transfers before the transferor trades
or banks the credits.

(c) Limitations on credit use. (1) Credits generated prior to 2004 may only be
used for demonstrating compliance with the refinery or importer annual
average standards under §80.195 during the 2005 and 2006 averaging periods.
Such credits may be used to demon-
strate compliance with the stand-
ards under §80.216 during the 2004
through 2006 averaging periods, and
with the standards under §80.240 during
the 2004 through 2007 averaging periods,
and the 2008 and 2009 averaging periods,
if allowed under the terms of a hard-
ship extension under §80.265.

(2) Credits generated in 2004 or later
may only be used for demonstrating
compliance with standards during an
averaging period within five years of
the year of generation.

(3) A refiner or importer possessing
credits must use all credits prior to
falling into compliance deficit under
§80.205(e).

(4) Credits may not be used to meet
corporate pool average standards under
§80.195.

[60 FR 6823, Feb. 10, 2000, as amended at 67
FR 40184, June 12, 2002]

§§ 80.320–80.325 [Reserved]

§§ 80.320–80.325 [Reserved]

§§ 80.320–80.325 [Reserved]

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

(a) Sample and test each batch of gaso-
line. (1) Refiners and importers shall
collect a representative sample from
each batch of gasoline produced or im-
ported and test each sample to deter-
mine its sulfur content for compliance
with requirements under this subpart
prior to the gasoline leaving the refin-
ery or import facility, using the sam-
pling and testing methods provided in
this section.

(2) Except as provided in paragraph
(a)(3) of this section, the requirements
of this section apply beginning Janu-
ary 1, 2004, or January 1 of the first
year of allotment or credit generation
under §80.275 or §80.305, whichever is
earlier.

(3) Prior to January 1, 2004:

(i) Any refiner may release gasoline
from the refinery prior to obtaining
the test results required under para-
graph (a)(1) of this section.

(ii) Any refiner of conventional gaso-
line may combine samples of gasoline
from more than one batch of gasoline
or blendstock prior to analysis and
treat such composite sample as one
batch of gasoline or blendstock pursu-
ant to the requirements of §80.101(i)(2).

(4)(i) Beginning January 1, 2004, any
refiner who produces gasoline using
computer-controlled in-line blending
equipment is exempt from the require-
ment of paragraph (a)(1) of this section
to obtain the test results required
under paragraph (a)(1) of this section
prior to the gasoline leaving the refin-
ery, provided that the refiner obtains
an exemption from this requirement
from EPA. To obtain such exemption,
the refiner must:

(A) Have been granted an in-line
blending exemption under §80.65(f)(4);
or

(B) If the refiner has not been grant-
ed an exemption under §80.65(f)(4), sub-
mit to EPA all of the information re-
quired under §80.65(f)(4)(i)(A). A letter
signed by the president, chief operating
or chief executive officer of the com-
pany, or his/her designee, stating that
the information contained in the sub-
mission is true to the best of his/her
belief must accompany any submission
under this paragraph (a)(4)(i)(B).

(ii) Refiners who seek an exemption
under paragraph (a)(4)(i) of this section
must comply with any request by EPA
for additional information or any other
requirements that EPA includes as
part of the exemption.

(iii) Within 60 days of EPA’s receipt
of a submission under paragraph
(a)(4)(i) of this section, EPA will noti-
fy the refiner if the exemption is not
approved or of any deficiencies in the
refiner’s submission, or if any addi-
tional information is required or other
requirements are included in the ex-
emption pursuant to paragraph
(a)(4)(ii) of this section. In the absence
of such notification from EPA, the ef-
fective date of an exemption under
paragraph (a)(4)(i) of this section for
refiners who do not hold an exemption
under §80.65(f)(4) is 60 days from EPA’s
(iv) EPA reserves the right to modify the requirements of an exemption under paragraph (a)(4)(i)(B) of this section, in whole or in part, at any time, if EPA determines that the refiner’s operation does not effectively or adequately control, monitor or document the sulfur content of the refinery’s gasoline production, or if EPA determines that any other circumstances exist which merit modification of the requirements of an exemption, such as advancements in the state of the art for in-line blending measurement which allow for additional control or more accurate monitoring or documentation of sulfur content. If EPA finds that a refiner provided false or inaccurate information in any submission required for an exemption under this section, upon notification from EPA, the refiner’s exemption will be void ab initio.

(b) Sampling methods. For purposes of paragraph (a) of this section, refiners and importers shall sample each batch of gasoline by using one of the following methods:

(1) Manual sampling of tanks and pipelines shall be performed according to the applicable procedures specified in one of the two following methods:


(ii) Samples collected under the applicable procedures in ASTM method D 5842–95, entitled “Standard Practice for Sampling and Handling of Fuels for Volatility Measurements,” may be used for measuring sulfur content if there is no contamination present that could affect the sulfur test result.

(2) Automatic sampling of petroleum products in pipelines shall be performed according to the applicable procedures specified in ASTM method D 4177–95, entitled “Standard Practice for Automatic Sampling of Petroleum and Petroleum Products.”

(c) Test method for measuring sulfur content of gasoline.

(1) For purposes of paragraph (a) of this section, refiners and importers shall use the method provided in §80.46(a)(1) or one of the alternative test methods listed in §80.46(a)(3) to measure the sulfur content of gasoline they produce or import through December 31, 20. Beginning January 1, 2016, for purposes of paragraph (a) of this section, refiners and importers shall use an approved method in §80.47.

(2) Except as provided in §80.350 and in paragraph (c)(1) of this section, any ASTM sulfur test method for liquefied fuels may be used for quality assurance testing under §80.400, or to determine whether gasoline qualifies for a S-RGAS downstream standard, if the protocols of the ASTM method are followed and the alternative test method is correlated to the method provided in §80.46(a)(1).

(d) Test method for sulfur in butane. (1) Refiners and importers shall use the method provided in §80.46(a)(2) through December 31, 2015 to measure the sulfur content of butane when the butane constitutes a batch of gasoline. Beginning January 1, 2016, refiners and importers shall use an approved method in §80.47 to measure the sulfur content of butane when the butane constitutes a batch of gasoline.

(2) Except as provided in paragraph (d)(1) of this section, any ASTM sulfur test method for gaseous fuels may be used for quality assurance testing under §§80.340(b)(4) and 80.400, if the protocols of the ASTM method are followed and the alternative test method is correlated to the method provided in §80.46(a)(2) through December 31, 20, or in §80.47 beginning January 1, 2016.

(e) Incorporations by reference. ASTM standard practices D 4057–95, D 4177–95 and D 5842–95 are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–97–03, 1200 Pennsylvania Ave., NW., Washington, DC 20460, or at the National Archives and Records Administration (NARA). For information on
§ 80.335 What gasoline sample retention requirements apply to refiners and importers?

(a) Sample retention requirements. Beginning January 1, 2004, or January 1 of the first year allotments or credits are generated under §§80.275 and 80.305, whichever is earlier, any refiner or importer shall:

1. Collect a representative portion of each sample analyzed under §80.330(a), of at least 330 ml in volume;
2. Retain sample portions for the most recent 20 samples collected, or for each sample collected during the most recent 21 day period, whichever is greater, not to exceed 90 days for any given sample;
3. Comply with the gasoline sample handling and storage procedures under §80.330(b) for each sample portion retained; and
4. Comply with any request by EPA to:
   (i) Provide a retained sample portion to the Administrator’s authorized representative; and
   (ii) Ship a retained sample portion to EPA, within 2 working days of the date of the request, by an overnight shipping service or comparable means, to the address and following procedures specified by EPA, and accompanied with the sulfur test result for the sample determined under §80.330(a).

Sample retention requirement for samples subject to independent analysis requirements. (1) Any refiner or importer who meets the independent analysis requirements under §80.65(f) for any batch of reformulated gasoline or RBOB will have met the requirements of paragraph (a) of this section, provided the independent laboratory meets the requirements of paragraph (a) of this section for the gasoline batch.

(2) For samples retained by an independent laboratory under paragraph (b) of this section, the test results required to be submitted under paragraph (a) of this section shall be the test results determined under §80.65(e).

(c) Sampling compliance certification. Any refiner or importer shall include with each annual report filed under §80.370, the following statement, which must accurately reflect the facts and must be signed and dated by the same person who signs the annual report:

I certify that I have made inquiries that are sufficient to give me knowledge of the procedures to collect and store gasoline samples, and I further certify that the procedures meet the requirements of the ASTM procedures required under 40 CFR 80.330.

(d) Prior to January 1, 2004, for purposes of complying with the requirements of this section, refiners who analyze composited samples under §80.330(a)(3) must retain portions of the composited samples. Portions of samples of each batch comprising the composited samples are not required to be retained.

(2) For purposes of complying with the requirements of this section for RBOB, a sample of each RBOB batch produced plus a sample of the ethanol used to conduct the handblend testing pursuant to §80.69 must be retained.

§ 80.340 What standards and requirements apply to refiners producing gasoline by blending blendstocks into previously certified gasoline (PCG)?

(a) Any refiner who produces gasoline by blending blendstock into PCG must meet the requirements of §80.330 to sample and test every batch of gasoline as follows:

(i) Sample and test to determine the volume and sulfur content of the PCG prior to blendstock blending.

(ii) Sample and test to determine the volume and sulfur content of the blendstock, by subtracting the volume and sulfur content of the PCG from the volume and sulfur content of the gasoline subsequent to blendstock blending. The blendstock is a batch for purposes of compliance calculations and reporting. For purposes of this paragraph (a), compliance with