are incorporated by reference, see § 1090.95.

[2] Calculate reproducibility using the average value determined from testing. Use units as specified in § 1090.1350(c).

(d) *Demonstrating accuracy by participating in crosscheck programs.* You may meet accuracy requirements under paragraph (c) of this section by comparing your results to the accepted reference value in an inter-laboratory crosscheck program sponsored by ASTM International or another VCSB at least three times per year (two times per year for RVP), subject to the following provisions:

(1) Your results from the crosscheck program are not valid for demonstrating compliance with accuracy requirements for a test instrument under this section if any of the following apply:

(i) The crosscheck program does not have a robust ARV based on the check standard requirements in Section 6.2 of ASTM D6299.

(ii) The difference between the test result and the ARV is greater than the maximum allowable difference in paragraph (c)(4) of this section.

(iii) The measured value lies outside of the three-sigma range for the data from the relevant inter-laboratory crosscheck program.

(2) If your results from the crosscheck program are not valid under paragraph (a)(1) of this section, perform a root cause analysis and document your findings and the steps you take to correct the problem. You continue to meet accuracy requirements under this section for the affected parameter only if you correct the problem and demonstrate compliance with the accuracy requirements of this section within 45 days after learning of a failure under paragraph (d)(1) of this section. The compliance demonstration may be based on in-house testing using a check standard qualified by a third party, on a non-VCSB correlation program administered by a third party, or on testing in the next crosscheck program.

(e) *Failure to meet precision or accuracy requirements.* The presumed values specified in § 1090.1710(g) apply relative to certification for parameter measurements with test instruments failing to meet precision or accuracy requirements under this section. If you fail to meet the deadlines for resolving crosscheck-related issues under paragraph (d)(2) of this section, the presumed values apply relative to certification for parameter measurements with the test instruments failing to meet precision or accuracy

requirements starting at the point of learning of a failure under paragraph (d)(1) of this section.

■ 102. Amend § 1090.1390 by revising the section heading to read as follows:

§ 1090.1390 Requirement for automated detergent blending equipment calibration.

* * * * *

■ 103. Amend § 1090.1395 by revising paragraphs (a) introductory text, (a)(1)(i), and (b) introductory text to read as follows:

§ 1090.1395 Gasoline deposit control test procedures.

* * * * *

(a) *Top Tier-based test method.* Use the procedures specified in ASTM D6201 (incorporated by reference, see § 1090.95), as follows:

(1) * * *

(i) 8.0–10.0 volume percent ethanol that meets the requirements in § 1090.270 and conforms to the specifications of ASTM D4806 (incorporated by reference, see § 1090.95).

* * * * *

(b) *CARB test method.* Use the procedures specified by CARB in Title 13, California Code of Regulations, section 2257 (incorporated by reference, see § 1090.95).

* * * * *

Subpart O—Survey Provisions

■ 104. Amend § 1090.1400 by revising paragraph (a)(2) to read as follows:

§ 1090.1400 General provisions.

(a) * * *

(2) The program plan must be signed by the RCO of the independent surveyor conducting the program.

* * * * *

■ 105. Amend § 1090.1405 by revising paragraphs (a)(1) and (b)(2) to read as follows:

§ 1090.1405 National fuels survey program.

(a) * * *

(1) A gasoline manufacturer that elects to account for oxygenate added downstream under § 1090.710 must participate in the national fuels survey program (NFSP) specified in paragraph (b) of this section.

* * * * *

(b) * * *

(2) The survey program must be conducted by collecting samples representative of retail outlets in the United States as specified in § 1090.1415.

■ 106. Amend § 1090.1410 by revising paragraphs (b)(1), (2), (c)(3), (5), (d), and (e) to read as follows:

§ 1090.1410 Independent surveyor requirements.

* * * * *

(b) * * *

(1) Obtain samples representative of the gasoline and diesel fuel (including diesel fuel made available at retail outlets to nonroad vehicles, engines, and equipment) offered for sale separately from all retail outlets in accordance with the survey program plan approved by EPA, or immediately notify EPA of any refusal of a retailer to allow samples to be taken.

(2) Obtain the number of samples representative of the number of retail outlets offering E15.

* * * * *

(c) * * *

(3) Diesel fuel samples must be analyzed for sulfur content.

* * * * *

(5) All testing must be completed by an EPA-approved laboratory within 10 business days after receipt of the sample.

(d) Verify E15 labeling requirements at retail outlets that offer E15 for sale.

(e)(1) Using procedures specified in an EPA-approved plan under § 1090.1415, notify EPA, the retailer, and the branded fuel manufacturer (if applicable) within 24 hours after an EPA-approved laboratory has completed analysis when any of the following occur:

(i) A test result for a gasoline sample yields a sulfur content result that exceeds the downstream sulfur per-gallon standard in § 1090.205(c).

(ii) A test result for a gasoline sample yields an RVP result that exceeds the applicable RVP standard in § 1090.215.

(iii) A test result for a diesel fuel sample yields a sulfur content result that exceeds the sulfur standard in § 1090.305(b).

(iv) A test result for a gasoline sample identified as ''E15'' yields an ethanol content result that exceeds 15 volume percent.

(v) A test result for a gasoline sample not identified as ''E15'' yields an ethanol content of more than 10 volume percent ethanol.

(2) Any notification to EPA or a branded fuel manufacturer under paragraph (e)(1) of this section must include the retail outlet's contact information, including name, title, mailing address, telephone number, and email address of a representative of the retail outlet, if available.

* * * * *

■ 107. Amend § 1090.1415 by:

■ a. Revising and republishing paragraph (d); and

■ b. Revising paragraphs (e)(2) and (f) introductory text.

The revisions and republication read as follows:

§ 1090.1415 Survey program plan design requirements.

* * * * *

(d) *Retail outlet selection.* (1) Retail outlets to be sampled in a sampling area must be selected from among all gasoline retail outlets in the United States with the probability of selection proportionate to the volume of gasoline sold at the retail outlet. The sample of retail outlets must also include gasoline retail outlets with different brand names as well as those gasoline retail outlets that are unbranded.

(2) For any retail outlet from which a sample of gasoline or diesel fuel was collected during a survey and was reported to EPA under § 1090.1410(e), that retail outlet must be included in the subsequent survey.

(3) At least one sample of a product dispensed as E15 must be collected at each gasoline retail outlet when E15 is present, and separate samples must be taken that represent the gasoline contained in each storage tank at the gasoline retail outlet unless collection of separate samples is not practicable.

(4) At least one sample of diesel fuel must be collected at each retail outlet when diesel fuel is present. Samples of diesel fuel may be collected at retail outlets that sell gasoline.

(e) * * *

(2) The minimum number of samples to be included in the survey program plan for each calendar year is calculated as follows:

Equation 1 paragraph (e)(2)

$$n = \left(\frac{\left(Z_{\alpha} + Z_{\beta} \right)^{2}}{4 \cdot \left[\arcsin\left(\sqrt{\phi_{1}} \right) - \arcsin\left(\sqrt{\phi_{0}} \right) \right]} \right) \cdot F_{a} \cdot F_{b} \cdot Su_{n} \cdot St_{n}$$

Where:

n = Minimum number of samples in a year-long survey series. However, n must be greater than or equal to 2,000 for the number of diesel fuel samples or 5,000 for the number of gasoline samples.

Z_α = Upper percentile point from the normal distribution to achieve a one-tailed 95 percent confidence level (5 percent α-level). For purposes of this survey program, Z_α equals 1.645.

Z_β = Upper percentile point to achieve 95 percent power. For purposes of this survey program, Z_β equals 1.645.

φ_1 = Maximum proportion of noncompliant outlets for a region to be deemed compliant. This parameter needs to be 5 percent or greater (*i.e.,* 5 percent or more of the outlets, within a stratum such that the region is considered noncompliant).

φ_0 = Underlying proportion of noncompliant outlets in a sample. For the first survey program plan, φ_0 will be 2.3 percent. For subsequent survey program plans, φ_0 will be the average of the proportion of outlets found to be noncompliant over the previous 4 surveys.

F_a = Adjustment factor for the number of extra samples required to compensate for samples that could not be included in the survey (*e.g.,* due to technical or logistical considerations), based on the number of additional samples required during the previous 4 surveys. F_a must be greater than or equal to 1.1.

F_b = Adjustment factor for the number of samples required to resample each retail outlet with test results reported to EPA under § 1090.1410(e), based on the rate of resampling required during the previous 4 surveys. F_b must be greater than or equal to 1.1.

Su_n = Number of surveys per year. For purposes of this survey program, Su_n equals 4.

St_n = Number of sampling strata. For purposes of this survey program, St_n equals 3.

* * * * *

(f) *Laboratory designation.* Any laboratory that the independent surveyor intends to use to test samples collected as part of the NFSP must be approved annually as part of the survey program plan approval process under § 1090.1400(a). In the survey program plan submitted to EPA, the independent surveyor must include the following information regarding any laboratory they intend to use to test samples:

* * * * *

■ 108. Amend § 1090.1420 by revising and republishing paragraph (a) to read as follows:

§ 1090.1420 Additional requirements for E15 misfueling mitigation surveying.

(a) *E15 misfueling mitigation survey requirement.* (1) Any gasoline manufacturer, oxygenate blender, or oxygenate producer that produces, introduces into commerce, sells, or offers for sale gasoline, BOB, DFE, or gasoline-ethanol blended fuel that is intended for use in or as E15 must comply with either survey program Option 1 (as specified in paragraph (b) of this section) or Option 2 (as specified in paragraph (c) of this section).

(2) For an oxygenate producer that produces or imports DFE, the DFE is deemed as intended for use in E15 unless the oxygenate producer demonstrates that it was not intended for such use. The oxygenate producer may demonstrate, at a minimum, that DFE is not intended for use in E15 by including language on PTDs stating that the DFE is not intended for use in E15, entering into contracts with oxygenate blenders to limit the use of their DFE to gasoline-ethanol blended fuels of no more than 10 volume percent ethanol, and limiting the concentration of their DFE to no more than 10 volume percent ethanol in their fuel additive registration under 40 CFR part 79.

* * * * *

■ 109. Amend § 1090.1450 by:
■ a. Revising paragraph (c)(2)(v);
■ b. Revising and republishing paragraph (c)(3); and
■ c. Revising paragraphs (c)(4) introductory text, (c)(10) introductory text, (c)(10)(iii), (d)(2)(i), (d)(3)(ii), (d)(4) introductory text, (d)(4)(iv), and (d)(5).

The revisions and republication read as follows:

§ 1090.1450 National sampling and testing oversight program.

* * * * *

(c) * * *

(2) * * *

(v) Samples collected must be shipped via ground service within 2 business days from when the samples are collected to an EPA-approved laboratory as established in an approved NSTOP plan under this section. A random subset of collected samples must also be shipped to the EPA National Vehicle and Fuel Emissions Laboratory as established in an approved NSTOP plan under this section.

(3) Test, or arrange to be tested, samples collected under paragraph (c)(2) of this section as follows:

(i) Winter gasoline samples must be analyzed for oxygenate content, sulfur content, benzene content, distillation parameters, aromatics, and olefins.

(ii) Summer gasoline samples must be analyzed for oxygenate content, sulfur content, benzene content, distillation parameters, aromatics, olefins, and RVP, except that samples of exempt gasoline under § 1090.630 do not need to be analyzed for RVP.

(iii) All samples must be tested by an EPA-approved laboratory using test methods specified in subpart N of this part.

(iv) All analyses must be completed by an EPA-approved laboratory within 10 business days after receipt of the sample.

(v) A gasoline manufacturer must analyze gasoline samples for sulfur content, benzene content, and for summer gasoline, RVP, except that samples of exempt gasoline under § 1090.630 do not need to be analyzed for RVP.

(4) Using procedures specified in an EPA-approved NSTOP plan under this section, notify EPA and the gasoline manufacturer within 24 hours after an EPA-approved laboratory has completed analysis when any of the following occur:

* * * * *

(10) Review the test performance index and precision ratio for each method and instrument the laboratory used to test gasoline samples collected under this section as follows:

* * * * *

(iii) A gasoline manufacturer must supply copies of the necessary information to the independent surveyor to review the TPI and PR for each method and instrument used to test gasoline samples collected under this section.

* * * * *

(d) * * *

(2) * * *

(i) Each participating gasoline manufacturing facility must be sampled at least once during each season they produce fuel. The NSTOP plan must demonstrate how these facilities will be randomly selected within the summer and winter seasons.

* * * * *

(3) * * *

(ii) The minimum number of samples to be included in the NSTOP plan for each calendar year is calculated as follows:

Equation 1 to paragraph (d)(3)(ii)

$$n = R \cdot F_a \cdot F_b \cdot Su_n$$

Where:

n = Minimum number of samples in a year.

R = Number of participating gasoline manufacturing facilities.

F_a = Adjustment factor for the number of extra samples required to compensate for samples that could not be included in the NSTOP (*e.g.,* due to technical or logistical considerations), based on the number of additional samples required during the previous 2 calendar years. F_a must be greater than or equal to 1.1.

F_b = Adjustment factor for the number of samples required to ensure oversight. For purposes of this program, F_b equals 1.25.

Su_n = Number of samples required per participating facility per year. For purposes of this program, Su_n equals 2.

(4) *Laboratory designation.* Any laboratory that the independent surveyor intends to use to test samples collected as part of the NSTOP must be approved annually as part of the NSTOP plan approval process in § 1090.1400(a). The independent surveyor must include the following information regarding each laboratory it intends to use to test samples:

* * * * *

(iv) Records demonstrating the laboratory's performance in a laboratory crosscheck program for the most recent 12 months prior to submission of the NSTOP plan.

(5) *Sampling procedure.* The NSTOP plan must include a detailed description of the sampling procedures used to collect samples at participating gasoline manufacturing facilities.

* * * * *

Subpart P—Retailer and Wholesale Purchaser-Consumer Provisions

■ 110. Amend § 1090.1515 by revising the section heading to read as follows:

§ 1090.1515 Diesel fuel sulfur labeling provisions.

* * * * *

Subpart Q—Importer and Exporter Provisions

■ 111. Amend § 1090.1600 by revising paragraphs (b) and (d) to read as follows:

§ 1090.1600 General provisions for importers.

* * * * *

(b)(1) Except as specified in paragraph (b)(2) of this section, all applicable standards in subparts C and D of this part apply to imported gasoline and diesel fuel, respectively.

(2) An importer that imports gasoline at multiple import facilities must comply with the gasoline average standards in §§ 1090.205(a) and 1090.210(a) as specified in § 1090.705(b), unless the importer complies with the provisions of § 1090.1610 to meet the alternative per-gallon standards for rail or truck imports specified in §§ 1090.205(d) and 1090.210(c).

* * * * *

(d) Alternative testing requirements for an importer that imports fuel, fuel additive, or regulated blendstock by rail or truck are specified in § 1090.1610.

■ 112. Amend § 1090.1605 by revising and republishing paragraph (b)(1) to read as follows:

§ 1090.1605 Importation by marine vessel.

* * * * *

(b) * * *

(1) The importer must sample each compartment of the vessel and use one of the following methods to meet testing requirements:

(i) Treat each compartment as a separate batch. Each individual compartment is deemed to meet the homogeneity requirements in § 1090.1337.

(ii) For summer gasoline, measure the RVP of a sample collected from each compartment. In the case of blending oxygenate with imported gasoline, collect samples and measure RVP before or after blending as described in § 1090.1310(c)(1) and (2). For testing all other products, combine samples from separate compartments into a single, vessel-volumetric composite sample using the procedures in Section 9.2.4 of ASTM D4057 (incorporated by reference, see § 1090.95). Test results from the composite sample are valid only if single samples collected from each affected compartment together meet the homogeneity requirements in § 1090.1337.

* * * * *

■ 113. Revise and republish § 1090.1610 to read as follows:

§ 1090.1610 Importation by rail or truck.

(a) An importer that imports fuel, fuel additive, or regulated blendstock by rail or truck must meet the sampling and testing requirements of subpart N of this part by sampling and testing each compartment of the railcar or truck unless they do one of the following:

(1) *Use supplier results.* The importer may rely on test results from the supplier for fuel, fuel additive, or regulated blendstock imported by rail or truck if the importer meets all the following requirements:

(i) The importer obtains documentation of test results from the supplier for each batch of fuel, fuel additive, or regulated blendstock in accordance with the following requirements:

(A) The testing includes measurements for all the parameters specified in § 1090.1310 using the measurement procedures specified in § 1090.1350.

(B) Testing for a given batch occurs after the most recent delivery into the supplier's storage tank and before transferring the fuel, fuel additive, or regulated blendstock to the railcar or truck.

(ii) The importer conducts testing to verify test results from each supplier as follows:

(A) Collect a sample at least once every 30 days or every 50 rail or truckloads from a given supplier, whichever is more frequent. Test the sample as specified in paragraphs (a)(1)(i)(A) and (B) of this section.

(B) Treat importation of each fuel, fuel additive, or regulated blendstock separately, but treat railcars or truckloads together if the fuel, fuel additive, or regulated blendstock is imported from a given supplier by rail or truck.

(2) *Certify in a storage tank.* The importer may transfer the fuel, fuel additive, or regulated blendstock imported by rail or truck into storage tanks that also contain the same product if the importer meets the following requirements:

(i) For gasoline, the importer transfers gasoline into one or more empty tanks or tanks containing PCG that the importer owns.

(A) If the importer transfers gasoline into one or more empty tanks, they must sample and test the sulfur content, benzene content, and for summer gasoline, RVP, of each tank into which the gasoline was transferred.

(B) If the importer transfers gasoline into one or more tanks containing PCG, they must sample the PCG already in the tank prior to transferring gasoline from the train or truck, test the sulfur content and benzene content, and report this PCG as a negative batch as specified in § 1090.905(c)(3)(i). After transferring the gasoline into the tanks, the importer must sample and test the sulfur content, benzene content, and for summer gasoline, RVP, of each tank into which the gasoline was transferred and report the volume, sulfur content, and benzene content as a positive batch.

(C) Include the PCG in the tank before transferring and the volume and properties after transferring in compliance calculations as specified in § 1090.700(d)(4)(i).

(D) The sample retention requirements in § 1090.1345 apply to the samples taken prior to transferring and those taken after transferring.

(ii) For all other fuel, fuel additive, or regulated blendstock, the importer must sample and test the fuel, fuel additive, or regulated blendstock in each tank into which it was transferred. The importer must ensure that all applicable per-gallon standards are met before the fuel, fuel additive, or regulated blendstock is shipped from the tank.

(b) If an importer that elects to comply with paragraph (a)(1) or (2) of this section fails to meet the applicable requirements, they must meet the sampling and testing requirements of subpart N of this part for each compartment of the railcar or truck until EPA determines that the importer has

adequately addressed the cause of the failure.

■ 114. Amend § 1090.1615 by revising and republishing paragraph (d) to read as follows:

§ 1090.1615 Gasoline treated as a blendstock.

* * * * *

(d)(1) The importer must treat the GTAB as if it were imported gasoline and complete all the requirements for a gasoline manufacturer under § 1090.105(a) (except for the sampling, testing, and sample retention requirements in § 1090.105(a)(6)) for the GTAB at the time it is imported.

(2) Any GTAB that ultimately is not used to produce gasoline (*e.g.,* a tank bottom of GTAB) must be treated as newly imported gasoline and must meet all applicable requirements for imported gasoline.

Subpart R—Compliance and Enforcement Provisions

■ 115. Amend § 1090.1710 by revising paragraph (g) introductory text to read as follows:

§ 1090.1710 Penalties.

* * * * *

(g) The presumed fuel parameter values in this paragraph (g) apply for cases in which any person fails to comply with the sampling or testing requirements and must be reported, unless EPA, in its sole discretion, approves a different value. Any person requesting the use of alternative test values must submit their request to EPA as specified in § 1090.10 within 30 days of discovering failure to comply with sampling and testing requirements, except that the request will be considered timely if the sampling and testing violation is self-disclosed under EPA's audit policy and the request is submitted by the certification deadline for the self-disclosure.

* * * * *

■ 116. Amend § 1090.1715 by:
■ a. Revising paragraph (c); and
■ b. Revising and republishing paragraph (e).

The revisions and republication read as follows:

§ 1090.1715 Liability provisions.

* * * * *

(c) Any parent corporation is liable for any violation committed by any of its wholly owned subsidiaries.

* * * * *

(e)(1) Any person who produced, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, caused the transportation or storage of, or introduced into commerce fuel, fuel additive, or regulated blendstock that is in the storage tank containing fuel, fuel additive, or regulated blendstock that is found to be in violation of a per-gallon standard is liable for the violation.

(2) In order for a carrier to be liable under paragraph (e)(1) of this section, EPA must demonstrate by reasonably specific showing, by direct or circumstantial evidence, that the carrier caused the violation.

* * * * *

Subpart S—Attestation Engagements

■ 117. Amend § 1090.1800 by:
■ a. Adding paragraph (a)(3); and
■ b. Revising paragraphs (b)(1)(ii) and (d)(1).

The addition and revisions read as follows:

§ 1090.1800 General provisions.

(a) * * *

(3) A gasoline manufacturer that transacts sulfur or benzene credits under this part.

(b) * * *

(1) * * *

(ii) The auditor may be a certified public accountant, or firm of such accountants, that is independent of the gasoline manufacturer. Such an auditor must comply with the AICPA *Code of Professional Conduct,* including its independence requirements, the AICPA *Statements on Quality Control Standards (SQCS) No. 8, A Firm's System of Quality Control,* the AICPA *Statement on Quality Management Standards (SQMS) No. 1, No. 2, and No. 3* (all incorporated by reference, see § 1090.95), and applicable rules of state boards of public accountancy. Such an auditor must also perform the attestation engagement in accordance with the AICPA *Statement on Standards for Attestation Engagements (SSAE) No. 19, Agreed-Upon Procedures Engagements,* especially as noted in sections AT–C 105, 215, and 315 (incorporated by reference, see § 1090.95).

* * * * *

(d) * * *

(1) The auditor must prepare an attestation engagement report identifying the applicable procedures specified in this subpart along with the auditor's corresponding findings for each procedure. The auditor must submit the attestation engagement report electronically to EPA by June 1 of the year following the compliance period.

* * * * *

■ 118. Amend § 1090.1805 by revising paragraph (a)(3) to read as follows:

§ 1090.1805 Representative samples.

(a) * * *

(3) Determine sample size using an alternate method that is equivalent to or better than the methods specified in paragraphs (a)(1) and (2) of this section with respect to strength of inference and freedom from bias. An auditor that determines a sample size using an alternate method must describe and justify the alternate method in the attestation engagement report.

* * * * *

■ 119. Revise and republish § 1090.1810 to read as follows:

§ 1090.1810 General procedures for gasoline manufacturers.

An auditor must perform the procedures specified in this section for a gasoline manufacturer that produces gasoline in the United States.

(a) *Registration and reports.* An auditor must review registration and reports as follows:

(1) Obtain copies of the gasoline manufacturer's registration information submitted under subpart I of this part and all reports (except batch reports) submitted by the gasoline manufacturer under subpart J of this part.

(2) For each gasoline manufacturing facility, confirm that the facility's registration is accurate based on the activities reported during the compliance period, including that the registration for the facility and any related updates were completed prior to conducting regulated activities at the facility and report any discrepancies.

(3) Confirm that the gasoline manufacturer submitted all reports required under subpart J of this part for activities they performed during the compliance period and report any exceptions.

(4) Obtain a written statement from the gasoline manufacturer's RCO that the submitted reports are complete and accurate.

(5) Report the name of any commercial computer program used to track any data required under this part.

(b) *Inventory reconciliation analysis.* An auditor must review an inventory reconciliation analysis as follows:

(1) Obtain an inventory reconciliation analysis from the gasoline manufacturer for each gasoline type produced at each facility (*e.g.,* RFG, CG, RBOB, CBOB), including the inventory at the beginning and end of the compliance period and inventory records (*e.g.,* receipts, production volumes, shipments, transfers, and gain/loss).

(2) Foot and cross-foot the volumes by gasoline type.

(3) Compare the beginning and ending inventory to the inventory records for each gasoline type and report any variances.

(4) Report the total volume of each gasoline type.

(c) *Listing of gasoline tenders.* An auditor must review a listing of gasoline tenders as follows:

(1) Obtain a detailed listing of gasoline tenders from the gasoline manufacturer, by gasoline type.

(2) Foot the tender volumes by gasoline type.

(3) Compare the total volume from the tenders to the inventory reconciliation analysis obtained under paragraph (b) of this section for each gasoline type and report any variances.

(d) *Listing of gasoline batches.* An auditor must review a listing of gasoline batches as follows:

(1) Obtain the gasoline batch reports submitted by the gasoline manufacturer under subpart J of this part.

(2) Foot the batch volumes by gasoline type.

(3) Compare the total volume from the batch reports to the inventory reconciliation analysis obtained under paragraph (b) of this section for each gasoline type and report any variances.

(4) Report as a finding any batch with a reported value that does not meet a per-gallon standard in subpart C of this part.

(e) *Test methods.* An auditor must follow the procedures specified in § 1090.1845 to determine whether the gasoline manufacturer complies with the applicable quality control requirements specified in § 1090.1375.

(f) *Detailed testing of BOB tenders.* An auditor must review a detailed listing of BOB tenders as follows:

(1) Select a representative sample of BOB tenders from the listing of tenders obtained under paragraph (c) of this section.

(2) Obtain the associated PTD for each selected tender.

(3) Using a unique identifier, confirm that the correct PTDs are obtained for the selected tenders.

(4) Compare the volume on the listing for each selected tender to the associated PTD and report any exceptions.

(5) Confirm that the PTD associated with each selected tender contains all the applicable language required under subpart L of this part and report any exceptions.

(g) *Detailed testing of BOB batches.* An auditor must review a detailed listing of BOB batches as follows:

(1) Select a representative sample of BOB batches from the batch reports obtained under paragraph (d) of this section.

(2) Obtain the volume documentation and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6) Determine each oxygenate type and amount that was required for blending with each selected batch.

(7) Confirm that each oxygenate type and amount included in the BOB hand blend agrees with the gasoline manufacturer's blending instructions for each selected batch and report any exceptions.

(8) Confirm that the gasoline manufacturer participates in the NFSP under § 1090.1405, if applicable.

(9)(i) For a blending manufacturer, confirm that the laboratory analysis includes test results for oxygenate content, if applicable, and distillation parameters (*i.e.,* T10, T50, T90, final boiling point, and percent residue).

(ii) For a blending manufacturer not required to measure oxygenate content, confirm that records demonstrate that the PCG or blendstock contained no oxygenate, no oxygenate was added to the final gasoline batch, and the blending manufacturer did not account for oxygenate added downstream under § 1090.710.

(h) *Detailed testing of finished gasoline tenders.* An auditor must review a detailed listing of finished gasoline tenders as follows:

(1) Select a representative sample of finished gasoline tenders from the listing of tenders obtained under paragraph (c) of this section.

(2) Obtain the associated PTD for each selected tender.

(3) Using a unique identifier, confirm that the correct PTDs are obtained for the selected tenders.

(4) Compare the volume on the listing for each selected tender to the associated PTD and report any exceptions.

(5) Confirm that the PTD associated with each selected tender contains all the applicable language required under subpart L of this part and report any exceptions.

(i) *Detailed testing of finished gasoline batches.* An auditor must review a detailed listing of finished gasoline batches as follows:

(1) Select a representative sample of finished gasoline batches from the batch reports obtained under paragraph (d) of this section.

(2) Obtain the volume documentation and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6)(i) For a blending manufacturer, confirm that the laboratory analysis includes test results for oxygenate content, if applicable, and distillation parameters (*i.e.,* T10, T50, T90, final boiling point, and percent residue).

(ii) For a blending manufacturer not required to measure oxygenate content, confirm that records demonstrate that the PCG or blendstock contained no oxygenate, no oxygenate was added to the final gasoline batch, and the blending manufacturer did not account for oxygenate added downstream under § 1090.710.

(j) *Detailed testing of blendstock batches.* In the case of adding blendstock to TGP or PCG under § 1090.1320(a)(2), an auditor must review a detailed listing of blendstock batches as follows:

(1) Select a representative sample of blendstock batches from the batch reports obtained under paragraph (d) of this section.

(2) Obtain the volume documentation and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6) For a blending manufacturer not required to measure oxygenate content, confirm that records demonstrate that the PCG or blendstock contained no oxygenate, no oxygenate was added to the final gasoline batch, and the blending manufacturer did not account for oxygenate added downstream under § 1090.710.

■ 120. Revise and republish § 1090.1815 to read as follows:

§ 1090.1815 General procedures for gasoline importers.

An auditor must perform the procedures specified in this section for a gasoline importer.

(a) *Registration and reports.* An auditor must review registration and reports for the importer as specified in § 1090.1810(a).

(b) *Listing of gasoline imports.* An auditor must review a listing of gasoline imports as follows:

(1) Obtain a detailed listing of gasoline imports from the importer, by gasoline type.

(2) Foot the import volumes from the importer by gasoline type.

(3) Obtain a detailed listing of gasoline imports directly from the third-party customs broker, by gasoline type.

(4) Foot the import volumes from the third-party customs broker by gasoline type.

(5) Compare the total volume from the listing of imports supplied by the importer to the listing of imports supplied by the third-party customs broker for each gasoline type and report any variances.

(6) Report the total imported volume of each gasoline type.

(c) *Listing of gasoline batches.* An auditor must review a listing of gasoline batches as follows:

(1) Obtain the gasoline batch reports submitted by the importer under subpart J of this part.

(2) Foot the batch volumes by gasoline type.

(3) Compare the total volume from the batch reports to the listing of imports supplied by the importer under paragraph (b) of this section for each gasoline type and report any variances.

(4) Report as a finding any batch with a reported value that does not meet a per-gallon standard in subpart C of this part.

(d) *Test methods.* An auditor must follow the procedures specified in § 1090.1845 to determine whether the importer complies with the applicable quality control requirements specified in § 1090.1375.

(e) *Detailed testing of BOB imports.* An auditor must review a detailed listing of BOB imports as follows:

(1) Select a representative sample of BOB imports from the listing of imports supplied by the importer under paragraph (b) of this section.

(2) Obtain the associated U.S. Customs Entry Summary and PTD for each selected import.

(3) Using a unique identifier, confirm that the correct U.S. Customs Entry Summaries are obtained for the selected imports.

(4) Compare the volume and location the import arrived in the United States on the listing for each selected import to the associated U.S. Customs Entry Summary and report any exceptions.

(5) Using a unique identifier, confirm that the correct PTDs are obtained for the selected imports.

(6) Compare the volume on the listing for each selected import to the associated PTD and report any exceptions.

(7) Confirm that the PTD associated with each selected import contains all the applicable language required under subpart L of this part and report any exceptions.

(f) *Detailed testing of BOB batches.* An auditor must review a detailed listing of BOB batches as follows:

(1) Select a representative sample of BOB batches from the batch reports obtained under paragraph (c) of this section.

(2) Obtain the volume inspection report and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume inspection report and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6) Determine each oxygenate type and amount that was required for blending with each selected batch.

(7) Confirm that each oxygenate type and amount included in the BOB hand blend agrees with the importer's blending instructions for each selected batch and report any exceptions.

(8) Confirm that the importer participates in the NFSP under § 1090.1405, if applicable.

(g) *Detailed testing of finished gasoline imports.* An auditor must review a detailed listing of finished gasoline imports as follows:

(1) Select a representative sample of finished gasoline imports from the listing of imports supplied by the importer under paragraph (b) of this section.

(2) Obtain the associated U.S. Customs Entry Summary and PTD for each selected import.

(3) Using a unique identifier, confirm that the correct U.S. Customs Entry Summaries are obtained for the selected imports.

(4) Compare the volume and location the import arrived in the United States on the listing for each selected import to the associated U.S. Customs Entry Summary and report any exceptions.

(5) Using a unique identifier, confirm that the correct PTDs are obtained for the selected imports.

(6) Compare the volume on the listing for each selected import to the associated PTD and report any exceptions.

(7) Confirm that the PTD associated with each selected import contains all the applicable language required under subpart L of this part and report any exceptions.

(h) *Detailed testing of finished gasoline batches.* An auditor must review a detailed listing of finished gasoline batches as follows:

(1) Select a representative sample of finished gasoline batches from the batch reports obtained under paragraph (c) of this section.

(2) Obtain the volume inspection report and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume inspection report and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(i) *Additional procedures for gasoline imported by rail or truck.* An auditor must perform the following additional procedures for an importer that imports gasoline into the United States by rail or truck under § 1090.1610:

(1)(i) Select a representative sample of gasoline batches from the batch reports obtained under paragraph (c) of this section.

(ii) Obtain the tank activity records for each selected batch from the party that supplied the gasoline to the importer.

(iii) Identify the point of sampling and testing associated with each selected batch in the tank activity records.

(iv) Confirm that the sampling and testing for each selected batch occurred after the most recent delivery into the supplier's storage tank and before transferring gasoline to the railcar or truck.

(2)(i) Obtain a detailed listing of the importer's quality assurance program sampling and testing results.

(ii) Determine whether the frequency of sampling and testing meets the requirements in § 1090.1610(a)(2) and report any discrepancies.

(iii)(A) Select a representative sample of gasoline batches from the sampling and testing results.

(B) Obtain the laboratory analysis for each selected batch.

(C) Determine whether the importer analyzed the test sample for each

selected batch, and report as a finding any batch where the importer failed to perform the analysis using the methods specified in subpart N of this part.

(D) Obtain and review any terminal test results corresponding to the time of collecting the quality assurance test samples.

(E) Compare the terminal test results to the test results from the quality assurance program. Report as a finding any test result with a difference that is greater than the reproducibility of the applicable method specified in subpart N of this part.

■ 121. Revise the section heading and revise and republish § 1090.1820 to read as follows:

§ 1090.1820 Additional procedures for GTAB.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that imports GTAB under § 1090.1615.

(a) *Listing of GTAB imports.* An auditor must review a listing of GTAB imports as follows:

(1) Obtain a detailed listing of GTAB imports from the importer.

(2) Foot the import volumes from the importer.

(3) Obtain a detailed listing of GTAB imports directly from the third-party customs broker.

(4) Foot the import volumes from the third-party customs broker.

(5) Compare the total volume from the listing of imports supplied by the importer to the listing of imports supplied by the third-party customs broker and report any variances.

(6) Report the total imported volume of GTAB and the corresponding facilities at which the GTAB was blended.

(b) *Listing of GTAB batches.* An auditor must review a listing of GTAB batches as follows:

(1) Obtain the GTAB batch reports submitted by the importer under subpart J of this part.

(2) Foot the batch volumes.

(3) Compare the total volume from the batch reports to the listing of imports supplied by the importer under paragraph (a) of this section and report any variances.

(c) *Detailed testing of GTAB imports.* An auditor must review a detailed listing of GTAB imports as follows:

(1) Select a representative sample of GTAB imports from the listing of imports supplied by the importer under paragraph (a) of this section.

(2) Obtain the associated U.S. Customs Entry Summary for each selected import.

(3) Using a unique identifier, confirm that the correct U.S. Customs Entry Summaries are obtained for the selected imports.

(4) Compare the volume and location the import arrived in the United States on the listing for each selected import to the associated U.S. Customs Entry Summary and report any exceptions.

(d) *Detailed testing of GTAB batches.* An auditor must review a detailed listing of GTAB batches as follows:

(1) Select a representative sample of GTAB batches from the batch reports obtained under paragraph (b) of this section.

(2) Obtain the volume inspection report for each selected batch.

(3) Compare the reported volume for each selected batch to the volume inspection report and report any exceptions.

(e) *GTAB tracing.* An auditor must trace and review the movement of GTAB from importation to gasoline production as follows:

(1) Compare the total volume from the batch reports obtained under paragraph (b) of this section to the inventory reconciliation analysis obtained under § 1090.1810(b).

(2)(i) Obtain tank activity records that describe the movement of each selected batch under paragraph (d) of this section from importation to gasoline production.

(ii) Identify each selected batch in the tank activity records and trace each selected batch to subsequent reported batches of BOB or finished gasoline and report any exceptions.

(iii) Match the location of the facility where gasoline was produced from each selected batch to the location where each selected batch arrived in the United States, or to the facility directly receiving the selected batch from the import facility.

(iv) Determine the status of the tank(s) before receiving each selected batch (*e.g.,* empty tank, tank containing blendstock, tank containing GTAB, tank containing PCG).

(v) If the tank(s) contained PCG before receiving the selected batch, take the following additional steps:

(A) Obtain and review a copy of the documented tank mixing procedures.

(B) Determine the volume and properties of the tank bottom that was PCG before adding GTAB.

(C) Confirm that the gasoline manufacturer determined the volume and properties of the BOB or finished gasoline produced using GTAB by excluding the volume and properties of any PCG, and that the gasoline manufacturer separately reported the PCG volume and properties under subpart J of this part and report any discrepancies.

■ 122. Revise and republish § 1090.1825 to read as follows:

§ 1090.1825 Additional procedures for PCG used to produce gasoline.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that produces gasoline from PCG under § 1090.1320.

(a) *Listing of PCG batches.* An auditor must review a listing of PCG batches as follows:

(1) Obtain the PCG batch reports submitted by the gasoline manufacturer under subpart J of this part.

(2) Foot the batch volumes.

(3) Compare the total volume from the batch reports to the inventory reconciliation analysis obtained under § 1090.1810(b) and report any variances.

(b) *Detailed testing of PCG batches.* An auditor must review a detailed listing of PCG batches as follows:

(1) Select a representative sample of PCG batches from the batch reports obtained under paragraph (a) of this section.

(2) Obtain the volume documentation, laboratory analysis, associated PTD, and tank activity records for each selected batch.

(3) Identify each selected batch in the tank activity records and trace each selected batch to subsequent reported batches of BOB or finished gasoline and report any exceptions.

(4) For each selected batch, report as a finding any instance where the reported volume was adjusted from the original receipt volume, such as for exported PCG.

(5) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(6) Compare the reported gasoline type for each selected batch to the associated PTD and report any exceptions.

(7) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(8) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

■ 123. Revise and republish § 1090.1830 to read as follows:

§ 1090.1830 Alternative procedures for certified butane blenders.

An auditor must perform the procedures specified in this section instead of or in addition to the applicable procedures in § 1090.1810 for

a certified butane blender that blends certified butane into PCG under § 1090.1320(b).

(a) *Registration and reports.* An auditor must review registration and reports as follows:

(1) Obtain copies of the certified butane blender's registration information submitted under subpart I of this part and all reports submitted by the certified butane blender under subpart J of this part, including the batch reports for the certified butane received and blended.

(2) For each butane blending facility, confirm that the facility's registration is accurate based on the activities reported during the compliance period, including that the registration for the facility and any related updates were completed prior to conducting regulated activities at the facility and report any discrepancies.

(3) Confirm that the certified butane blender submitted all reports required under subpart J of this part for activities they performed during the compliance period and report any exceptions.

(4) Obtain a written statement from the certified butane blender's RCO that the submitted reports are complete and accurate.

(5) Report the name of any commercial computer program used to track any data required under this part.

(b) *Inventory reconciliation analysis.* An auditor must review an inventory reconciliation analysis as follows:

(1) Obtain an inventory reconciliation analysis from the certified butane blender for each butane blending facility related to all certified butane movements, including the inventory at the beginning and end of the compliance period, receipts, blending/production volumes, shipments, transfers, and gain/loss.

(2) Foot and cross-foot the volumes.

(3) Compare the beginning and ending inventory to the certified butane blender's inventory records and report any variances.

(4) Compare the total volume of certified butane received from the inventory reconciliation analysis to the batch reports obtained under paragraph (a) of this section and report any variances.

(5) Compare the total volume of certified butane blended from the inventory reconciliation analysis to the batch reports obtained under paragraph (a) of this section and report any variances.

(6) Report the total volume of certified butane received and blended.

(c) *Listing of certified butane receipts.* An auditor must review a listing of certified butane receipts as follows:

(1) Obtain a detailed listing of certified butane receipts for certified butane received at each butane blending facility from the certified butane blender.

(2) Foot the receipt volumes.

(3) Compare the total volume from the receipts to the batch reports obtained under paragraph (a) of this section and report any variances.

(d) *Detailed testing of certified butane batches.* An auditor must review a detailed listing of certified butane batches as follows:

(1) Select a representative sample of certified butane batches from the batch reports obtained under paragraph (a) of this section.

(2) Obtain the volume documentation and laboratory analysis for each selected batch.

(3) Compare the reported volume for each selected batch to the volume documentation and report any exceptions.

(4) Compare the reported properties for each selected batch to the laboratory analysis and report any exceptions.

(5) Compare the reported test methods used for each selected batch to the laboratory analysis and report any exceptions.

(6) Report as a finding any batch with a reported value that does not meet a standard for certified butane in subpart C of this part.

(e) *Quality assurance program review.* An auditor must review a certified butane blender's quality assurance program as follows:

(1) Obtain a detailed listing of the certified butane blender's quality assurance program sampling and testing results.

(2) Determine whether the frequency of sampling and testing meets the requirements in § 1090.1320(b)(4) and report any discrepancies.

■ 124. Amend § 1090.1835 by revising paragraph (a) to read as follows:

§ 1090.1835 Alternative procedures for certified pentane blenders.

(a) An auditor must perform the procedures specified in this section instead of or in addition to the applicable procedures in § 1090.1810 for a certified pentane blender that blends certified pentane into PCG under § 1090.1320(b).

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■ 125. Revise and republish § 1090.1840 to read as follows:

§ 1090.1840 Additional procedures related to compliance with gasoline average standards.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that complies with the standards in subpart C of this part using the procedures specified in subpart H of this part.

(a) *Annual compliance demonstration review.* An auditor must review annual compliance demonstrations as follows:

(1) Obtain the annual compliance reports for sulfur and benzene and associated batch reports submitted by the gasoline manufacturer under subpart J of this part.

(2)(i) For a gasoline refiner or gasoline blending manufacturer, compare the total volume of gasoline produced at each facility from the annual compliance report to the inventory reconciliation analysis obtained under § 1090.1810(b) and report any variances.

(ii) For a gasoline importer, compare the total volume of gasoline imported from the annual compliance report to the listing of imports supplied by the importer under § 1090.1815(b) and report any variances.

(3) For each facility, recalculate and report the following values:

(i) Compliance sulfur value, per § 1090.700(a)(1), and compliance benzene value, per § 1090.700(b)(1)(i).

(ii) Unadjusted average sulfur concentration, per § 1090.745(b), and average benzene concentration, per § 1090.700(b)(3).

(iii) Number of credits generated during the compliance period, or number of banked or traded credits needed to meet standards for the compliance period.

(iv) Number of credits from the preceding compliance period that are expired or otherwise no longer available for the compliance period being reviewed.

(v) Net average sulfur concentration, per § 1090.745(c), and net average benzene concentration, per § 1090.745(d).

(4) Compare the recalculated values under paragraph (a)(3) of this section to the reported values in the annual compliance reports and report any exceptions.

(5) Report whether the gasoline manufacturer had a deficit for both the compliance period being reviewed and the preceding compliance period.

(b) *Credit transaction review.* An auditor must review credit transactions as follows:

(1) Obtain the credit transaction reports submitted by the gasoline manufacturer under subpart J of this part and contracts or other information that documents all credit transfers. Also obtain records that support intracompany transfers.

(2) For each reported transaction, compare the supporting documentation with the credit transaction reports for the following elements and report any exceptions:

(i) Compliance period of creation.

(ii) Credit type (*i.e.,* sulfur or benzene) and number of times traded.

(iii) Quantity.

(iv) The name of the other company participating in the credit transfer.

(v) Transaction type.

(c) *Facility-level credit reconciliation.* Except as specified in paragraph (c)(4) of this section, an auditor must perform a facility-level credit reconciliation separately for each gasoline manufacturing facility as follows:

(1) Obtain the credits remaining or the credit deficit from the previous compliance period from the credit transaction reports obtained under paragraph (b) of this section.

(2) Calculate and report as a finding the net credits remaining at the end of the compliance period.

(3) Compare the ending balance of credits or credit deficit recalculated under paragraph (c)(2) of this section to the corresponding value from the annual compliance report obtained under paragraph (a) of this section and report any variances.

(4) For an importer, the procedures of this paragraph (c) apply at the company level.

(d) *Company-level credit reconciliation.* An auditor must perform a company-level credit reconciliation as follows:

(1) Obtain a credit reconciliation listing company-wide credits aggregated by facility for the compliance period.

(2) Foot and cross-foot the credit quantities.

(3) Compare and report the beginning balance of credits, the ending balance of credits, the associated credit activity at the company level in accordance with the credit reconciliation listing, and the corresponding credit balances and activity submitted by the gasoline manufacturer under subpart J of this part.

(e) *Procedures for gasoline manufacturers that recertify BOB.* An auditor must perform the following procedures for a gasoline manufacturer that recertifies BOB under § 1090.740 and incurs a deficit:

(1) Perform the procedures specified in § 1090.1810(a) to review the gasoline manufacturer's registration and reports.

(2)(i) Obtain the recertified BOB batch reports submitted by the gasoline manufacturer under subpart J of this part.

(ii) Select a representative sample of recertified BOB batches from the batch reports.

(iii) Obtain supporting documentation (*e.g.,* PTDs, bills of lading, etc.) for each selected batch.

(iv) Compare the information on the batch reports to the supporting documentation and report any exceptions.

(v) Recalculate the deficits in accordance with the provisions of § 1090.740 and report any discrepancies.

(vi) Confirm that the deficits are included in the annual compliance report and report any exceptions.

■ 126. Revise and republish § 1090.1845 to read as follows:

§ 1090.1845 Procedures related to meeting performance-based measurement and statistical quality control for test methods.

(a) *General provisions.* (1) In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer.

(2) The auditor performing the procedures in this section must meet the laboratory experience requirements specified in § 1090.55(b)(2).

(3) In cases where the auditor employs, contracts, or subcontracts an external specialist, all the requirements in § 1090.55 apply to the external specialist. The auditor is responsible for overseeing the work of the specialist, consistent with applicable professional standards specified in § 1090.1800.

(4) In the case of quality control testing at a third-party laboratory, the auditor may perform a single attestation engagement on the third-party laboratory for multiple gasoline manufacturers if the auditor directly reviewed the information from the third-party laboratory. The third-party laboratory may also arrange for the auditor to perform a single attestation engagement on the third-party laboratory and make that available to gasoline manufacturers that have testing performed by the third-party laboratory.

(b) *Non-referee method qualification review.* For each test method used to measure a gasoline parameter as specified in a report submitted under subpart J of this part that is not one of the referee procedures listed in § 1090.1360(d), the auditor must review the following:

(1) Obtain supporting documentation showing that the laboratory has qualified the alternative test method by meeting the precision and accuracy criteria specified under § 1090.1365.

(2) Report a list of the alternative test methods used.

(3) Confirm that the gasoline manufacturer supplied the supporting documentation for each alternative test method and report any exceptions.

(4) If the auditor has previously reviewed supporting documentation under this paragraph (b) for an alternative test method at the laboratory, the auditor does not have to review the supporting documentation again.

(c) *Reference installation review.* For each reference installation used by the gasoline manufacturer during the compliance period, the auditor must review the following:

(1) Obtain supporting documentation demonstrating that the reference installation followed the qualification procedures specified in § 1090.1370(c)(1) and (2) and the quality control procedures specified in § 1090.1370(c)(3).

(2) Confirm that the laboratory completed the qualification procedures and report any exceptions.

(d) *Instrument control review.* For each test instrument used to measure gasoline parameters for batches selected as part of a representative sample under § 1090.1810, the auditor must review whether test instruments were in control as follows:

(1) Obtain a listing from the laboratory of the instruments and period when the instruments were used to measure gasoline parameters during the compliance period for batches selected as part of the representative sample under § 1090.1810.

(2) Obtain statistical quality assurance data and control charts demonstrating ongoing quality testing to meet the accuracy and precision requirements specified in § 1090.1375 or 40 CFR 80.47, as applicable.

(3) Confirm that the laboratory performed statistical quality assurance monitoring of its instruments under § 1090.1375 and report any exceptions.

(4) Report as a finding any test result that was excluded for being out of control and the laboratory did not have an assignable cause with appropriate supporting justification.

(5) Report as a finding the listing of instruments obtained under paragraph (d)(1) of this section and the compliance period when the instrument control review was completed.

■ 127. Revise and republish § 1090.1850 to read as follows:

§ 1090.1850 Procedures related to in-line blending waivers.

In addition to any other procedure required under this subpart, an auditor must perform the procedures specified in this section for a gasoline manufacturer that relies on an in-line blending waiver under § 1090.1315.

(a)(1) Obtain a copy of the gasoline manufacturer's in-line blending waiver submission and EPA's approval letter.

(2) Confirm that the sampling procedures and composite calculations conform to the specifications in § 1090.1315(a)(2).

(3) Review the gasoline manufacturer's procedure for defining a batch for compliance purposes. Review available test data demonstrating that the test results from in-line blending correctly characterize the fuel parameters for the designated batch.

(4) Confirm that the gasoline manufacturer corrected their operations because of previous audits, if applicable.

(5) Confirm that the equipment and procedures have not materially changed from the gasoline manufacturer's in-line blending waiver. In cases of material change in equipment or procedure, confirm that the gasoline manufacturer updated their in-line blending waiver and report any exceptions.

(6) Perform any additional procedures unique to the blending operation, as specified in the in-line blending waiver, and report any findings, variances, or exceptions, as applicable.

(7) Confirm that the gasoline manufacturer has complied with all provisions related to their in-line blending waiver and report any exceptions.

(b)(1) Obtain test data, including head, middle, and tail results, for each batch produced under the gasoline manufacturer's in-line blending waiver.

(2) Review the alternative sampling plan to meet requirements to test head, middle, and tail samples for small batches under § 1090.1315(a)(9).

(3) Report as a finding any instance where only a single sample was taken for a small batch involving more than 8 hours of blending or more than 1 million gallons of fuel.

(4) Report as a finding any instance where two samples were unevenly distributed for a small batch or where only two samples were taken for a small batch involving more than 16 hours of blending or up to 2 million gallons of fuel.

(5) Determine and report the percentage of in-line blending batches where the gasoline manufacturer failed to perform the required head, middle, and tail samples due to unforeseen circumstances. Report as a finding if this percentage is greater than 10 percent of in-line blending batches for the calendar year.

(6) Determine and report each instance where a contingency plan for alternative sampling was utilized under § 1090.1315(a)(12).

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