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§ 80.127 Sample size guidelines.

In performing the attest engagement, the auditor shall sample relevant populations to which agreed-upon procedures will be applied using the methods specified in this section, which shall constitute a representative sample.

(a) Sample items shall be selected in such a way as to comprise a simple random sample of each relevant population; and

(b) Sample size shall be determined using one of the following options:

(1) *Option 1.* Determine the sample size using the following table:

SAMPLE SIZE, BASED UPON POPULATION SIZE	
No. in population (N)	Sample size
66 and larger	29
41-65	25
26-40	20
0-25	N or 19, whichever is smaller.

(2) *Option 2.* Determine the sample size in such a manner that the sample size is equal to that which would result by using the following parameters and standard statistical methodologies:

Confidence Level—95%
 Expected Error Rate—0%
 Maximum Tolerable Error Rate—10%

(3) *Option 3.* The auditor may use some other form of sample selection and/or some other method to determine the sample size, provided that the resulting sample affords equal or better strength of inference and freedom from bias (as compared with paragraphs (b)(1) and (2) of this section), and that the auditor summarizes the substitute methods and clearly demonstrates their equivalence in the final report on the audit.

§ 80.128 Agreed upon procedures for refiners and importers.

The following are the minimum attest procedures that shall be carried out for each refinery and importer. Agreed upon procedures may vary from the procedures stated in this section due to the nature of the refiner's or importer's business or records, provided that any refiner or importer desiring to modify procedures obtains prior approval from EPA.

(a) Read the refiner's or importer's reports filed with EPA for the previous

year as required by §§ 80.75, 80.83(g), and 80.105.

(b) Obtain a gasoline inventory reconciliation analysis for the current year from the refiner or importer which includes reformulated gasoline, RBOB, conventional gasoline, and non-finished-gasoline petroleum products.

(1) Test the mathematical accuracy of the calculations contained in the analysis.

(2) Agree the beginning and ending inventories to the refiner's or importer's perpetual inventory records.

(c) Obtain separate listings of all tenders during the current year of reformulated gasoline, RBOB, conventional gasoline, and non-finished-gasoline petroleum products.

(1) Test the mathematical accuracy of the calculations contained in the listings.

(2) Agree the listings of tenders' volumes to the gasoline inventory reconciliation in paragraph (b) of this section.

(3) Agree the listings of tenders' volumes, where applicable, to the EPA reports.

(d) Select a representative sample from the listing of reformulated gasoline tenders, and for this sample:

(1) Agree the volumes to the product transfer documents;

(2) Compare the product transfer documents designation for consistency with the time and place, and compliance model designations for the tender (VOC-controlled or non-VOC-controlled, VOC region for VOC-controlled, summer or winter gasoline, and simple or complex model certified); and

(3) Trace back to the batch or batches in which the gasoline was produced or imported. Obtain the refiner's or importer's internal laboratory analyses for each batch and compare such analyses for consistency with the analyses results reported to EPA and to the time and place designations for the tender's product transfer documents.

(e) Select a representative sample from the listing of RBOB tenders, and for this sample:

(1) Agree the volumes to the original product transfer documents;

(2) Determine that the requisite contract was in place with the downstream

blender designating the required blending procedures, or that the refiner or importer accounted for the RBOB using the assumptions in § 80.69(a)(8) in the case of RBOB designated as "any oxygenate," or "ether only," or using the assumptions in §§ 80.83(c)(1)(ii) (A) and (B) in the case of RBOB designated as "any renewable oxygenate," "non VOC controlled renewable ether only," or "renewable ether only";

(3) Review the product transfer documents for the indication of the type and amount of oxygenate required to be added to the RBOB;

(4) Trace back to the batch or batches in which the RBOB was produced or imported. Obtain refiner's or importer's internal lab analysis for each batch and agree the consistency of the type and volume of oxygenate required to be added to the RBOB with that indicated in applicable tender's product transfer documents;

(5) Agree the sampling and testing frequency of the refiner's or importer's downstream oxygenated blender quality assurance program with the sampling and testing rates as required in § 80.69(a)(7); and

(6) In the case of RBOB designated as "any renewable oxygenate," "non VOC controlled renewable ether" or "renewable ether only", review the documentation from the producer of the oxygenate to determine if the oxygenate meets the requirements of § 80.83(a).

(f) Select a representative sample of reformulated gasoline and RBOB batches produced by computerized in-line blending, and for this sample:

(1) Obtain the composite sample internal laboratory analyses results; and

(2) Agree the results of the internal laboratory analyses to the quarterly batch information submitted to the EPA.

(g) Select a representative sample from the listing of the tenders of conventional gasoline and conventional gasoline blendstock that becomes gasoline through the addition of oxygenate only, and for this sample:

(1) Agree the volumes to the product transfer documents;

(2) For a representative sample of tenders, trace back to the batch or batches in which the gasoline was produced or imported. Obtain the refiner's

or importer's internal laboratory analyses for each batch and compare such analyses for consistency with the analyses results reported to EPA; and

(3) Where the refiner or importer has included oxygenate that is blended downstream of the refinery or import facility in its compliance calculations in accordance with § 80.101(d)(4)(ii), obtain a listing of each downstream oxygenate blending operation from which the refiner or importer is claiming oxygenate for use in compliance calculations, and for each such operation:

(i) Determine if the refiner or importer had a contract in place with the downstream blender during the period oxygenate was blended;

(ii) Determine if the refiner or importer has records reflecting that it conducted physical inspections of the downstream blending operation during the period oxygenate was blended;

(iii) Obtain a listing from the refiner or importer of the batches of conventional gasoline or conventional sub-octane blendstock, and the compliance calculations which include oxygenate blended by the downstream oxygenate blender, and test the mathematical accuracy of the calculations contained in this listing;

(iv) Obtain a listing from the downstream oxygenate blender of the oxygenate blended with conventional gasoline or sub-octane blendstock that was produced or imported by the refiner or importer. Test the mathematical accuracy of the calculations in this listing. Agree the overall oxygenate blending listing obtained from the refiner or importer with the listing obtained from the downstream oxygenate blender. Select a representative sample of oxygenate blending listing obtained from the downstream oxygenate blender, and for this sample:

(A) Using product transfer documents, determine if the oxygenate was blended with conventional gasoline or conventional sub-octane blendstock that was produced by the refiner or imported by the importer; and

(B) Agree the oxygenate volume with the refiner's or importer's listing of oxygenate claimed for this gasoline;

(v) Obtain a listing of the sampling and testing conducted by the refiner or

importer over the downstream oxygenate blending operation. Select a representative sample of the test results from this listing, and for this sample agree the tested oxygenate volume with the oxygenate use listings from the refiner or importer, and from the oxygenate blender; and

(vi) Obtain a copy of the records reflecting the refiner or importer audit over the downstream oxygenate blending operation. Review these records for indications that the audit included review of the overall volumes and type of oxygenate purchased and used by the oxygenate blender to be consistent with the oxygenate claimed by the refiner or importer and that this oxygenate was blended with the refiner's or importer's gasoline or blending stock.

(h) In the case of a refiner or importer that is not exempt from blendstock tracking under §80.102(f):

(1) Obtain listings for those tenders of non-finished-gasoline classified by the refiner or importer as:

(i) Applicable blendstock which is included in the refiner's or importer's blendstock tracking calculations pursuant to §80.102(b) through (d);

(ii) Applicable blendstock which is exempt pursuant to §80.102(d)(3) from inclusion in the refiner's or importer's blendstock tracking calculations pursuant to §80.102 (b) through (d); and

(iii) All other non-finished-gasoline petroleum products.

(2) Test the mathematical accuracy of the calculations contained in the analysis.

(3) Agree the listings of tenders' volumes to the gasoline inventory reconciliation in paragraph (b) of this section.

(4) Agree the EPA report for the volume classified as applicable blendstock pursuant to the requirements of §80.102.

(5) Select a representative sample from the listing of applicable blendstock which is reported to EPA, and for such sample:

(i) Agree the volumes to records supporting the transfer of the tender to another person; and

(ii) Trace back to the batch or batches in which the non-finished-gasoline petroleum product was produced or imported. Obtain the refiner's or im-

porter's internal laboratory analysis for each batch and compare such analysis for consistency with the product type assigned by the refiner or importer (e.g., reformate, light coker naphtha, etc.), and that this product type is included in the applicable blendstock list at §80.102(a).

(6) Select a representative sample from the listing of applicable blendstock which is exempt from inclusion in the blendstock tracking report to EPA, and for such sample:

(i) Agree the volumes to records supporting the transfer of the tender to another person;

(ii) Trace back to the batch or batches in which the non-finished-gasoline petroleum product was produced or imported. Obtain the refiner's or importer's internal laboratory analysis for each batch and compare such analysis for consistency with the product type assigned by the refiner or importer (e.g., reformate, light coker naphtha, etc.), and that this product type is included in the applicable blendstock list at §80.102(a); and

(iii) Obtain the documents that demonstrate the purpose for which the product was used, and agree that the documented purpose is one of those specified at §80.102(d)(3).

(7) Select a representative sample from the listing of all other non-finished-gasoline petroleum products, and for such sample:

(i) Agree the volumes to records supporting the transfer of the tender to another person;

(ii) Trace back to the batch or batches in which the non-finished-gasoline petroleum product was produced or imported. Obtain the refiner's or importer's internal laboratory analysis for each batch and compare such analysis for consistency with the product type assigned by the refiner or importer (e.g., alkylate, isobutane, etc.), and agree that this product type is excluded from the applicable blendstock list at §80.102(a).

(i) In the case of a refiner or importer required to account for blendstocks produced or imported under §80.102(e)(2):

(1) Obtain listings for those tenders of non-finished-gasoline tenders classified by the refiner or importer as:

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(i) Blendstock which is included in the compliance calculations for the refinery or importer; and

(ii) All other non-finished-gasoline petroleum products;

(2) Test the mathematical accuracy of the calculations contained in the listings under paragraph (i)(1) of this section;

(3) Agree the listings of tenders' volumes to the gasoline inventory reconciliation in paragraph (b) of this section;

(4) Select a representative sample from the listing of blendstock tenders which are included in the compliance calculations for the refinery or importer, and for such sample:

(i) Agree the volumes to records supporting the transfer of the tender to another person;

(ii) Review the product transfer documents for the statement indicating the blendstock has been accounted-for, and may not be included in another party's compliance calculations; and

(iii) Trace back to the batch or batches in which the blendstock was produced or imported. Obtain the refiner's or importer's internal laboratory analyses for each batch and compare such analyses for consistency with the analyses results reported to EPA; and

(5) Select a representative sample from the listing of tenders of non-finished-gasoline petroleum products that are excluded from the refiner's or importer's compliance calculations, and for such sample confirm that documents demonstrate the petroleum products were used for a purpose other than the production of gasoline within the United States.

[59 FR 7875, Feb. 16, 1994, as amended at 59 FR 36969, July 20, 1994; 59 FR 39292, Aug. 2, 1994; 62 FR 60136, Nov. 6, 1997]

EFFECTIVE DATE NOTE: At 59 FR 39292, Aug. 2, 1994, § 80.128 was amended by revising paragraphs (a) and (e)(2); removing "and" at the end of paragraph (e)(4); removing the period at the end of paragraph (e)(5) and adding "; and" in its place; and adding paragraph (e)(6) effective September 1, 1994. At 59 FR 60715, Nov. 28, 1994, the amendment was stayed effective September 13, 1994.

§ 80.129 Agreed upon procedures for downstream oxygenate blenders.

The following are the procedures to be carried out at each oxygenate blend-

ing facility that is subject to the requirements of this subpart F:

(a) Read the oxygenate blender's reports filed with the EPA for the previous year as required by §§ 80.75 and 80.83(g).

(b) Obtain a material balance analysis summarizing receipts of RBOB and oxygenate to the blender, and the deliveries of reformulated gasoline from the blender.

(1) Test the mathematical accuracy of the calculations contained in the analysis.

(2) Agree the beginning and ending inventory to the blender's perpetual inventory records.

(3) Agree the analysis, where applicable, to the EPA reports.

(c) Obtain a listing of all RBOB receipts for the previous year.

(1) Test the mathematical accuracy of the volumetric calculations contained in the listing.

(2) Agree the volumetric calculations of RBOB receipts to the calculations contained in the material balance analysis.

(3) Select a representative sample of RBOB receipts from the listing. Review the product transfer documents for the indication of the type and volume of oxygenate required to be added to the RBOB.

(d) Obtain a listing of all reformulated gasoline batches produced by the blender during the previous year.

(1) Test the mathematical accuracy of the volumetric calculations contained in the listing.

(2) Agree the volumetric calculations contained in the listing to the calculations contained in the material balance analysis.

(3) Select a representative sample of the batches from the listing, and for these batches:

(i) Obtain the blender's records that indicate the volume and type of oxygenate that was blended, the volume of RBOB that was blended and the product transfer documents for the RBOB, and the internal lab analysis where applicable;

(ii) Agree the consistency of the type and volume of oxygenate added to the RBOB with that indicated to be added in the RBOB's product transfer documents;