

and standard credits expected to be generated.

(ii) If the refinery is expecting to use benzene credits per § 80.1295, the actual or estimated, as applicable, numbers of early credits and standard credits expected to be banked, transferred or used to achieve compliance in accordance with § 80.1240.

(6) Information on any project scheduled by quarter of known or projected completion date, by the stage of the project. See, for example, the five project phases described in EPA's June 2002 Highway Diesel Progress Review report (EPA420-R-02-016, <http://www.epa.gov/otaq/regs/hd2007/420r02016.pdf>): Strategic planning, Planning and front-end engineering, Detailed engineering and permitting, Procurement and Construction, and Commissioning and startup.

(7) Basic information regarding the selected technology pathway for compliance (*e.g.*, precursor re-routing or other technologies, revamp vs. grass-roots, etc.).

(8) Whether capital commitments have been made or are projected to be made.

(b) The pre-compliance reports due in 2008 and succeeding years must provide an update of the progress in each of these areas and include actual values where available.

(c) The pre-compliance reporting requirements of this section do not apply to refineries that only produce products exempt from the requirements of this subpart per § 80.1235(b).

§ 80.1354 What are the reporting requirements for the gasoline benzene program?

(a) Beginning with earliest applicable date specified in § 80.1347(a)(2), any refiner for each of its refineries, and any importer for the gasoline it imports, shall submit to EPA an Annual Gasoline Benzene Report that contains the information required in this section, and such other information as EPA may require for each applicable averaging period.

(b) The Annual Gasoline Benzene Report shall contain the following information:

(1) Benzene volume percent and volume of any RFG, RBOB, and conven-

tional gasoline, separately by batch, produced by the refinery or imported, and the sum of the volumes and the volume-weighted benzene concentration, in volume percent.

(2)(i) The annual average benzene concentration, per § 80.1238.

(ii) The maximum average benzene concentration per § 80.1240(b).

(3) Any benzene deficit from the previous reporting period, per § 80.1230(b).

(4) The number of banked benzene credits from the previous reporting period.

(5) The number of benzene credits generated under § 80.1275, if applicable.

(6) The number of benzene credits generated under § 80.1290, if applicable.

(7) The number of benzene credits transferred to the refinery or importer, per § 80.1295(c), and the cost of the credits, if applicable.

(8) The number of benzene credits transferred from the refinery or importer, per § 80.1295(c), and the price of the credits, if applicable.

(9) The number of benzene credits terminated or expired.

(10) The compliance benzene value per § 80.1240.

(11) The number of banked benzene credits.

(12) Projected credit generation through compliance year 2015.

(13) Projected credit use through compliance year 2015.

(c) EPA may require submission of additional information to verify compliance with the requirements of this subpart.

(d) The report required by paragraph (a) of this section shall be—

(1) Submitted on forms and following procedures specified by the Administrator.

(2) Submitted to EPA by the last day of February each year for the prior calendar year averaging period.

(3) Signed and certified as correct by the owner or a responsible corporate officer of the refiner or importer.

ATTEST ENGAGEMENTS

§ 80.1356 What are the attest engagement requirements for gasoline benzene compliance?

In addition to the requirements for attest engagements that apply to refiners and importers under §§ 80.125

through 80.130, 80.410, and 80.1030, the attest engagements for refiners and importers must include the following:

(a) *EPA Early Credit Generation Baseline Years' Reports.* (1) Obtain and read a copy of the refinery's or importer's annual reports and batch reports filed with EPA for 2004 and 2005 that contain gasoline benzene and gasoline volume information.

(2) Agree the yearly volumes of gasoline and benzene concentration, in volume percent and benzene gallons, reported to EPA in the reports specified in paragraph (a)(1) of this section with the inventory reconciliation analysis under § 80.128.

(3) Verify that the information in the refinery's or importer's batch reports filed with EPA under §§ 80.75 and 80.105, and any laboratory test results, agree with the information contained in the reports specified in paragraph (a)(1) of this section.

(4) Calculate the average benzene concentration for all of the refinery's or importer's gasoline volume over 2004 and 2005 and verify that those values agree with the values reported to EPA per § 80.1285.

(b) *Baseline for Early Credit Generation.* Take the following steps for the first attest reporting period following approval of a benzene baseline:

(1) Obtain the EPA benzene baseline approval letter for the refinery to determine the refinery's applicable benzene baseline under § 80.1285.

(2) Obtain a written statement from the company representative identifying the benzene value used as the refinery's baseline and agree that number to paragraph (b)(1) of this section and to the reports to EPA.

(c) *Early Credit Generation.* The following procedures shall be completed for a refinery or importer that generates early benzene credits per § 80.1275:

(1) Obtain the baseline benzene concentration and gasoline volume from paragraph (a)(4) of this section.

(2) Obtain the annual benzene report per § 80.1354.

(3) If the benzene value under paragraph (c)(2) of this section is at least 10 percent less than the value in paragraph (c)(1) of this section, compute

and report as a finding the difference according to § 80.1275.

(4) Compute and report as a finding the total number of benzene credits generated by multiplying the value calculated in paragraph (c)(3) of this section by the volume of gasoline listed in the report specified in paragraph (c)(2) of this section, and agree this number with the number reported to EPA.

(d) *Standard Credit Generation.* The following procedures shall be completed for a refinery or importer that generates benzene credits per § 80.1290:

(1) Obtain the annual average benzene value from the annual benzene report per § 80.1285.

(2) If the annual average benzene value under paragraph (d)(1) of this section is less than 0.62 percent by volume, compute and report as a finding the difference according to § 80.1290.

(3) Compute and report as a finding the total number of benzene credits generated by multiplying the value calculated in paragraph (d)(2) of this section by the volume of gasoline listed in the report specified in paragraph (d)(1) of this section, and agree this number with the number reported to EPA.

(e) *Credits Required.* The following attest procedures shall be completed for refineries and importers:

(1) Obtain the annual average benzene concentration and volume from the annual benzene report per § 80.1285.

(2) If the value in paragraph (e)(1) of this section is greater than 0.62 percent by volume, compute and report as a finding the difference between 0.62 percent by volume and the value in paragraph (e)(1) of this section.

(3) Compute and report as a finding the total benzene credits required by multiplying the value in paragraph (e)(2) of this section times the volume of gasoline in paragraph (e)(1) of this section, and agree this number with the report to EPA.

(4) Obtain a statement from the refiner or importer as to the portion of the deficit under paragraph (e)(3) of this section that was resolved with credits, or that was carried forward as a deficit under § 80.1230(b), and agree these figures with the report to EPA.

Environmental Protection Agency

§ 80.1360

(f) *Credit Purchases and Sales.* The following attest procedures shall be completed for a refinery or importer that is a transferor or transferee of credits during an averaging period:

(1) Obtain contracts or other documents for all credits transferred to another refinery or importer during the year being reviewed; compute and report as a finding the number and year of creation of credits represented in these documents as being transferred; and agree these figures with the report to EPA.

(2) Obtain contracts or other documents for all credits received during the year being reviewed; compute and report as a finding the number and year of creation of credits represented in these documents as being received; and agree with the report to EPA.

(g) *Credit Reconciliation.* The following attest procedures shall be completed each year credits were in the refiner's or importer's possession at any time during the year:

(1) Obtain the credits remaining or the credit deficit from the previous year from the refiner's or importer's report to EPA for the previous year.

(2) Compute and report as a finding the net credits remaining at the conclusion of the year being reviewed by totaling credits as follows:

(i) Credits remaining from the previous year; plus

(ii) Credits generated under paragraphs (c) and (d) of this section; plus

(iii) Credits purchased under paragraph (f) of this section; minus

(iv) Credits sold under paragraph (f) of this section; minus

(v) Credits used under paragraphs (e) of this section; minus

(vi) Credits expired; minus

(vii) Credit deficit from the previous year.

(3) Agree the credits remaining or the credit deficit at the conclusion of the year being reviewed with the report to EPA.

(4) If the refinery or importer had a credit deficit for both the previous year and the year being reviewed, report this fact as a finding.

VIOLATIONS AND PENALTIES

§ 80.1358 What acts are prohibited under the gasoline benzene program?

No person shall—

(a)(1) Produce or import gasoline subject to this subpart that does not comply with the applicable benzene standards under § 80.1230.

(2) Fail to meet any other requirements of this subpart.

(b) Cause another person to commit an act in violation of paragraph (a) of this section.

§ 80.1359 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?

(a) Compliance with the benzene standards of this subpart shall be determined based on the benzene concentration of the gasoline, measured using the methodologies specified in § 80.46(e), and other allowable adjustments. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the benzene concentration of the gasoline if the evidence or information is relevant to whether the benzene concentration of the gasoline would have been in compliance with the standard if the appropriate sampling and testing methodologies had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than those specified in § 80.46(e), business records, and commercial documents.

(b) Determinations of compliance with the requirements of this subpart other than the benzene standards, and determinations of liability for any violation of this subpart, may be based on information from any source or location. Such information may include, but is not limited to, business records and commercial documents.

§ 80.1360 Who is liable for violations under the gasoline benzene program?

(a) The following persons are liable for violations of prohibited acts: