

§ 80.210 What sulfur standards apply to gasoline downstream from refineries and importers?

The sulfur standard for gasoline at any point in the gasoline distribution system downstream from refineries and import facilities, including gasoline at facilities of distributors, carriers, oxygenate blenders, retailers and wholesale purchaser-consumers ("downstream location"), shall be determined in accordance with the provisions of this section.

(a) *Definition.* S-RGAS means gasoline that is subject to the standards under § 80.240 or § 80.270, including Certified Sulfur-FRGAS as defined in § 80.410, except that no batch of gasoline may be classified as S-RGAS if the actual sulfur content is less than the applicable per-gallon refinery cap standard specified in § 80.195.

(b) *Standards for gasoline that does not qualify for S-RGAS downstream standards.* The following standards apply to any gasoline that does not qualify for S-RGAS downstream standards under in paragraph (d) of this section:

(1) Starting February 1, 2004 the sulfur content of gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and starting March 1, 2004 the sulfur content of gasoline at any downstream location, shall not exceed 378 ppm.

(2) Except as provided in § 80.220(a), starting February 1, 2005 the sulfur content of gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and starting March 1, 2005 the sulfur content of gasoline at any downstream location, shall not exceed 326 ppm.

(3) Except as provided in § 80.220(a), starting February 1, 2006 the sulfur content of gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and starting March 1, 2006 the sulfur content of gasoline at any downstream location, shall not exceed 95 ppm.

(c) *Standards for gasoline that qualifies for S-RGAS downstream standards.* In the case of any gasoline that qualifies for S-RGAS downstream standards under paragraph (d) of this section, the

sulfur standard shall be the downstream standard for the gasoline calculated under paragraph (f) of this section. In the case of mixtures of gasoline that qualify for different S-RGAS downstream standards, the sulfur standard shall be the highest downstream standard applicable to any of the S-RGAS in the mixture.

(d) *Gasoline that qualifies for S-RGAS downstream standards.* Gasoline qualifies for S-RGAS downstream standards if all of the following conditions are met:

(1) The gasoline must be comprised in whole or part of S-RGAS.

(2) Product transfer documents applicable to the gasoline when received at that location must represent that the gasoline contains S-RGAS.

(3) Except as provided in paragraph (d)(4) of this section, the gasoline must have been sampled and tested at that location subsequent to the most recent receipt of gasoline at that location, and the test result must show a sulfur content greater than:

(i) 350 ppm starting February 1, 2004;

(ii) 300 ppm starting February 1, 2005;

and

(iii) 80 ppm (or in the GPA, 300 ppm) starting February 1, 2006.

(4) This sampling and testing condition does not apply for gasoline at any retail outlet, wholesale purchaser-consumer facility, or contained in any transport truck.

(e) *Product transfer document information for S-RGAS.* (1) On each occasion 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:

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(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.

(5) Gasoline from a terminal tank containing S-RGAS that is combined with gasoline from a terminal tank containing non-S-RGAS for the purpose of blending mid-grade gasoline in a transport truck may be classified on product transfer documents as S-RGAS, provided that the S-RGAS was combined with non-S-RGAS for the sole purpose of producing midgrade gasoline.

(6) Where S-RGAS is being delivered into a terminal storage tank containing non-S-RGAS which is simultaneously supplying gasoline to a transport truck, the terminal may identify the gasoline as S-RGAS before the delivery into the terminal tank is complete without performing the tests required in paragraph (d)(3) of this section. Upon completion of the delivery of S-RGAS into the terminal tank, the terminal may classify the gasoline as S-RGAS only if it meets the criteria for S-RGAS following testing in accordance with the requirements of paragraph (d)(3) of this section.

(7) The information relating to S-RGAS required to be included in product transfer documentation under this paragraph (e) must be included in the product transfer documents which accompany the transfer of custody of the gasoline. Product transfer documents that transfer title of the gasoline may fulfill the requirements under this paragraph (e) by indicating that the required information relating to S-RGAS is contained in the product transfer documents which accompany the transfer of custody of the gasoline.

(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.

[65 FR 6823, Feb. 10, 2000, as amended at 67 FR 40182, June 12, 2002]

§ 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) In addition, the following counties within the states identified in paragraph (a)(2)(i) of this section and the following Federal Indian reservations