Title 40: Protection of Environment
PART 80—REGULATION OF FUELS AND FUEL ADDITIVES
Subpart H—Gasoline Sulfur

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§80.195 What are the gasoline sulfur standards for refiners and importers?

(a)(1) The gasoline sulfur standards for refiners and importers, excluding gasoline produced by small refiners subject to the standards at §80.240, and gasoline designated as GPA gasoline under §80.219(a), are as follows:

	Gasoline sulfur standards for the averaging period beginning:		
	January 1, 2004	**January 1, 2005**	**January 1, 2006 and subsequent**
Refinery or Importer Average	[1]	30.00	30.00
Corporate Pool Average	120.00	90.00	[1]
Per-Gallon Cap	300	300	80

[1]Not applicable.

(2) The sulfur standards and all compliance calculations for sulfur under this subpart are in parts per million (ppm) and volumes are in gallons.

(3) The averaging period is January 1 through December 31 of each year.

(4) The standards under this paragraph (a) for all imported gasoline shall be met by the importer.

(b)(1) The refinery or importer annual average gasoline sulfur standard is the maximum average sulfur level allowed for gasoline produced at a refinery or imported by an importer during each calendar year starting January 1, 2005.

(2) The annual average sulfur level is calculated in accordance with §80.205.

(3) The refinery or importer annual average gasoline sulfur standard may be met using credits as provided under §80.275 or §80.315.

(4) In 2005 only, the refinery or importer annual average sulfur standard may be met using allotments or credits as provided under §80.275, or credits as provided under §80.315. The same allotments used to demonstrate compliance with the corporate pool average standard may be used by a refinery in the corporate pool toward a demonstration of compliance with the refinery average standard, or by an importer for demonstration of compliance with the importer average standard. Alternatively, some of the allotments may be used toward a demonstration of compliance with the refinery average standard by one refinery in the corporate pool and the remainder used by another refinery or refineries in the corporate pool.

(c)(1) The corporate pool average gasoline sulfur standards applicable in 2004 and 2005 are the maximum average sulfur levels allowed for a refiner's or importer's gasoline production from all of the refiner's refineries or all gasoline imported by an importer in a calendar year. The corporate pool average standards for a party that is both a refiner and an importer are the maximum average sulfur levels allowed for all the party's combined gasoline production from all refineries and imported gasoline in a calendar year.

(2) The corporate pool average is calculated in accordance with the provisions of §80.205.

(3) The corporate pool average standard may be met using sulfur allotments under §80.275.

(4) The corporate pool average standards do not apply to approved small refiners subject to the gasoline sulfur standards under §80.240.

(5)(i) Joint ventures, in which two or more parties collectively own and operate one or more refineries, will be treated as a separate refiner under this section.

(ii) One partner to a joint venture may include one or more joint venture refineries in its corporate pool for purposes of complying with the corporate pool average standards. The joint venture will be in compliance for such joint venture refinery(ies) if the partner's corporate pool average meets the corporate pool average standards. The joint venture entity must demonstrate compliance with the corporate pool average standards for any refinery(ies) owned by the joint venture that are not included in one partner's corporate pool.

(iii) In the case of a refinery that is owned by a two or more parties that is not a joint venture under this paragraph (c)(5), the business entity consisting of the joint owners is the refiner of that refinery. One of the owners of such a refinery may include the refinery in its corporate pool for purposes of complying with the corporate pool average standards under this section, with the same requirements and limitations that apply under paragraph (c)(5)(ii) of this section.

(6)(i) A parent company is the refiner of any refinery facilities owned by the parent company's wholly-owned subsidiaries for purposes of compliance with the corporate pool average standards under this section.

(ii) A parent company must include in its corporate pool all of the gasoline produced at any refineries owned by the parent company and any refineries owned by the parent company's wholly-owned subsidiaries; or

(iii) A parent company may be deemed in compliance with the corporate pool average standards if the parent company includes in its corporate pool the gasoline produced by any refineries owned by the parent company, and each wholly-owned subsidiary of the parent company individually complies with the corporate pool average standards for the gasoline produced at the refineries owned by the wholly-owned subsidiary.

(d)(1) The per-gallon cap standard is the maximum sulfur level allowed for each batch of gasoline produced or imported starting January 1, 2004.

(2) In 2004 only, a refiner or importer may produce or import gasoline with a per-gallon sulfur content greater than 300 ppm, to a maximum of 350 ppm, provided the following conditions are met:

(i) The refinery or importer becomes subject to an adjusted per-gallon cap standard in 2005, calculated using the following formula:

$$ACS=300-(S_{max}-300)$$

Where:

ACS=Adjusted cap standard.

S_{max}=Maximum sulfur content of any gasoline produced at a refinery or imported by an importer during 2004.

(ii) The adjusted cap standard calculated under paragraph (d)(2)(i) of this section applies to all gasoline produced at a refinery or imported by an importer during 2005.

(iii) The refinery or importer remains subject to the 30.00 average standard under paragraph (a) of this section for 2005.

(iv) The provisions of this paragraph (d)(2) apply to gasoline designated as GPA gasoline under §80.219(a).

(v) The provisions of this paragraph (d)(2) do not apply to small refiners as defined in §80.225.

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