

§ 80.127

40 CFR Ch. I (7–1–08 Edition)

(d) *Oxygenate blender records* shall include laboratory analysis reports; refiner, importer and oxygenate blender contracts; quality assurance program records; product transfer documents; oxygenate purchasing, inventory, and usage records; and daily tank inventory gauging reports, meter tickets, and product transfer documents.

(e) *Product transfer documents* means copies of documents represented by the refiner/importer/oxygenate blender as having been provided to the transferee, and that reflect the transfer of ownership or physical custody of gasoline or blendstock (e.g., invoices, receipts, bills of lading, manifests, and/or pipeline tickets).

(f) *Tender* means the transfer of ownership or physical custody of a volume of gasoline or other petroleum product all of which has the same identification (reformulated gasoline, conventional gasoline, RBOB, and other non-finished-gasoline petroleum products), and characteristics (time and place of use restrictions for reformulated gasoline and RBOB).

(g) *Volume records* shall include summaries of gasoline produced or imported that account for the volume of each type of gasoline produced or imported. The volumes shall be based on tank gauges or meter reports and temperature adjusted to 60 degrees Fahrenheit.

(h) *Attestor* means the CPA or CIA performing the agreed-upon procedures engagement under this subpart.

(i) *Foot (or crossfoot)* means to add a series of numbers, generally in columns (or rows), to a total amount. When applying the attestation procedures in this subpart F, the attestor may foot to subtotals on a sample basis in those instances where subtotals (e.g., page totals) exist. In such instances, the total should be footed from the subtotals and the subtotals should be footed on a test basis using no less than 25% of the subtotals.

(j) *Laboratory Analysis* means the original test result for each analysis that was used to determine a product's properties. For laboratories using test methods that must be correlated to the standard test method, the correlation factors and results shall be included as part of the laboratory analysis. For re-

fineries or importers that produce reformulated gasoline or RBOB and use the 100% independent lab testing, the laboratory analysis shall consist of the results reported to the refinery or importer by the independent lab. Where assumed properties used (e.g., for butane) the assumed properties may serve as the test results.

(k) *Non-finished-gasoline petroleum products* means liquid petroleum products that have boiling ranges greater than 75 degrees Fahrenheit, but less than 450 degrees Fahrenheit, as per ASTM D 86 or equivalent.

(l) *Reporting period* means the time period relating to the reports filed with EPA by the refiner, importer, or oxygenate blender, and generally is the calendar year.

[59 FR 7875, Feb. 16, 1994, as amended at 70 FR 74574, Dec. 15, 2005; 71 FR 26701, May 8, 2006]

§ 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 Alternative agreed upon procedures for refiners and importers.

Prior to the attest report for the 2006 reporting period, the following minimum attest procedures may be carried out for a refinery or importer, in lieu of the attest procedures specified in § 80.133.

(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-con-

trolled, 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