

§ 80.211

when any refiner or importer of S-RGAS transfers custody or title to such gasoline, the refiner or importer shall provide to the transferee documents that include the following information:

(i) Identification of the gasoline as being S-RGAS; and

(ii) The downstream standard applicable to the batch of gasoline under paragraph (f) of this section.

(2) Where gasoline in whole or part is classified as S-RGAS when received by the transferor, and where the gasoline transferred meets the conditions under paragraph (d) of this section, the transferor shall provide to the transferee, on each occasion when custody or title to gasoline is transferred, documents that include the following information:

(i) Identification of the gasoline as S-RGAS; and

(ii) The applicable downstream standard under paragraph (c) of this section. This does not apply when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility.

(3) No person shall classify gasoline as being S-RGAS except as provided in paragraphs (e)(1) and (e)(2) of this section.

(4) Product codes may be used to convey the information required by paragraphs (e)(1) and (e)(2) of this section if such codes are clearly understood by each transferee.

(f) *Downstream standards applicable to S-RGAS when produced or imported.* (1) The downstream standard applicable to any gasoline classified as S-RGAS when produced or imported shall be calculated using the following equation:

$$D=S+105 \times ((S+2)/10^4)^{0.4}$$

Where:

D=Downstream sulfur standard.

S=The sulfur content of the refiner's batch determined under § 80.330.

(2) Where more than one S-RGAS batch is combined, prior to shipment, at the refinery or import facility where the S-RGAS is produced or imported, the downstream standard applicable to the mixture shall be the highest downstream standard, calculated under paragraph (f)(1) of this section, for any S-RGAS contained in the mixture.

§ 80.211 [Reserved]

§ 80.212 What requirements apply to oxygenate blenders?

Effective January 1, 2004, oxygenate blenders who blend oxygenate into gasoline downstream of the refinery that produced the gasoline or the import facility where the gasoline was imported, are not subject to the requirements of this subpart applicable to refiners for this gasoline, but are subject to the requirements and prohibitions applicable to downstream parties and the prohibition specified in § 80.385(e).

§§ 80.213-80.214 [Reserved]

GEOGRAPHIC PHASE-IN PROGRAM

§ 80.215 What is the scope of the geographic phase-in program?

(a) *Geographic phase-in area.* (1) The following states comprise the geographic phase-in area (GPA) subject to the provisions of the geographic phase-in program: North Dakota, Montana, Idaho, Wyoming, Utah, Colorado, New Mexico, and Alaska.

(2) Additional counties or tribal lands in states adjacent to the states identified in paragraph (a) of this section will be included in the GPA if any of the following criteria is met:

(i) Approximately 50% or more of the total volume of gasoline in the county or tribal land in 1999, as measured at the terminal(s) and bulk station(s) in the county or tribal land, was received from a refinery or refineries located in the area specified in paragraph (a)(1) of this section; or

(ii) Approximately 50% or more of the total volume of gasoline dispensed in the county or tribal land in 1999 was received from a refinery or refineries located in the area specified in paragraph (a)(1) of this section; or

(iii) Approximately 50% or more of the total commercial and private dispensing outlets in the county or tribal land in 1999 were supplied by gasoline produced by a refinery or refineries located in the area specified in paragraph (a)(1) of this section.

(3) The criteria of paragraphs (a)(2)(i), (ii) and (iii) of this section are without regard to the method of gasoline delivery (e.g. pipeline, truck, rail or barge). The criteria of paragraphs

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(a)(2)(ii) and (a)(2)(iii) of this section are without regard to whether the gasoline was transported directly from the refinery to the dispensing outlet or distributed through a terminal or bulk station.

(b) *Duration of the program.* The geographic phase-in program applies to the 2004, 2005, and 2006 annual averaging periods.

(c) *Persons eligible.* Any refiner or importer who produces or imports gasoline for use in the geographic area under paragraph (a) of this section is eligible to apply for the geographic phase-in program. The provisions of the geographic phase-in program shall apply to imported gasoline through the importer.

### § 80.216 What standards apply to gasoline produced or imported for use in the GPA?

(a)(1) The refinery or importer annual average sulfur standard for gasoline produced or imported for use in the geographic area under § 80.215 shall be the lesser of:

(i) 150 ppm; or

(ii) The refinery's or importer's 1997/1998 average sulfur level, calculated in accordance with § 80.295, plus 30 ppm.

(2) In the case of any refinery whose actual annual sulfur average decreases to a level lower than the refinery's annual average sulfur standard established under paragraph (a)(1) of this section during the period 2000 through 2003, the standard applicable to that refinery from 2004 through 2006 shall be the lowest average sulfur content for any year in which the refinery generated allotments or credits under § 80.275(a) or § 80.305 plus 30 ppm, not to exceed 150 ppm.

(b) The per-gallon cap standard for gasoline produced or imported for use in the GPA under paragraph (a) of this section shall be 300 ppm, except as specified in § 80.195(d).

(c) The refinery or importer annual average sulfur level is calculated in accordance with the provisions of § 80.205.

(d) The refinery or importer annual average standard under paragraph (a) of this section may be met using sulfur allotments or credits as provided under §§ 80.275 and 80.315.

(e) Gasoline produced by approved small refiners subject to the standards under § 80.240 is not subject to the standards under paragraphs (a) and (b) of this section.

(f)(1) A refiner or importer whose gasoline production or volume of imported gasoline in 2004 or 2005 is comprised of  $\geq 50\%$  of gasoline designated as GPA gasoline under § 80.219 shall not be required to meet the corporate pool average standards under § 80.195 for its gasoline production or imported gasoline during the applicable averaging period.

(2) A refiner or importer whose gasoline production or volume of imported gasoline in 2004 or 2005 is comprised of less than 50% of gasoline designated as GPA gasoline under § 80.219 must meet the corporate pool average standards under § 80.195 for all the refiner's gasoline production or the importer's volume of imported gasoline during the applicable averaging period.

(g) The provisions for compliance deficits under § 80.205(e) do not apply to gasoline subject to the standards under paragraphs (a) and (b) of this section.

### § 80.217 How does a refiner or importer apply for the GPA standards?

(a) To apply for the GPA standards under § 80.216, a refiner or importer must submit an application in accordance with the provisions of § 80.290.

(b) Applications under paragraph (a) of this section must be submitted by December 31, 2000.

(c)(1) If approved, EPA will notify the refiner or importer of each refinery's or the importer's annual average sulfur standard for gasoline produced for use in the GPA for the 2004 through 2006 annual averaging periods.

(2) If disapproved, the refiner or importer must comply with the standards in § 80.195 for gasoline produced for use in the GPA.

(d) If EPA finds that a refiner or importer provided false or inaccurate information on its application under this section, upon notice from EPA, the refiner's or importer's application will be void *ab initio*.