



EPA420-F-95-019
February 6, 1995

**RFG/Anti-Dumping
Questions and Answers
February 6, 1995**

Fuels and Energy Division
Office of Mobile Sources
U.S. Environmental Protection Agency

RFG/Anti-Dumping Questions and Answers, February 6, 1995

The following are responses to most of the questions received by the Environmental Protection Agency (EPA) through January 23, 1995, concerning the manner in which the EPA intends to implement and assure compliance with the reformulated gasoline and anti-dumping regulations at 40 CFR Part 80. This document was prepared by EPA's Office of Air and Radiation, Office of Mobile Sources, and Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Air Enforcement Division.

Regulated parties may use this document to aid in achieving compliance with the reformulated gasoline (RFG) and anti-dumping regulations. However, this document does not in any way alter the requirements of these regulations. While the answers provided in this document represent the Agency's interpretation and general plans for implementation of the regulations at this time, some of the responses may change as additional information becomes available or as the Agency further considers certain issues.

This guidance document does not establish or change legal rights or obligations. It does not establish binding rules or requirements and is not fully determinative of the issues addressed. Agency decisions in any particular case will be made applying the law and regulations on the basis of specific facts and actual action.

While we have attempted to include answers to all questions received by January 23, 1995, the necessity for policy decisions and/or resource constraints may have prevented the inclusion of certain questions. Questions not answered in this document will be answered in a subsequent document. Questions that merely require justification of the regulations, or that have previously been answered or discussed either in a previous Question and Answer document or the Preamble to the regulations have been omitted.

Topics Covered

Standards
Product Transfer Documentation
Importer Issues

STANDARDS

[NOTE: This is a revision of a question and answer posted on December 1, 1994, regarding the "blending allowance" for oxygenated gasoline.]

1. **Question:** EPA has previously offered guidance to refiners regarding a "blending allowance" for MTBE in order to meet the requirements of the wintertime oxygenated fuels program. This allowance permits the blending at refineries of MTBE up to 2.9 percent by weight oxygen (instead of the maximum 2.7 percent by weight oxygen allowed under EPA's "substantially similar" definition), in order to allow for dilution as the gasoline is distributed to terminal and retail stations downstream of the refinery. In separate guidance, recognizing that for some refiners the flexibility to utilize oxygenated fuels program reformulated gasoline (OPRG) in non-OPRG RFG areas is extremely important, EPA has previously stated that OPRG can be utilized in non-OPRG RFG areas. (E.g., regarding minimum pipeline tender sizes, it is often highly desirable for a refiner to ship a single shipment of OPRG to an oxygenated fuels area but to utilize some small portion of this shipment in a smaller RFG area which does not require OPRG.) However, it is not clear that EPA's guidance on blending tolerance and on the use of OPRG in non-OPRG RFG areas allows the use of OPRG blended using the 0.2 percent blending tolerance in non-OPRG RFG areas. Does the blending allowance apply to OPRG when it is used in reformulated gasoline areas that are not part of the wintertime oxygenated fuels program? Would this allowance also extend to situations where, for logistics reasons, OPRG is substituted for RFG and is shipped out of the refinery as non-OPRG RFG?

Answer: EPA's guidance allowing for the use of OPRG in non-OPRG RFG areas was meant to accommodate the previously issued guidance regarding the 0.2 percent oxygen blending allowance at the refinery. Thus, the 0.2 blending allowance would apply to OPRG RFG regardless of the area where the OPRG is ultimately used, and would also extend to OPRG that is shipped out of the refinery as non-OPRG RFG.

PRODUCT TRANSFER DOCUMENTATION

[NOTE: The following is a revision of Question 2 of the Product Transfer Documentation section of the November 21, 1994 and January 17, 1994 Question and Answer Documents.]

2. **Question:** We expect RFG geographic areas to develop in which base gasoline designated as "OPRG" with at least 2.0% oxygen but less than 2.7% oxygen will be sold. Will the product transfer documentation requirements covering such a product be met if the PTD shows the oxygen standards as 2.0% minimum and 2.7% maximum and also contains a message that although the product is designated as OPRG, it does not fulfill the requirements for resale or use in an oxygenated control area during a control period without the addition of oxygenates?

Answer: The RFG regulations require the transferor to include on the PTDs the federal minimum and maximum standards with which the gasoline conforms, including oxygen content (i.e., 1.5 wt% minimum and 2.7 wt% or 3.5 wt% maximum). As a separate requirement, the RFG regulations require the PTDs to state that the product is OPRG or is not OPRG. The RFG regulations do not require the inclusion of a message identifying OPRG as gasoline that does not fulfill the requirements for resale or use in an oxygenated control area during a control period without the addition of oxygenate.

In certain circumstances, the state standards or federal limits under § 211(f) of the Clean Air Act (substantially similar or waiver requirements) may be different from the federal RFG min/max standards for oxygen. EPA would accept inclusion on the PTDs of the state standards or federal § 211(f) requirements for oxygen in lieu of the federal RFG min/max standards where such standards or requirements are more stringent than the federal RFG standards.

IMPORTER ISSUES

[Note: The following is an update from GTAB question from the August 29, 1994, October 3, 1994, and December 5, 1994 Question and Answer Documents, to add an example of the GTAB calculations.]

2. **Question:** What options are available to an importer who wishes to import product that meets the definition of gasoline, but who wishes to further process this gasoline to meet the standards for conventional gasoline or RFG after the gasoline arrives at the U.S. port of entry?

Answer: Under the RFG final rule an importer must include all imported product that meets the definition of gasoline in the importer's compliance calculations for either RFG or conventional gasoline. If this imported gasoline is then processed by blending with additional blendstock, the subsequent blending constitutes a refinery operation for which all refiner requirements must be met, including refinery standards, refiner sampling and testing, independent sampling and testing in the case of RFG, record keeping, reporting, and attest engagements. Further, the RFG or anti-dumping standards for such an operation must be met solely on the basis of the blendstocks used, and the previously imported (and previously accounted-for) gasoline may not be included. This is true regardless of whether the subsequent blending-refining is conducted by the original importer of the gasoline, or by another party.

A company that is an importer may exclude gasoline imported by that company from the company's importer compliance calculations, provided that the company uses the gasoline as a blendstock in a refinery operated by the company, and includes the gasoline-treated-as-blendstock (GTAB) in the company's refinery compliance calculations. This accounting of GTAB must occur as follows:

- 1) The GTAB must be included in the compliance calculations for gasoline produced at a refinery operated by the same company that is the importer, for which the company meets all refiner standards and requirements.
- 2) The importer-company may not transfer title to the GTAB to another party until the GTAB has been used to produce gasoline and all refinery standards and requirements have been met for the gasoline produced.
- 3) The refinery at which the GTAB is used to produce gasoline must be physically located at the same terminal at which the GTAB first arrives in the U.S. (the import facility), or at a facility to which the GTAB is directly transported from the import facility.
- 4) The GTAB must be completely segregated from any other gasoline, whether conventional or RFG, and including any gasoline tank bottoms, prior to the point of blending, and sampling and testing, in the company's refinery operation. The GTAB may, however, be placed into a storage tank that contains other GTAB imported by that importer. The GTAB also may be discharged into a tank containing finished gasoline of the same category as the gasoline which will be produced using the GTAB (i.e., conventional gasoline or RFG, and if RFG the same category with regard to VOC control and OPRG) provided the blending process is performed in that same tank.
- 5) The company must account for the properties and volume of gasoline produced using GTAB in a manner that excludes the volume and properties of any gasoline that previously has been included in any refiner's or importer's compliance calculations. Thus, if GTAB and blendstock are combined in a storage tank that also contains a tank bottom of gasoline, the tank bottom-gasoline must be the same category as the gasoline which will be produced using the GTAB i.e., conventional gasoline or RFG, and if RFG the same category with regard to VOC control and OPRG. The gasoline tank bottom may not be included in the company's refinery compliance calculations for that batch of gasoline. This exclusion of previously-accounted-for gasoline should be accomplished using the following approach.
 - a) Determine the volume and properties of any tank bottom that is gasoline before any gasoline production begins.
 - b) Add the GTAB plus any blendstock to the storage tank, and completely mix the tank.

- c) Determine the volume and properties of the gasoline contained in the storage tank after blending is complete. Mathematically subtract the volume and properties of the tank bottom to determine the volume and properties of the GTAB plus blendstock added, which is reported to EPA as a batch of gasoline produced.
 - d) All sampling and testing, including the sampling and testing of tank bottoms, must be carried out using the independent sampling and testing provisions at § 80.65(f) if the gasoline being produced is RFG.
 - e) In the alternative, a company that has a "blending" tank that is used only to combine GTAB and blending components (and no gasoline is added to the tank), may account for the gasoline produced in such a blending tank by sampling and testing for the properties of the batch after GTAB and blendstock are added and mixed, and reporting the volume of gasoline shipped from that tank, at the analyzed properties, up to the point a new blend is produced by adding new GTAB and blendstock.
- 6) The finished gasoline produced using the GTAB (including the imported product and any blendstocks blended with the GTAB) must be evaluated for compliance using the baseline that applies to the company in its importer capacity, and not in its refiner capacity. In a case where the gasoline being produced using GTAB is conventional gasoline, the company should use the importer baseline that would apply in the absence of § 80.101(f)(3).
 - 7) The company must meet all importer sampling and testing requirements that apply to imported gasoline for the GTAB.
 - 8) The company must include the volume and properties of each batch of GTAB in the quarterly importer reports to EPA, but with a notation that the batch is not included in the importer compliance calculations because the product is GTAB. Any GTAB that ultimately is not used in the company's refinery operation (e.g., a tank bottom of GTAB at the conclusion of the refinery operation), must be treated as newly imported gasoline, for which all required sampling and testing, and record keeping must be accomplished, and included in the company's importer compliance calculations for the averaging period when this sampling and testing occurs.
 - 9) The company must retain records that reflect the importation, sampling and testing, and physical movement of any GTAB, and must make these records available to the CPA or CIA attester, or to EPA, on request.

- 10) The company must require the CPA or CIA who conducts the company's annual attest engagement, pursuant to § 80.65(h) and §§ 80.125 through 130, to specifically review the accounting for each batch of GTAB, to attest that all GTAB was included in the company's refinery compliance calculations in accordance with the procedures specified in this Answer, and to include the details of this review in the attest report.

The following is a hypothetical example to illustrate the calculations which would be used to determine the baselines and compliance for both conventional and reformulated gasoline (RFG) for a company (Company A) that operates two domestic refineries and imports gasoline, and that imports product classified as GTAB. In this example, only the sulfur baseline and compliance calculations are included, but the same methodology should be used for the other regulated parameters.

The following table lists Company A's 1990 individual refinery baseline volumes and baseline sulfur levels for Refinery 1 and Refinery 2. Company A also imported 8 units of gasoline in 1990, and under § 80.91(b)(4) Company A's 1990 importer sulfur baseline is the statutory baseline, or 338 ppm.

The following table also lists, for 1995, the volumes and sulfur levels for the conventional gasoline and RFG produced at Refinery 1 and Refinery 2, the volume of GTAB processed, and the volume of non-GTAB imported gasoline and its sulfur level. Each of these volumes and sulfur levels represent a number of separate batches. In this example Company A transferred all of the imported product classified as conventional and RFG GTAB to Refinery 1 for further processing. In addition, the product blended with the GTAB at Refinery 1 is included in Refinery 1's 1995 conventional gasoline volume of 41 units and RFG volume of 15 units.

	1990 BASELINE		1995	
	Volume	Sulfur	Volume	Sulfur
DOMESTIC REFINERY				
Refinery 1	20	300 ppm		
Conventional			41 ¹	310 ppm ¹
RFG			15 ²	275 ppm ²
Refinery 2	15	315 ppm		
Conventional			18	335 ppm
RFG			7	300 ppm
IMPORTED GASOLINE	8	338 ppm		
Non-GTAB				
Conventional			10	315 ppm
RFG			4	290 ppm
GTAB				
Conventional			16	
RFG			3	
STATUTORY		338 ppm		

¹ The Refinery 1 1995 conventional gasoline volume and sulfur content include the non-GTAB volume (25 units) and the GTAB volume processed into conventional gasoline (16 units).

² The Refinery 1 1995 RFG volume and sulfur content include the non-GTAB volume (12 units) and the GTAB volume processed into RFG (3 units).

The following set of calculations represents the methodology for determining the compliance baseline, applicable standard, and compliance calculation that would apply to Company A for its importer activity, and for Refinery 1 and Refinery 2. In addition, a separate set of calculations represents the methodology for determining compliance if Refinery 1 and Refinery 2 are aggregated under § 80.101(h).

Imported Gasoline:**Conventional Gasoline --**

Calculate the volume-weighted average baseline for Refinery 1 and Refinery 2 in accordance with § 80.101(f)(3), which is necessary for the compliance baseline adjustment for conventional gasoline under § 80.101(f)(4).

$$\begin{aligned} \text{Importer Compliance Baseline} &= \left(\frac{(20)(300) + (15)(315)}{20 + 15} \right) \\ &= 306.4 \text{ ppm} \end{aligned}$$

Calculate the adjusted baseline that applies to conventional gasoline imported by Company A under § 80.101(f)(4) using the volume-weighted average baselines of Refinery 1 and Refinery 2 (306.4 ppm) up to Company A's 1990 import volume (8 units) and a total import volume (V_a) of 14 units.

$$\begin{aligned} \text{Adjusted Importer Baseline} &= \left(306.4 * \left(\frac{8}{14} \right) \right) + \left(338 * \left(1 - \frac{8}{14} \right) \right) \\ &= 319.9 \text{ ppm} \end{aligned}$$

Under § 80.101(b)(1)(ii) the anti-dumping sulfur standard is 125% of Company A's adjusted compliance baseline for its importer activity.

$$\begin{aligned} \text{1995 Importer Sulfur Standard} &= 1.25 * 319.9 \\ &= 400 \text{ ppm} \end{aligned}$$

The average sulfur content of Company A's imported conventional gasoline in 1995 was 315 ppm, which means Company A has met the anti-dumping sulfur standard of 400 ppm in its importer capacity.

Reformulated Gasoline --

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The average sulfur content of Company A's 1995 imported RFG is 290 ppm, which means Company A has met the statutory baseline sulfur standard of 338 ppm in its importer capacity.

Refineries 1 and 2; Not Aggregated:

The following refinery baseline and compliance calculations assume Company A did not aggregate Refinery 1 and Refinery 2 under § 80.101(h).

Refinery 1 (including GTAB):

Conventional Gasoline --

Calculate the sulfur adjusted compliance baseline that applies for conventional gasoline for Refinery 1 under § 80.101(f)(4), using Refinery 1's compliance baseline for sulfur (300 ppm) at the 1990 baseline volume (20 units) and a total volume (V_a) of 56 units which includes 41 units of conventional gasoline and 15 units of RFG produced at Refinery 1.

$$\begin{aligned} \text{Adjusted Baseline} &= \left(300 * \left(\frac{20}{56} \right) \right) + \left(338 * \left(1 - \frac{20}{56} \right) \right) \\ &= 324.4 \text{ ppm} \end{aligned}$$

Under § 80.101(b)(1)(ii) the sulfur standard is 125% of Refinery 1's adjusted compliance baseline.

$$\begin{aligned} 1995 \text{ Sulfur Standard} &= 1.25 * 324.4 \\ &= 406 \text{ ppm} \end{aligned}$$

The average sulfur content of Refinery 1's conventional gasoline in 1995 was 310 ppm, which means Company A has met the anti-dumping sulfur standard of 406 ppm for Refinery 1.

Reformulated Gasoline --

Calculate the RFG sulfur baseline for Refinery 1 as the volume weighted average of Refinery 1's 1990 baseline sulfur level (300 ppm) for the non-GTAB RFG volume (12 units) and the GTAB volume (3 units) at the importer's RFG baseline (338 ppm).

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$$\begin{aligned}
 1995 \text{ sulfur baseline} &= \left(\frac{(12)(300) + (3)(338)}{12 + 3} \right) \\
 &= 308 \text{ ppm}
 \end{aligned}$$

The average sulfur content of Refinery 1's RFG in 1995 was 275 ppm, which means Refinery 1 has met its RFG sulfur standard of 308 ppm.

Refinery 2:

Conventional Gasoline --

Calculate the adjusted sulfur compliance baseline for Refinery 2 under § 80.101(f)(4) using the Refinery 2 1990 baseline sulfur level (315 ppm) for the 1990 baseline volume (15 units) and a total volume (V_a) of 25 units which includes 18 units of conventional gasoline and 7 units of RFG produced at Refinery 2.

$$\begin{aligned}
 \text{Adjusted Baseline} &= \left(315 * \left(\frac{15}{25} \right) \right) + \left(338 * \left(1 - \frac{15}{25} \right) \right) \\
 &= 324.2 \text{ ppm}
 \end{aligned}$$

Under § 80.101(b)(1)(ii) the sulfur standard is 125% of Refinery 2's compliance baseline.

$$\begin{aligned}
 1995 \text{ Sulfur Standard} &= 1.25 * 324.2 \\
 &= 405 \text{ ppm}
 \end{aligned}$$

The average sulfur content of Refinery 2's conventional gasoline in 1995 was 335 ppm, which means Company A has met the anti-dumping sulfur standard of 405 ppm for Refinery 2.

Reformulated Gasoline --

The average sulfur content of the RFG produced at Refinery 2 was 300 ppm, which means Company A has met the RFG sulfur baseline of 315 ppm for Refinery 2.

Refineries 1 and 2 Aggregated (including the GTAB processed at Refinery 1):

Conventional Gasoline --

The following refinery baseline and compliance calculations assume Company A elected to aggregate Refinery 1 and Refinery 2 under § 80.101(h).

Calculate the adjusted sulfur compliance baseline in the aggregate for Refinery 1 and Refinery 2 under § 80.101(f)(4) using the volume-weighted average of the Refinery 1 1990 baseline sulfur level (300 ppm) at Refinery 1's 1990 baseline volume of 20 units and Refinery 2 1990 baseline sulfur level (315 ppm) at Refinery 2's 1990 baseline volume of 15 units for an aggregate 1990 compliance baseline for sulfur (306.4 ppm) at a 1990 baseline volume of 35 units and a total volume (V_a) of 81 units which includes the total conventional gasoline and RFG produced at both Refinery 1 and Refinery 2 for 1995.

$$\begin{aligned} \text{Adjusted Baseline} &= \left(306.4 * \left(\frac{35}{81} \right) \right) + \left(338 * \left(1 - \frac{35}{81} \right) \right) \\ &= 324.4 \text{ ppm} \end{aligned}$$

Under § 80.101(b)(1)(ii), the sulfur standard is 125% of the aggregate compliance baseline.

$$\begin{aligned} 1995 \text{ Sulfur Standard} &= 1.25 * 324.4 \\ &= 405 \text{ ppm} \end{aligned}$$

The 1995 average sulfur level for Refinery 1 and Refinery 2 aggregated is the volume weighted average for the two refineries.

$$\begin{aligned} \text{Average Sulfur Content} &= \left(\frac{(41)(310) + (18)(335)}{41 + 18} \right) \\ &= 318 \text{ ppm} \end{aligned}$$

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The average sulfur content for Refinery 1 and Refinery 2 aggregated is 318 ppm, which means that Company A has met the conventional gasoline standard for sulfur of 405 ppm for these refineries when aggregated for 1995.

Reformulated Gasoline --

Under § 80.41(h)(2)(iii) Company A must achieve compliance for the average sulfur, T-90, and olefins of the RFG produced using the same refinery aggregation as is used for conventional gasoline. Therefore, first calculate the volume-weighted average sulfur baseline for Refinery 1 and Refinery 2.

$$\begin{aligned} \text{Aggregate Sulfur Baseline} &= \left(\frac{(20)(300) + (15)(315)}{20 + 15} \right) \\ &= 306 \text{ ppm} \end{aligned}$$

Calculate the RFG sulfur standard as the volume-weighted sulfur baseline for Refinery 1 and Refinery 2 (306 ppm) at the 1995 non-GTAB RFG volume for Refinery 1 (12 units) plus the RFG volume for Refinery 2 (7 units), and the importer baseline (338 ppm) at the volume of GTAB processed into RFG (3 units).

$$\begin{aligned} \text{RFG Sulfur Baseline} &= \left(\frac{(12 + 7)(306) + (3)(338)}{12 + 7 + 3} \right) \\ &= 310 \text{ ppm} \end{aligned}$$

Calculate the average sulfur content of the RFG produced at Refinery 1 and Refinery 2.

$$\begin{aligned} \text{Average Sulfur Content} &= \left(\frac{(275)(15) + (300)(7)}{15 + 7} \right) \\ &= 283 \text{ ppm} \end{aligned}$$

The average sulfur content of the RFG produced at Refinery 1 and Refinery 2 is 283 ppm, which means Company A has met the RFG sulfur standard of 310 ppm for Refinery 1 and Refinery 2.

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