§ 80.1347 What are the sampling and testing requirements for refiners and importers?

(a) Sample and test each batch of gasoline. (1) The sampling and testing requirements specified in subpart D for reformulated gasoline shall continue to apply to reformulated gasoline and shall be extended to conventional gasoline (CG) for the purpose of complying with the benzene requirements of this subpart, except as modified by paragraphs (a)(2), (a)(3) and (a)(4) of this section.

(b) In the case of a small refiner approved under §80.1340 for which compliance with the maximum average benzene requirement at §80.1230(b) is not feasible, the refiner may apply for hardship relief under §80.1335.

§ 80.1344 What provisions are available to a non-small refiner that acquires one or more of a small refiner’s refineries?

(a) In the case of a refiner that is not an approved small refiner under §80.1340 and that acquires a refinery from a small refiner approved under §80.1340, the small refiner provisions of the gasoline benzene program of this subpart continue to apply to the acquired refinery for a period of up to 30 months from the date of acquisition of the refinery. In no case shall this period extend beyond December 31, 2014.

(b) A refiner may apply to EPA for up to an additional six months to comply with the standards of §80.1230 for the acquired refinery if it believes that more than 30 months would be required for the necessary engineering, permitting, construction, and start-up work to be completed. Such applications must include detailed technical information supporting the need for additional time. EPA will base a decision to approve additional time on information provided by the refiner and on other relevant information. In no case shall this period extend beyond December 31, 2014.

(c) A refiner that acquires a refinery from a small refiner approved under §80.1340 shall notify EPA in writing no later than 20 days following the acquisition.
according to the earliest applicable date in the following schedule:

(i) Beginning January 1, 2011;
(ii) Beginning January 1, 2015 for small refiners approved under §80.1340;
(iii) Beginning January 1 of the year prior to 2015 in which a small refiner approved under §80.1340 has opted, per §80.1342(a), to begin meeting the standards at §80.1230;
(iv) Beginning June 1, 2007, for any refinery planning to generate early credits for the averaging period specified at §80.1275(b)(1);
(v) Beginning January 1 of each averaging period specified at §80.1275(b)(2) or (b)(3) for which the refinery plans to generate early credits;
(vi) Beginning January 1 of the year, per §80.1334(c)(1), in which a refinery approved for early compliance under §80.1334 opts to begin early compliance. The provisions shall only apply to the type of gasoline, RFG or CG, for which early compliance was approved.

(3)(i) Each sample shall be tested in accordance with the methodology specified at §80.46(e) through December 31, 2015, to determine its benzene concentration for compliance with the requirements of this subpart. Beginning January 1, 2016, each sample shall be tested in accordance with the methodology specified at §80.47 to determine its benzene concentration for compliance with the requirements of this subpart. Any negative test result must be reported as zero.

(ii) Independent sample analysis, under §80.65(f), is not required for conventional gasoline.

(4) Any refiner or importer may release CG prior to obtaining the test results for benzene required under paragraph (a)(1) of this section.

(5) Previously certified gasoline (PCG) may be excluded as follows:

(i) Any refiner who uses PCG to produce gasoline at a refinery, must exclude the PCG for purposes of demonstrating compliance with the benzene standards at §80.1230.

(ii) To accomplish the exclusion required in paragraph (a)(5)(i) of this section, the refiner must determine the volume and benzene content of the PCG used at the refinery and the volume and benzene content of gasoline produced at the refinery, and use the compliance calculation procedures in paragraphs (a)(5)(iii) and (iv) of this section.

(iii) For each batch of PCG that is used to produce gasoline the refiner must include the volume and benzene content of the PCG as a negative volume and a positive benzene content in the refiner’s compliance calculations in accordance with the requirements at §80.1238.

(iv) For each batch of gasoline produced at the refinery using PCG and blendstock, the refiner must determine the volume and benzene content of the combined product and include each batch for purposes of benzene compliance in the refinery’s compliance calculations at §80.1240 without regard to the presence of previously certified gasoline in the batch.

(v) The refiner must use any PCG that it includes as a negative batch in its compliance calculations pursuant to §80.1240 as a component in gasoline production during the annual averaging period in which the PCG was included as a negative batch in the refiner’s compliance calculations.

(vi) Any negative annual average value must be reported as zero.

(vii) The refiner must also comply with §80.65(i) when producing RBOB or RFG and §80.101(g)(9) when producing conventional gasoline.

(6) As an alternative to the sampling and testing requirements in paragraph (a)(5) of this section, a refiner who produces gasoline by blending one or more blendstocks into PCG may sample and test each blendstock receipt as a separate batch for purposes of demonstrating compliance with the benzene standards in §80.1230, and for benzene reporting.

(b) Batch numbering. The batch numbering convention of §80.365(b) shall apply to batches of conventional gasoline beginning with earliest applicable date specified in paragraph (a)(2) of this section.