

§ 80.216

phase-in program. The provisions of the geographic phase-in program shall apply to imported gasoline through the importer.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 5136, Jan. 18, 2001; 66 FR 19306, Apr. 13, 2001; 70 FR 70509, Nov. 22, 2005]

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

(a) The refinery or importer annual average sulfur standard for gasoline produced or imported for use in the geographic phase-in area under § 80.215, and designated as GPA gasoline under § 80.219(a), shall be 150.00 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 refinery or importer whose gasoline production or volume of imported gasoline in 2004 or 2005 is comprised of more than 50 percent of gasoline designated as GPA gasoline under § 80.219(a) 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 refinery or importer whose gasoline production or volume of imported gasoline in 2004 or 2005 is comprised of less than 50 percent of gasoline designated as GPA gasoline under § 80.219(a) must meet the corporate pool average standards under § 80.195 for all the refinery's gasoline production or the importer's volume of imported gasoline, including GPA gasoline, during the applicable averaging period.

(g) The provisions for compliance deficits under § 80.205(e) do not apply to

40 CFR Ch. I (7–1–07 Edition)

gasoline subject to the standards under paragraphs (a) and (b) of this section.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19306, Apr. 13, 2001; 67 FR 40182, June 12, 2002]

§ 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 May 1, 2001.

(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*.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19306, Apr. 13, 2001]

§ 80.218 [Reserved]

§ 80.219 Designation and downstream requirements for GPA gasoline.

The requirements and prohibitions specified in this section apply during the period January 1, 2004 through December 31, 2006.

(a) *Designation.* Any refiner or importer shall designate any gasoline produced or imported that is subject to the standards under § 80.216 as "GPA" gasoline.

(b) *Product transfer documents.* (1) On each occasion that any person transfers custody or title to gasoline designated as GPA gasoline, other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee documents that include the following information:

Environmental Protection Agency

§ 80.225

(i) Identification of the gasoline as being GPA gasoline;

(ii) A statement that the gasoline may not be distributed or sold for use outside the geographic phase-in area.

(2) Except for transfers to truck carriers, retailers and wholesale purchaser-consumers, product codes may be used to convey the information required by paragraph (b)(1) of this section if such codes are clearly understood by each transferee.

(3) The requirements under paragraph (b)(1) of this section are in addition to the requirement under § 80.210(e), where appropriate, to identify gasoline as being S-RGAS.

(c) *GPA gasoline use prohibitions.* (1) All parties in the distribution system, including refiners, importers, distributors, carriers, oxygenate blenders, retailers and wholesale purchaser-consumers, are prohibited from:

(i) Selling, offering for sale, dispensing, distributing, storing or transporting GPA gasoline for use outside the geographic phase-in area; and

(ii) Commingling GPA gasoline with gasoline not designated as GPA gasoline unless the mixture is classified as GPA gasoline.

(2) Gasoline not designated as GPA gasoline may be distributed or sold for use in the geographic phase-in area.

§ 80.220 What are the downstream standards for GPA gasoline?

(a) *GPA gasoline.* (1) During the period February 1, 2004 through January 31, 2005, the sulfur content of GPA gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and during the period March 1, 2004 through February 28, 2005, the sulfur content of GPA gasoline at any downstream location shall not exceed 378 ppm.

(2) During the period February 1, 2005 through January 31, 2007, the sulfur content of GPA gasoline at any downstream location other than at a retail outlet or wholesale purchaser-consumer facility, and during the period March 1, 2005 through February 28, 2007, the sulfur content of GPA gasoline at any downstream location shall not exceed 326 ppm.

(b) *GPA gasoline mixed with S-RGAS.* Notwithstanding the requirements in

paragraph (a) of this section, the sulfur standard applicable to a mixture of GPA gasoline and S-RGAS gasoline at a downstream location shall be the greater of the standard under paragraph (a) of this section or the standard determined under § 80.210.

(c) Notwithstanding paragraph (a) of this section, the sulfur content standard of 326 ppm at any downstream location may be extended as provided under § 80.540(m).

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 5136, Jan. 18, 2001]

HARDSHIP PROVISIONS

§ 80.225 What is the definition of a small refiner?

(a) A *small refiner* is defined as any person, as defined by 42 U.S.C. 7602(e), who: (1)(i) Produces gasoline at a refinery by processing crude oil through refinery processing units;

(ii) Employed an average of no more than 1,500 people, based on the average number of employees for all pay periods from January 1, 1998, to January 1, 1999; and

(iii) Had an average crude capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 1998.

(2) For the purpose of determining the number of employees and crude capacity under paragraph (a)(1) of this section, the refiner shall include the employees and crude capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners. A subsidiary under this paragraph means any subsidiary in which the refiner or parent company has a 50% or greater ownership interest.

(b) The definition under paragraph (a) of this section applies to domestic and foreign refiners. For any refiner owned by a governmental entity, the number of employees as specified in paragraph (a) of this section shall include all employees of the governmental entity.

(c) If, without merger with, or acquisition of, another business unit, a company with approved small refiner status under § 80.235 exceeds 1,500 employees, or a corporate crude capacity of 155,000 bpcd after January 1, 1999, it will be considered a small refiner for