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Questions & Answers

on the *Sulphur in Gasoline Regulations*

**Oil, Gas & Alternative Energy Division
Environment and Climate Change Canada**

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Questions & Answers

on the *Sulphur in Gasoline Regulations*

PREFACE

The objective of this document is to provide the reader with an understanding of the requirements of the *Sulphur in Gasoline Regulations*, including those requirements brought into force through any subsequent amendments. The document is in the format of questions and answers. Additional questions are welcome and may be reproduced in subsequent versions of this document.

Questions on the *Sulphur in Gasoline Regulations* may be sent by email or fax to:

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DISCLAIMER

This document does not in any way supersede or modify the *Sulphur in Gasoline Regulations*, or offer any legal interpretation of those Regulations. Where there are any inconsistencies between this document and the Regulations, the *Sulphur in Gasoline Regulations* take precedent.

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GENERAL QUESTIONS

A.1: Why is sulphur in gasoline being regulated?

Sulphur occurs naturally in crude oil and so is found in gasoline. Sulphur in gasoline impairs the performance of catalytic converters in vehicles and thus causes vehicles to emit more pollutants. The objective of the regulations is to reduce smog caused by air pollutants, which has a significant adverse impact on the health of Canadians, the Canadian economy and the environment.

The regulations align with the U.S. EPA Tier 3 standards, which include lower limits on the sulphur content of gasoline and stricter limits on air pollutant emissions from new passenger cars, light-duty trucks and certain heavy-duty vehicles.

In addition to providing important benefits to the health and environment of Canadians, the regulations aim to maintain common Canada–U.S. standards for vehicles and fuels, which contribute to minimizing the overall compliance burden for companies operating in the North American market.

Lowering the allowable sulphur content in gasoline would enhance the performance of emission control systems from the in-use vehicle fleet and would enable the effective operation of advanced emission control technologies required to comply with the proposed more stringent vehicle emission standards for the 2017 and later model years. This measure would deliver increased health benefits to Canadians through reductions in air pollutant emissions. Lower sulphur content in gasoline would also enable new technologies or strategies to improve the greenhouse gas (GHG) emission performance of new vehicles.

A.2: To whom do these Regulations apply?

The persons most affected by the Regulations are those who produce (including by blending) or import gasoline. These are "primary suppliers" under the Regulations and include:

- any person who owns, leases, operates, controls, supervises or manages a refinery or blending facility or owns the gasoline in a blending facility; and
- any person who imports gasoline into Canada.

Primary suppliers may not produce or import gasoline with sulphur levels that exceed the maximum limits set out in section 2 of the Regulations. There are also record keeping and reporting requirements. Primary suppliers who elect to comply on an annual average basis also have additional requirements.

Also affected are persons who sell or offer for sale gasoline in Canada. Gasoline with sulphur levels above the sales limit of 80 mg/kg cannot be sold or offered for sale.

A.3: What types of blending operations are not covered by the Regulations?

Blending, for the purposes of these Regulations, means the production of a batch of gasoline by mixing gasoline or gasoline components, including oxygenates. However, there are some excluded activities:

- Any person who only mixes together volumes of low-sulphur gasoline is not considered, for the purposes of these Regulations, to be producing a batch of gasoline. Therefore, this type of blending operation is not subject to the Regulations.
- Any person who only adds additives to low-sulphur gasoline is not considered, for the purposes of the Regulations to be producing a batch of gasoline. Additives are substances that improve the characteristics of the gasoline, but do not materially affect its composition. Therefore, this type of blending operation is not subject to the Regulations.
- Any person who only adds a sulphur-limited oxygenate or a sulphur-limited butane (oxygenates and butanes that do not exceed the per batch sulphur limits in paragraph 2(1)(b)) to low-sulphur gasoline is not considered, for the purposes of the Regulations, to be producing a batch of gasoline. Therefore, this type of blending operation is not subject to the Regulations.

A.4: If I only buy gasoline, but do not refine, blend or import myself, what requirements must I meet?

If you only buy gasoline from others (e.g. a wholesaler), you are not a primary supplier, and therefore you do not have to meet any of the requirements placed upon a primary supplier. However, you cannot sell or offer for sale gasoline with a sulphur level in excess of 80 mg/kg (subsection 2(3)).

If you buy or sell gasoline-like blendstock, which is gasoline, other than gasoline dispensed from a refuelling facility, that is intended to be further refined or blended to produce low-sulphur gasoline and has been identified as such by the person who produced or imported it, there are requirements that you must fulfill (refer to questions F.1 to F.4).

A.5: What options do I have in meeting the sulphur limits set out in the Regulations?

All primary suppliers, regardless of size or nature of operations, can either meet the sulphur limits on a per batch basis (flat limit) or on an annual pool average basis. Primary suppliers may elect for pool averaging for any of their refineries, blending facilities and/or imports. Pool averaging provides more flexibility to a primary supplier, but has more administrative requirements.

To elect to comply using a pool average a primary supplier must notify the Minister of their election. The notice of election under section 9 shall be submitted to the Minister no later than:

1. 60 days before the first day on which the gasoline is produced or imported; in the case where the primary supplier is, for the first time, producing or importing gasoline, and
2. November 1 of the year before the first year in respect of which the calculation will be made on the basis of a pool average, in any other case.

As of 2015, a primary supplier who is complying on a pool average basis may also participate in a temporary sulphur compliance unit (SCU) trading system, which is in place until the end of the 2019 compliance year. This notice of election under section 13 shall be submitted to the Minister no later than:

1. 60 days after the 2015 Amendments came into force (September 14, 2015) for primary suppliers reporting on the basis of a pool average as of July 16, 2015; or
2. 60 days before the first production or import in Canada; or
3. Before November 1, 2015 for primary suppliers reporting on the basis of the flat limit as of July 16, 2015.

A.6: The Regulations no longer require gasoline that has been imported to be pool averaged for each province of import. What does that mean for my imports?

As of July 16, 2015, amendments to the regulations changed the pool averaging provisions for imports from requiring a pool average for each province of import to a single national import pool average. Importers that had already elected for the pool average option for imports into any province in Canada are automatically complying on a national pool average basis for all their imports into Canada for the 2015 compliance year and afterwards. No further action is required, unless the information in their notice of election for the pool average option under section 9 has changed. If the information has changed, an update to the information is required to be submitted.

Primary suppliers complying on a flat limit basis (and who wish to remain so) do not need to submit notices of election. Each litre of gasoline that is imported must meet the sulphur limit requirements (that is 40 mg/kg until 2017, then 14 mg/kg until 2019, then 12 mg/kg from 2020 onwards). Reporting requirements have changed however, as information is no longer required to be reported on a provincial basis. See also questions I.5 and I.6 and U.1 to U.5.

A.7: How do these Regulations relate to the Benzene in Gasoline Regulations?

The *Benzene in Gasoline Regulations* control benzene in gasoline and a parameter called the Benzene Emissions Number. Those Regulations are separate from the *Sulphur in Gasoline Regulations*. Both regulations must be complied with.

Although the *Sulphur in Gasoline Regulations* share a common structure and many common definitions with the *Benzene in Gasoline Regulations*, there are differences, particularly in regard to the nature of the averaging provisions and the treatment of U.S. reformulated gasoline.

Under the *Sulphur in Gasoline Regulations*, importers that elect to comply on the basis of a pool average are required to average their gasoline imports for a calendar year on a national basis (i.e. for all imports into Canada, rather than on a per province basis). Under the *Benzene in Gasoline Regulations*, importers that elect to comply with the benzene or benzene emissions number limits on the basis of a yearly pool average are required to comply with the average limits for each province of import.

A.8: How do these Regulations relate to the Gasoline Regulations?

The *Gasoline Regulations* control lead and phosphorous in gasoline. Those Regulations are separate from the *Sulphur in Gasoline Regulations*. Both regulations must be complied with.

A.9: How do these Regulations relate to the Fuels Information Regulations, No.1?

The *Fuels Information Regulations, No. 1* require that refiners and importers report annually the average levels of sulphur in all liquid fuels, including gasoline, during each quarter of the year. They also require one-time notification of any changes in the use of additives in liquid fuels. Those Regulations are separate from the *Sulphur in Gasoline Regulations*. Both regulations must be complied with.

A.10: How do these Regulations relate to provincial gasoline regulations?

Some provinces require that the Canadian General Standards Board's (CGSB) standard for a maximum sulphur content in gasoline of 80 mg/kg be met. This standard is equivalent to the never to be exceeded limit of 80 mg/kg stated in the Regulations.

A.11: What are the important dates in the Regulations?

A list of all important dates and periods in the *Sulphur in Gasoline Regulations* is presented below:

<i>Sulphur Limits</i>	
July 16, 2015	<p>Amendments changing the sulphur limits and adding a temporary sulphur compliance unit (SCU) trading system came into force for refiners, importers and blenders. Current sulphur limits remain in effect:</p> <ul style="list-style-type: none"> • Flat limit of 40mg/kg • Pool average limit of 30 mg/kg with a never-to-be exceeded cap of 80 mg/kg • Sales limit of 80 mg/kg
January 1, 2017	<p>Sulphur limits are reduced and come into effect</p> <ul style="list-style-type: none"> • Flat limit of 14 mg/kg • Pool average limit of 10 mg/kg with a never-to-be exceeded

	cap of 80 mg/kg <ul style="list-style-type: none"> • Sales limit of 80 mg/kg (no change)
<i>Temporary sulphur compliance unit (SCU) trading system</i>	
2015 to 2019 compliance years	Temporary SCU trading system is in effect as follows: <ul style="list-style-type: none"> • 2012, 2013, 2014, 2015, 2016: Creation of SCU for gasoline production / and import with a sulphur concentration <30 mg/kg. • 2017, 2018, 2019: Creation of SCU for gasoline production and / import with a sulphur concentration <10 mg/kg. • 2015, 2016, 2017, 2018, 2019: Transfer / receipt of SCU. • 2017, 2018, 2019: Use of SCU for compliance.
December 31, 2025	Records referred to in sections 18 and 20 related to the temporary SCU trading system must be kept in Canada until this date.
<i>Sulphur Compliance Unit (SCU) Account Book Entry and Schedule Reporting Deadlines</i>	
February 15, annually	Annual report containing the information in Schedule 1 due for all primary suppliers.
February 15, 2016 to 2020	Deadline to create SCU (refer to question M.5) for the previous year, for primary suppliers who have opted into the temporary SCU trading system.
November 13, 2015 (120 days after the 2015 Amendments come into force)	Deadline to submit an annual report for the years 2012, 2013 and 2014 that contains the information set out in Schedule 2, for primary suppliers who have opted into the temporary SCU trading system.
March 31, 2016 to 2020	Deadline to create entries in a SCU account book for the transfer of SCU, for primary suppliers who have opted into the temporary SCU trading system.
March 31, 2018 to 2020	Deadline to create entries in a SCU account book for the use of SCU, for primary suppliers who have opted into the temporary SCU trading system.
April 30, 2016 to 2020	Deadline to submit an annual report for the years 2015 to 2019 that contains the information referred to in Schedule 2, for primary suppliers who have opted into the temporary SCU trading system.
May 31, 2016 to 2020	Deadline to submit the Auditor's Report for primary suppliers who have not opted into the temporary SCU trading system.
June 30, 2016 to 2020	Deadline to submit the Auditor's Report for primary suppliers who have opted into the temporary SCU trading system.
May 31, 2021 onwards	Deadline to submit the Auditor's Report for all primary suppliers.

Notice of Election Deadlines	
<ul style="list-style-type: none"> • November 1, annually, or • In the case where the primary supplier is, for the first time, producing or importing gasoline, no later than 60 days before first production or import in Canada. 	Deadline to submit Notice of Election to calculate the concentration of sulphur in gasoline on the basis of a pool average.
<ul style="list-style-type: none"> • 60 days after the 2015 Amendments came into force (September 14, 2015) for primary suppliers reporting on the basis of a pool average as of July 16, 2015; or • 60 days before the first production or import in Canada; or • Before November 1, 2015 for primary suppliers reporting on the basis of the flat limit as of July 16, 2015. 	Deadline to submit Notice of Election to participate in the temporary SCU trading system.

A.12: What do the Regulations mean when referring to the composition of the pool? How does that relate to the record of composition?

The “record of composition” is a record that is required to be made for each batch of gasoline that is part of a pool average. It is required under section 12 of the Regulations and must include: a unique identification number that links the batch to any sample taken, the date or dates on which the primary supplier dispatched or imported the batch, the concentration of sulphur, the volume and the grade of the batch, and its adjusted concentration of sulphur along with the sulphur concentration and volume of the sulphur-limited oxygenate or sulphur-limited butane if it was added to the batch.

The “composition of a pool” refers to subsection 9(1.1) that prescribes what a pool may be composed of, that is gasoline that is produced at a particular refinery, gasoline that is produced at a particular blending facility or gasoline that is imported. Also refer to question V.4.

A.13: Who is the “Minister” referred to throughout the Regulations?

The Minister referred to is Canada’s Minister of Environment and Climate Change.

GENERAL PROVISIONS OF THE REGULATIONS

Section 1 – Interpretation

B.1: Who is an authorized official?

An “authorized official” is defined in subsection 1(1) of the Regulations. It is:

1. in respect of a corporation, an officer of the corporation who is authorized to act on its behalf;
2. in respect of any other person, that person or a person authorized to act on behalf of that person; and
3. in respect of any other entity, a person authorized to act on its behalf.

B.2: Why does the definition of “gasoline” have two parts?

The first part of the definition will normally distinguish whether or not a fuel is gasoline. This part means that any fuel generally sold or represented as gasoline is treated as gasoline for the purposes of the Regulations. The second part of the definition has measurable physical properties, and can be used to distinguish gasoline from other fuels to cover circumstances where the fuel is not readily identifiable as “gasoline”.

Note that a fuel is considered to be gasoline under the Regulations if it meets either one of the parts of the definition; the fuel is not required to meet both parts. In 2015, distillation parameters and vapour pressure limits for gasoline in the definition were updated to reflect the latest Canadian General Standards Board (CGSB) specifications for gasoline.

B.3: Why does the definition of “gasoline” include sub-octane gasoline (i.e., has a minimum antiknock index of 80)?

The lowest antiknock index allowed in Canada under the CGSB gasoline specification is 87. Having a minimum antiknock index of 80 in the second part of the definition of gasoline allows refiners, importers and blenders the flexibility to produce or import an unfinished gasoline (gasoline-like blendstock) that is destined for subsequent blending at a downstream facility (see question B.4).

B.4: What is “gasoline-like blendstock”?

“Gasoline-like blendstock” is a fuel meeting either part of the gasoline definition which is intended to be further refined or blended to produce low-sulphur gasoline. This fuel must also have been identified as “gasoline-like blendstock” by the primary supplier under section 5. The concept of “gasoline-like blendstock” provides flexibility to dispatch or to import unfinished gasoline that is intended to be subsequently blended at a downstream blending facility. The requirements for persons dispatching, importing or selling “gasoline-like blendstock” are set out in section 6 of the Regulations.

B.5: What is the difference between “pool average” in the Sulphur in Gasoline Regulations and “yearly pool average” in the Benzene in Gasoline Regulations?

The “pool average” under the *Sulphur in Gasoline Regulations* means the volume-weighted average concentration of sulphur in gasoline that is calculated separately for gasoline produced at that a particular refinery or blending facility or imported into Canada during a given year. The average is calculated according to the provisions in section 10 of these Regulations.

The “yearly pool average” under the *Benzene in Gasoline Regulations* means the volume-weighted average concentration of benzene or the benzene emissions number (BEN) of gasoline that is calculated separately for gasoline produced at a particular refinery or blending facility or imported into a province during a year. It is calculated according to the provisions in section 18 of the Regulations.

B.6: What is “low-sulphur gasoline”?

“Low-sulphur gasoline” is gasoline that meets the prescribed sulphur limits set out in section 2 and is identified as “low-sulphur gasoline” by the primary supplier under section 5 of the Regulations.

B.7: Does “scientific research” include marketing research?

“Scientific research” means research that furthers scientific understanding. It includes research into the physical and chemical characteristics of gasoline and their effects on vehicles, the health of people, the environment, etc. It does not include any research undertaken by or for the seller of the gasoline into the preferences of the consumer or any type of market research.

B.8: What are “sulphur-limited oxygenate” and “sulphur-limited butane”?

Sulphur-limited oxygenate and sulphur-limited butane are oxygenate and butane that do not exceed the sulphur levels specified for gasoline in section 2 of the Regulations. These maximum sulphur levels are (in mg/kg):

	Sulphur-limited oxygenate	Sulphur-limited butane
Until December 31, 2016	40	40
January 1, 2017 to December 31, 2019	14	14
On and after January 1, 2020	12	12

B.9: What do I need to do if I blend gasoline with an oxygenate or butane that does not meet the applicable sulphur levels?

The blending of an oxygenate or butane that is not sulphur-limited with low-sulphur gasoline or any other type of gasoline is considered to be blending and the person who blends is a primary supplier. Therefore, this person must comply with all the requirements placed upon a primary supplier by the Regulations, including meeting the appropriate sulphur limits of the blended gasoline.

B.10: Why have all references to California gasoline been removed from the Regulations?

The provisions exempting California gasoline from some of the administrative requirements and sulphur limits are no longer required. There has been no reported import of California gasoline in the last 10 years and the sulphur content of Canadian gasoline will be lower than California's average and flat limits starting in 2017.

B.11: Why do the Regulations no longer contain a definition for the Auditor?

The provisions defining who is an auditor are now found in section 26 of the Regulations that prescribes audit requirements for primary suppliers. Specifically, subsection 26(3) specifies what is meant by an "auditor".

PART 1 - REQUIREMENTS PERTAINING TO SULPHUR IN GASOLINE

Section 2 – Prescribed levels

C.1: Why are the prescribed limits for sulphur changing?

On March 3, 2014, the U.S. EPA released their Tier 3 Final Rule, which included lower limits for the sulphur content of gasoline and stricter limits on air pollutant emissions from new passenger cars, light-duty trucks and certain heavy-duty vehicles beginning with the 2017 model year. The Canadian *Sulphur in Gasoline Regulations* were amended in 2015 and align with these U.S. EPA Tier 3 standards. Maintaining alignment with U.S. air pollutant emission standards for vehicles, engines and fuels is consistent with the objectives of the Canada - United States (U.S.) Air Quality Agreement (AQA), the Government of Canada's Clean Air Regulatory Agenda and the Canada - U.S. Regulatory Cooperation Council (RCC).

Lowering the allowable sulphur content in gasoline will enhance the performance of emission control systems from the in-use vehicle fleet and will enable the effective operation of advanced emission control technologies required to comply with the more stringent vehicle emission standards for the 2017 and later model years.

C.2: Why are there three prohibitions for sulphur?

A primary supplier has the option of either meeting the sulphur limits on a flat limit basis or by electing to meet a pool average limit with an associated never-to-be-exceeded cap for any given batch.

The first prohibition [subsection 2(1)] applies to each batch of gasoline produced, or imported. Paragraph 2(1)(b) sets out the flat limits for primary suppliers that do not elect for pool averages; paragraph 2(1)(a) sets out the never-to-be-exceeded limits that are associated with pool averages.

The second prohibition [subsection 2(2)] applies to the pool average for gasoline produced or imported by a primary supplier who has elected to be subjected to a pool average limit.

The third prohibition [subsection 2(3)] applies to the sale of gasoline at any point in the gasoline distribution system. This never-to-be-exceeded limit is an upper limit that no gasoline can exceed.

C.3: Why are there different limits for different years?

Under the Regulations, the batch flat limit remains at the current sulphur level of 40 mg/kg until the end of 2016, and will be reduced to 14 mg/kg for 2017, 2018 and 2019. For 2020 onwards, the batch flat limit will be 12 mg/kg. The purpose of the staged reductions in the flat limit is to provide flexibility to access gasoline supplies during the transition to 10 mg/kg production in Canada and the U.S.

The annual pool average compliance option, which can be elected for by all primary suppliers, remains at 30 mg/kg until the end of 2016, and will then be reduced to 10 mg/kg for 2017 onwards. The limit changes for the year 2017 which is the model year for which the Tier 3 vehicle & engine emission standards take effect.

C.4: What types of gasoline are not required to meet any of the requirements of the Regulations?

The following gasolines are exempt from the Regulations:

- For export: gasoline produced or sold for export that is accompanied by written evidence establishing that the gasoline will be exported.
- In transit through Canada: Gasoline that is passing through Canada from one location outside Canada to another location outside Canada and that is accompanied by written evidence establishing that the gasoline is in transit. An example of this is gasoline transported by ship from Europe to terminals in Nova Scotia for subsequent transport by truck to Maine.

C.5: What types of gasoline are not required to meet any of the sulphur limits set out in the Regulations?

The following types of gasoline are not required to meet the sulphur limits set out in the Regulations (records of gasoline types must be retained):

- For use in aircraft: This type of gasoline is a high-octane fuel (of at least 99.5 octane number), specially formulated for use in aircraft. It is not for use in ground vehicles.
- For use in competition vehicles: Gasoline used in competition vehicles is often specially formulated for racing purposes. It has an antiknock index (road octane) of at least 100. Since it is a special fuel used in small volumes, it is exempt from the sulphur limits.
- For use in scientific research in Canada: Gasoline used in scientific research may have unusual properties depending on the nature of the research. In order to allow continued research into the impacts that gasoline has on the health of Canadians, the state of the environment and the operation of vehicles, this type of gasoline is exempt from the compositional requirements. It does not include any research undertaken by or for the seller of the gasoline into the preferences of the consumer or any type of market research.
- Gasoline-like blendstock: The exemption from the compositional requirements for gasoline-like blendstock is a "temporary" exemption. This type of gasoline is intended to be blended at a location downstream of the refinery or point of importation to meet the sulphur limits before it is sold to the final consumer. It must be exported or made into another type of gasoline, such as aviation, racing or used in scientific research. Such a temporary exemption is necessary since a number of primary suppliers dispatch unfinished gasoline to blending terminals to be "finished".

Section 3 – Methods for sampling and analysis

D.1: Why are reference methods required?

Reference methods are required to provide certainty and consistency in the enforcement of the Regulations. Only the methods referred to in the Regulations shall be used to determine compliance.

D.2: What reference methods are to be used in the Regulations?

The following sampling methods are to be used for compliance for the purposes of the Regulations:

- The sampling method described in the National Standard of Canada CAN/CGSB-3.5-2011- *Automotive Gasoline* or
- Any other equivalent sampling method that is being used in accordance with subsection 6(1) of the *Benzene in Gasoline Regulations*, where the information specified in that subsection has been sent to the Minister.

The following methods for testing sulphur are to be used for compliance for the purposes of the Regulations:

- For the concentration of sulphur in gasoline and in an oxygenate, ASTM International D5453-12 - *Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence*, and
- For the concentration of sulphur in butane, ASTM International D6667-14 - *Standard Test Method for Determination of Total Volatile Sulfur in Gaseous Hydrocarbons and Liquefied Petroleum Gases by Ultraviolet Fluorescence*.

D.3: What happens if a reference method is amended?

Any amendment to a reference method referenced in the Regulations by the standards writing organization (e.g., the Canadian General Standards Board (CGSB) or the ASTM International) is automatically incorporated into the Regulations (refer to subsection 1(2)). The amended methods would be used for determining compliance with the Regulations and for assessing the "equivalency" of alternative methods.

D.4: If I am using an approved alternative method under the Benzene in Gasoline Regulations for sampling or analyzing sulphur in gasoline at a particular site, can I use that method at that site for reporting and record keeping purposes under the Sulphur in Gasoline Regulations?

Yes (as per subsection 3(6)), provided that the alternative method has been approved for low sulphur measurements. Note that, as with the *Benzene in Gasoline Regulations*, compliance with the sulphur limits of the *Sulphur in Gasoline Regulations* (section 2) will be determined using the reference method referenced in the Regulations (see question D.2)

D.5: Can I use a different method for sampling or analyzing sulphur in gasoline than I am using under the Benzene in Gasoline Regulations for a particular site?

Yes, you can use the sampling method described in the National Standard of Canada CAN/CGSB-3.5-2011, *Automotive Gasoline*. You may also use a different method for analyzing sulphur than the one being used under the *Benzene in Gasoline Regulations*; however this method requires approval of this alternative method as per section 6 of the *Benzene in Gasoline Regulations*.

Note that, as with the *Benzene in Gasoline Regulations*, compliance with the sulphur limits of the *Sulphur in Gasoline Regulations* (section 2) will be determined using the reference method referenced in the Regulations (see question D.2)

D.6: Why is it necessary to allow equivalent methods for analyzing samples?

The methods referenced in the Regulations may be more expensive or take longer to complete. To reduce administrative costs associated with the Regulations, other less expensive or quicker methods which have been verified to be equivalent are allowed for record keeping and reporting requirements. This also allows for advancement in measuring technology and techniques, without having to continually revise the Regulations.

D.7: How do I apply to use an equivalent method?

Under subsection 3(6) of the *Sulphur in Gasoline Regulations*, alternative sampling and test methods that are being used at a site under the *Benzene in Gasoline Regulations* may be also used at that site under the *Sulphur in Gasoline Regulations*. You can only apply for an equivalent method under section 6 of the *Benzene in Gasoline Regulations*.

Section 4 – Report (Repealed – requirements moved to PART 3)

Section 5 – Records of type of gasoline

E.1: Why must I keep track of seven different types of gasoline?

For the purposes of the Regulations, seven types of gasoline are defined (as described in subsection 5(1)). These are:

1. low-sulphur gasoline,
2. gasoline for use in aircraft,
3. gasoline for use in competition vehicles,
4. gasoline for use in scientific research in Canada,
5. gasoline for export,
6. gasoline in transit through Canada, and
7. gasoline-like blendstock.

The first type (#1) must meet the sulphur limits for gasoline and is subject to the Regulations. The following five types of gasoline (#2-6) are either not required to meet the sulphur limits or are exempt from the Regulations (see question C.4). Gasoline-like blendstock (#7) is gasoline that is intended to be further refined or blended to meet the compositional requirements of the Regulations.

There are record keeping requirements under subsection 5(3) that applies to all types of gasoline and section 6 contains additional record requirements for gasoline-like blendstock.

E.2: What happens if I do not identify a batch of gasoline as one of the seven types?

If no record is made, the gasoline is considered to have been identified as low-sulphur gasoline (subsection 5(2)). This provision was added for the convenience of primary suppliers who normally deal with low-sulphur gasoline.

E.3: How and when do I identify the type for a batch of gasoline?

The type of gasoline must be identified in a record prior to the dispatch or importation of the batch (subsection 5(1)). Otherwise it is automatically considered to be low-sulphur gasoline.

Any batch identified as low-sulphur gasoline, either in a record or if no record is made, then automatically under subsection 5(2), is required to meet the sulphur limits of the Regulations. The identification of batches must occur prior to the dispatch or importation of the batch. This allows Environment and Climate Change Canada to apply the Regulations in the event of monitoring or enforcement actions.

E.4: What records must I keep for some specialty types of gasoline?

In addition to records identifying the type of gasoline, other records must be kept under subsection 5(3):

- written evidence that identifies each batch of gasoline and the use for which it was sold or delivered, either for use in aircraft, competition vehicles, scientific research, export or in transit through Canada.

E.5: Are Bills of Lading or Pipeline Tickets acceptable written evidence under subsection 5(3) that establishes that a batch was sold or delivered for the use appropriate to the type identified for that batch?

It depends on what information is on these records. These records are acceptable if they include information that establishes that the batch was sold or delivered for the identified use.

E.6: When do the records need to be made?

A record identifying the type of gasoline (subsection 5(1)) must be made prior to the dispatch or importation of a batch. Other records required by the Regulations (subsections 5(3) and 6(1) and section 12) should be made as soon as possible, so that the record is available to an enforcement officer making an inspection of your facility.

E.7: What do I do if I identified a batch as "low-sulphur gasoline" and later, after the analysis was completed and after the batch entered the pipeline, I discovered it did not meet the compositional requirements of the Regulations?

You would be in violation of the Regulations. In the annual auditor's report, the auditor must, according to paragraphs 26(1)(e) and (f) indicate the extent to which the primary supplier has complied with the regulations and indicate the nature and date of any inaccuracies in the records of the primary supplier.

E.8: Can I identify a batch as "low-sulphur gasoline, pending completion of analysis" and then re-designate it as "low-sulphur gasoline" or "gasoline-like blendstock" depending on the results of the test?

No. You must identify batches as one of the 7 types of gasoline specified in subsection 5(1) prior to dispatch from your facility or importation. "Low-sulphur gasoline, pending completion of analysis" is not one of the 7 types of gasoline. If you are in doubt as to whether a batch is low-sulphur gasoline, you can identify it as gasoline-like blendstock. You must then comply with the requirements for gasoline-like blendstock.

Note, as mentioned in question E.2, if no record is made, the gasoline is considered to have been identified as low-sulphur gasoline (subsection 5(2)).

Section 6 – Gasoline-like blendstock

F.1: What is gasoline-like blendstock?

Gasoline-like blendstock is a fuel that meets the definition for gasoline and that is intended to be further refined or blended to produce low-sulphur gasoline and that has been identified as gasoline-like blendstock by the primary supplier under section 5. The concept of gasoline-like blendstock provides flexibility to dispatch or to import unfinished gasoline intended for subsequent blending at a downstream blending facility.

F.2: What are the requirements for gasoline-like blendstock?

Gasoline-like blendstock must be further refined or blended to produce either low-sulphur gasoline, gasoline for use in aircraft, gasoline for use in competition vehicle or gasoline for use in scientific research, or it must be exported. There are requirements for records regarding gasoline-like blendstock set out in subsection 6(1), to be kept by the primary supplier and any subsequent seller. These records must be kept in Canada for 5 years and a copy of the record must be provided to the purchaser by the seller of the gasoline-like blendstock. Additionally, an annex to the Schedule 1 annual report that contains the information set out in subsection 24(2) must be submitted.

F.3: Can gasoline-like blendstock be sold?

Yes, gasoline-like blendstock may be sold as gasoline-like blendstock. Pursuant to subsection 13(5) of the *Benzene in Gasoline Regulations*, gasoline-like blendstock cannot be represented as complying gasoline, or sold or dispensed for use in a spark ignition engine. There is no limitation on to whom gasoline-like blendstock can be sold, provided that the required records are made and retained. A record with the information required under subsection 6(1) of the *Sulphur in Gasoline Regulations* needs to be provided to the purchaser before the transfer or change in possession of the gasoline-like blendstock.

F.4: What records must I keep for gasoline-like blendstock?

In addition to the general record keeping requirements for all types of gasoline, a person must, prior to dispatching, importing or selling a batch of gasoline-like blendstock make a record that identifies the fuel as gasoline-like blendstock that is intended to be further refined or blended to produce low-sulphur gasoline. The record must also contain the information described in subsection 6(1) of the Regulations. This information includes the name and address of the person who dispatched, imported, sold, originally produced or imported the batch, along with dates of dispatch or transfer and the volumes. Information must also include registration numbers of the primary supplier and the name and address of the seller or provider.

Section 7 – Retention of records

G.1: How long are records required to be kept?

Generally, records must be kept for 5 years after they are made. Primary suppliers that are participating in the temporary sulphur compliance unit trading system shall maintain the records referred to in sections 18 to 20 in Canada until December 31, 2025. These records pertain to the temporary sulphur compliance unit trading system.

G.2: Where are the records kept?

All records must be kept in Canada and enforcement officers must have ready access to them. Records may be kept at a facility, at your offices, or at a central filing location. Records may not be kept outside of Canada.

Section 8 – Submission of samples and records

H.1: How will records and samples be requested by Environment and Climate Change Canada?

Access to records would be requested by Environment and Climate Change Canada officials inspecting a facility. During an inspection, these officials may also request samples of the gasoline. Requests for records and samples could also arise under other circumstances.

H.2: When must I provide the records and samples to Environment and Climate Change Canada?

You must provide the records and samples to Environment and Climate Change Canada as per the instructions of an enforcement officer or the Minister.

H.3: Will I be told beforehand that a sample will be requested?

Generally, no, you will not be told in advance.

H.4: Why must I tell Environment and Climate Change Canada from whom I purchased my gasoline?

Retailers and wholesalers of gasoline generally do not have control of the composition of the gasoline they sell. If a batch of gasoline at a retail or wholesale facility does not meet the requirements of the Regulations, Environment and Climate Change Canada may want to trace the origin of the batch in question.

PART 2 – REQUIREMENTS PERTAINING TO A POOL AVERAGE

Section 9 – Pool average election

I.1: Does Part 2 apply to me?

Part 2 of the Regulations only applies to those who elect to calculate the concentration of sulphur in gasoline on the basis of a pool average for any of their facilities or imports into Canada.

I.2: What is the difference between the pool average and flat limit compliance options?

If you do not elect for the pool average option, then every batch of gasoline that you produce and import must meet the flat limits set out in paragraph 2(1)(b). These limits are:

- 40 mg/kg until December 31, 2016;
- 14 mg/kg for the period beginning on January 1, 2017 and ending on December 31, 2019; and
- 12 mg/kg, on or after January 1, 2020.

There are fewer administrative requirements associated with this compliance option since any batch can be readily tested for compliance. Also, you do not have to elect to comply with the flat limits as it is the default option.

If you elect for the pool average option, then your annual pool average must not exceed the limits set out in subsection 2(2). These limits are:

- 30 mg/kg until December 31, 2016; and
- 10 mg/kg on or after January 1, 2017.

In addition, every batch of gasoline must meet the never to be exceeded limit set out in paragraph 2(1)(a) of 80 mg/kg.

The pool average option provides more flexibility; however there are more administrative requirements as set out in Part 2 of the Regulations.

1.3 What is in my pool?

As per subsection 9(1.1) of the Regulations, a pool is composed of only one of the following:

- a) gasoline that is produced at a particular refinery,
- b) gasoline that is produced at a particular blending facility, or
- c) gasoline that is imported.

A primary supplier may elect to for an annual pool average for more than one pool for the gasoline it produces and imports.

1.4 How is the election made?

A notice of election must be submitted to Environment and Climate Change Canada in writing at least 60 days before the day on which the gasoline is produced or imported for the first time. For any other case, the notice must be sent by no later than November 1 of the year before the first year in respect of which the calculation will be made on the basis of a pool average (e.g. by November 1, 2015 to calculate a pool average for the 2016 calendar year). An election cannot be changed part way through a calendar year.

Notices under this section must be sent by registered mail or courier to Environment and Climate Change Canada's headquarters:

Regulations Administration – Reports and Notices
Fuels and Chemicals Section
Oil, Gas and Alternative Energy Division
Environment and Climate Change Canada
351 St. Joseph Blvd, 12th floor
Gatineau, Quebec K1A 0H3
Fax: 819-420-7410
Email: ec.carburants-fuels.ec@canada.ca

1.5: Do I have to make an election every year?

No. You only need to make an election for a pool average once. This election will remain in effect until it is withdrawn, according to the requirement in subsection 9(4).

1.6: The Regulations no longer refer to gasoline that has been imported into a province. What does that mean for my import pool?

As of July 16, 2015, importers that had elected for the pool average option under section 9 of the Regulations are required to average their gasoline imports for a calendar year on a national basis instead of for each province of import. All gasoline imported by a person into Canada now forms one import pool. Any person who had previously elected for the pool average option (by province) is automatically deemed to have elected to have a single pool average option for all imports (on a national basis).

I.7: What if I had some provincial imports on a flat limit and other provincial imports on the pool average option? What does that mean for my import pool?

As per question I.6, all of your imports are now included in one national import pool average.

I.8: Do I have to resubmit my notice of election under section 9 because of the 2015 Amendments?

A new notice of election to pool average imports on a national basis is not required if, as of January 1, 2015, you had elected for the pool average option for one or more provinces of import. You are automatically deemed to have elected for a national pool average option. However, if any of the information set out in subsection 9(2) changes as a result of your imports being pooled on a national basis rather than on a provincial one, you are required to submit a notice containing the updated information to the Minister.

Furthermore, if you make any other changes that would affect your notice of election, you are required to resubmit a notice with this change of information to the Minister, containing the information required under paragraph 9(2)(c). For example, if you plan to adjust the recorded concentration of sulphur of a batch of gasoline in your pool to reflect the addition of sulphur-limited oxygenate or sulphur-limited butane, you would be required to resubmit your notice of election.

I.9: What happens if I do not make an election?

If you do not elect for a pool average, then you must meet the flat limit requirements of the Regulations as prescribed in paragraph 2(1)(b). See question A.5.

I.10: Can I change my compliance option?

Yes. If you wish to change compliance options, you must inform Environment and Climate Change Canada in writing no later than November 1 of the year before the calendar year for which the option is being changed. Changes cannot be made part way through a calendar year. Once an election for the pool average has been made, it is in place until Environment and Climate Change Canada is informed to the contrary.

Note that if, on or before November 1, 2015 you elect to withdraw from the pool average option and to comply with flat limits, you will not be eligible to participate in the temporary sulphur compliance unit trading system.

I.11: Before July 16, 2015, I was complying with the flat limits for my gasoline imports, how does this affect me?

You are not affected if you choose to continue complying with the flat limits for gasoline imports.

If you choose to change and elect for the pool average option for gasoline that is imported, you may do so (see question I.10).

If you choose to switch from the flat limit to a pool average compliance starting January 1, 2016, you may also choose to submit a notice of election to participate in the temporary sulphur compliance unit trading system. This notice is required to be sent by November 1, 2015. Please refer to questions M.2 to M.4.

I.12: If I have more than one facility, can I choose different options for each of the facilities?

Yes. You can elect a different option for each facility.

For example, if you have two refineries or a refinery and an import pool, you can elect to meet the requirements on the basis of a pool average for one refinery and on the basis of the flat limit for the other refinery or the import pool. In the case of the latter, no election is required, as the flat limit is the default option (see question A.6 related to the import pool).

I.13: If I have more than one facility for which I have elected for the pool average option, must I meet the pool average requirement at each of my facilities or can I combine them?

You must meet the pool average limit at each of your facilities elected for. You cannot combine facility averages. Refer to section 10 of the Regulations for the calculation of a pool average.

You may elect to participate in the temporary sulphur compliance unit trading system which is in place for the years 2012 to 2019 and use sulphur compliance units to meet the regulatory requirements for each facility for the years 2017, 2018 and 2019.

I.14: What information must I include in my notice of election?

The information requirements are set out in subsection 9(2).

The notice must describe how you will construct and evidence the pool average. It must explain how, where and when samples will be collected, how they will be analyzed and recorded, and the location in Canada where samples and records will be kept. It should clearly present details on the systems, practices and procedures you will use to demonstrate to Environment and Climate Change Canada that the pool average is being met, including the requirements set in paragraph 9(2)(c) related to batch sulphur concentration adjustments when mixing a batch of gasoline with sulphur-limited oxygenate or sulphur-limited butane.

I.15: When do I inform Environment and Climate Change Canada of any changes to the information in my notice of election?

You must submit updated information at least 45 days prior to the change.

I.16: If I import gasoline and have not elected for the pool average option 60 days before the first day on which the gasoline is imported do I have to use the flat limit?

If you have not made the election within the timelines outlined in subsection 9(2.1), you are required to comply with the default flat limit.

Subsection 9(2.1) requires that the notice must be sent 60 days before the first day on which the gasoline is first imported for new importers, or no later than November 1 of the year before the first year to which the calculation on the basis of the yearly pool average applies in any other case. For example, if you wish to calculate based on the yearly pool average for 2017, you must make your election under section 9 by November 1, 2016.

Section 10 – Calculation of Pool Average

J.1: What types of gasoline do I include in my pool average?

You must include all batches that you have identified as low-sulphur gasoline in your pool average.

You must exclude all batches of gasoline that were:

- identified as one of the six types of speciality gasoline in paragraphs 5(1)(b) to (h), or
- exported by you (or an affiliate) regardless of how it is identified.

Note that all gasoline imported by a primary supplier is included in the import pool for that primary supplier, unless it is delivered into a refinery or blending facility and the primary supplier chooses to include it in the pool average of that refinery or blending facility, in accordance with the pool average calculation provisions of subsection 10(3).

Batches of gasoline-like blendstock blended with low-sulphur gasoline and low-sulphur gasoline blended with certain oxygenates and butanes are accounted for in the pool average calculations according to subsections 10(4) and 10(5). Refer to question J.2.

J.2: What batches of gasoline can I include in a pool average?

All gasoline produced and imported for Canadian consumption must meet either the flat limit for sulphur or the pool average limit, except for specialty gasoline, identified under subsection 5(1) as: for use in aircraft, competition vehicles, scientific research in Canada, for export or in transit through Canada.

Under sections 10(3), 10(4) and 10(5) of the Regulations, you may include the following batches of gasoline in the pool average:

- Low-sulphur gasoline imported directly into a refinery or blending facility may be included in that facility's pool average, provided that the volume of low-sulphur gasoline is excluded from the primary supplier's import pool (refer to subsection 10(3));
- If a primary supplier produces a batch of low-sulphur gasoline by blending gasoline-like blendstock at a blending facility, the primary supplier may include the volume of that gasoline-like blendstock and its concentration of sulphur in the pool average of the refinery from which it was dispatched or in the pool average for the gasoline that was imported if the following conditions are met (refer to subsection 10(4)):
 - The primary supplier produced and dispatched the gasoline-like blendstock from a refiner or imported it, and delivered it to the blending facility where it was blended;
 - the primary supplier owns the gasoline-like blendstock;
 - the gasoline-like blendstock was segregated from all other batches of gasoline stored at the blending facility prior to blending; and
 - the resulting batch of low-sulphur gasoline is excluded from the pool average for that blending facility.
- If a primary supplier produces a batch of low-sulphur gasoline by blending gasoline-like blendstock with low-sulphur gasoline at a blending facility, the primary supplier shall include the volume of that gasoline-like blendstock and its concentration of sulphur in the pool average for the refinery or for gasoline that is imported if they produced and dispatched the gasoline-like blendstock from a refiner or imported it, and delivered it to the blending facility where it was blended (refer to subsection 10(5)).

J.3: If I buy gasoline from someone in Canada can I include it in my pool average?

Generally, no. You can only include batches of low-sulphur gasoline that you import or produce and dispatch from your refinery or blending facility in the calculation of your pool average. However, if you purchase gasoline-like blendstock, then you may include it in the pool average of the facility where you blended or further refined it to meet the sulphur limits for gasoline in the Regulations.

J.4: If I only buy gasoline from refiners or importers, but do not refine, blend or import myself, what do I include in my pool?

If you only buy low-sulphur gasoline from others (e.g., a wholesaler), then you are not a primary supplier, and therefore you do not have to calculate a pool average or meet any of the requirements placed upon a primary supplier. However, you cannot sell gasoline with a sulphur level in excess 80 mg/kg (subsection 2(3)).

If you buy or sell gasoline-like blendstock, there are other requirements that you must fulfill (refer to questions F.1 to F.4).

J.5: If I sell a batch of low-sulphur gasoline to another person who then exports the batch do I exclude the batch of gasoline from my pool average?

If a batch of gasoline is exported by you or by an affiliate, the batch must be excluded from your pool average.

If a batch is sold to an independent party, you are required to include it in your pool average since you do not control its final destination.

J.6: Can I adjust the sulphur concentration for a batch of gasoline by mixing low-sulphur gasoline with sulphur-limited oxygenate or sulphur-limited butane?

Yes, only for primary suppliers that have elected for the pool average option and have provided the details in their notice of election under section 9 to account for the blending of the sulphur-limited oxygenate or sulphur limited butane as per paragraph 9(2)(c) of the Regulations.

If you dispatch from a refinery and deliver, or import and deliver, a batch of low-sulphur gasoline to a facility where sulphur-limited oxygenate or sulphur-limited butane is added to that batch, you may, if you own the batch of low-sulphur gasoline, adjust its concentration of sulphur to reflect the addition of the oxygenate or butane [refer to subsections 10(6)]. The adjusted sulphur concentration of the batch may be used, instead of its measured concentration, to calculate the pool average for the refinery that produced it or for the import pool.

You may only adjust the recorded concentration for volumes of low-sulphur gasoline that you own and that had sulphur-limited oxygenate or sulphur-limited butane added to it (e.g. this volume must be equal to or less than the total volume of the batches of low-sulphur gasoline that you delivered to the blending facility and owned leaving the facility).

If the sulphur-limited oxygenate that is added to the batch is denatured ethanol, you may assume that its sulphur concentration is 5 mg/kg [refer to subsection 10(7)]. Otherwise, you must have included information in your notice of election under section 9 that includes how the sulphur concentration of each batch of ethanol blended will be determined, including the method by which, and the location at which sulphur concentration will be determined.

Example: A primary supplier delivers 2,000 m³ of low-sulphur gasoline to a terminal with a measured concentration of 9 mg/kg. Low-sulphur gasoline at this terminal is mixed with ethanol, a sulphur-limited oxygenate, at blend rate of 10% (E10). The same primary supplier removes 1,500 m³ of low-sulphur gasoline (that contains ethanol) from the

terminal. The primary supplier may adjust the recorded concentration for the batch as follows:

Recorded Concentration – applicable to 2,000 m³

$$(2,000 \text{ m}^3 \times 9 \text{ mg/kg}) / 2,000 \text{ m}^3 = 9 \text{ mg/kg}$$

Adjusted Concentration – applicable to 1,500 m³ (containing ethanol)

$$\{(1,350 \text{ m}^3 \times 9 \text{ mg/kg}) \times (150 \text{ m}^3 \times 5 \text{ mg/kg})\} / (1,350 \text{ m}^3 + 150 \text{ m}^3) = 8.6 \text{ mg/kg}$$

Result: The record is adjusted to indicate 650 m³ at 9 mg/kg and 1,350 m³ at 8.6 mg/kg

J.7: Do I need to re-submit my Notice of Election as described in subsection 9(2) in order to be able to adjust the recorded concentration of sulphur of a batch to reflect the addition of sulphur-limited oxygenate or sulphur-limited butane?

Yes, if you plan to adjust the recorded concentration of sulphur of a batch of gasoline in your pool to reflect the addition of sulphur-limited oxygenate or sulphur-limited butane, you are required to submit a notice with this change of information to the Minister, containing the information required under paragraph 9(2)(c), at least 45 days before you plan to adjust the recorded concentration.

Section 11 – Repealed

Section 12 – Record of Composition

K.1: What records do I have to keep on gasoline composition if I have elected for a pool average?

A record must be kept for each batch produced and imported, and it must link the batch to any sample taken from it. The record must contain the date or dates that the batch was dispatched or imported, and the volume, sulphur concentration and grade of the batch.

If the batch's sulphur was adjusted for the addition of sulphur limited oxygenate or butane, the record must also contain the batches adjusted sulphur concentration and the sulphur concentration and volume of the sulphur-limited oxygenate or sulphur-limited butane that was added.

K.2: Are these record-keeping requirements in addition to those made under section 5?

Yes, although they can be made on the same physical record.

K.3: Are these record-keeping requirements in addition to those required for the Benzene in Gasoline Regulations?

Yes, although the same physical record could be used for both regulations.

K.4: Where and for how long are the records kept?

All records required by the Regulations must be kept in Canada for five years after the records are made. The records referred to in sections 18 to 20 in Canada related to the temporary sulphur compliance unit trading system must be kept until December 31, 2025.

K.5: Can I use records required by the U.S. government to provide the information on composition?

You can use records required by the U.S. Code of Federal Regulations, Part 80, section 80.74 or 80.104, or the California Code of Regulations, Division 3, Chapter 5, Article 1, Sub article 2, section 2270 to provide composition information for reporting purposes only. As per subsections 24(4) and 25(3) of the *Sulphur in Gasoline Regulations*, these records of analysis, as referred to in subsection 8(3) of the *Benzene in Gasoline Regulations*, may be used for the purposes of submitting the information referred to in Schedules 1 and 2.

TEMPORARY SULPHUR COMPLIANCE UNIT TRADING SYSTEM

Section 13 – Election

L.1: Why is a temporary sulphur compliance unit trading system (the trading system) being implemented? Why it is temporary?

A temporary sulphur compliance unit trading system has been put in place to provide compliance flexibility for the transition period to lower sulphur gasoline. The trading system provides refineries regulatory flexibility to better align future investments needed to comply with the regulatory requirements. Canadian refining companies are expected to use the trading system because of the flexibility it gives in making the necessary refinery investments in alignment with their periodic upgrade and maintenance schedules.

The trading system ends after the 2019 compliance year for several reasons. An ongoing trading system would provide the opportunity for trading within companies that could provide a competitive advantage for companies operating multiple refineries relative to companies operating a single refinery. The use of compliance units could lead to an unbalanced gasoline quality across Canada if a refining company decided to only use compliance units instead of producing cleaner, lower sulphur gasoline. A final consideration recognizes that the relatively small Canadian refining market would provide less liquidity for trading of sulphur compliance units.

L.2: Who is eligible to elect into the trading system and become a participant?

Only primary suppliers who have elected under section 9 to calculate the concentration of sulphur in gasoline on the basis of a pool average can elect to participate in the trading system. Current primary suppliers as well as new primary suppliers before December 31, 2019 are able to participate in the trading system.

L.3: What do I need to do in order to participate in the trading system?

If you elected for the pool average option before the day that the 2015 Amendments came into force, you must submit a notice of the election to participate in the trading system to Environment and Climate Change Canada. The election must identify the pool or pools to which the election applies. You must submit this notice within 60 days after the day on which section 13 came into force, i.e. before September 14, 2015.

If you are producing or importing gasoline for the first time and you want to participate in the trading system, you must submit a notice of election under section 9 to elect for the pool average option and a notice of election to participate in the trading system. Both notices must identify the pool or pools to which the election applies. You must submit these notices no later than 60 days before the first day on which the gasoline is first produced or imported.

If you were complying with the flat limit option before the day the 2015 Amendments came into force and want to participate in the trading system, you must submit a notice of election under section 9 to elect for the pool average option and a notice of election to participate in the trading system. Both notices must identify the pool or pools to which the election applies. You must submit these notices no later than November 1, 2015.

L.4: If I wish to withdraw from the trading system, what do I have to do?

If you wish to cease participation in the trading system, you must submit to Environment and Climate Change Canada a notice to that effect no later than November 1 of the last year of participation in the trading system. Once you cease participation in the trading system in respect of a pool, all sulphur compliance units that were not traded and that you hold in respect of that pool are cancelled.

L.5: When does the trading system cease to exist?

The trading system is in effect from until the end of the 2019 compliance year. Trading can take place until March 31, 2020, in respect of sulphur compliance units created before January 1, 2020 (see question M.1). The last year for which sulphur compliance units can be used to demonstrate compliance with the Regulations is 2019.

Section 14 – Creating Sulphur Compliance Units

M.1: What is a sulphur compliance unit (SCU) and how is it created?

One SCU represents one cubic metre of gasoline with a sulphur concentration of 1 mg/kg. SCUs are created once each year, once the pool average is determined for that year. They are based on the difference between the volume weighted average annual sulphur concentration of a pool and the applicable pool average sulphur limit for that year (e.g. 30 mg/kg for the years 2012 to 2016 and 10 mg/kg for the years 2017 to 2019). SCUs can be accumulated (banked) and traded for the years 2012 to 2019 and used to meet compliance with the 10 mg/kg limit for the years 2017, 2018 and 2019.

Section 14 of the Regulations sets out how a primary supplier who is participating in the trading system may, in respect of an elected pool, create a number of SCUs for a year.

After March 31, 2020, all unused SCUs become null and void and cannot be used to meet compliance for the year 2020 and onward as the trading system will have ended.

M.2: I am a primary supplier and I have elected for the pool average option for my refinery or blending facility. I have also elected to participate in the trading system. How do I calculate my sulphur compliance units (SCUs)?

If you have elected for the pool average option for a refinery or a blending facility under section 9 and have elected to participate in the trading system under section 13, the number of SCUs for the years 2012-2019 is determined for each year, in accordance with subsection 14(1), according to the following formula:

$(A - B) \times C$, where

A is one of the following:

- a) if the SCUs are created for any of the years 2012 to 2016, 30 mg/kg
- b) if the SCUs are created for any of the years 2017 to 2019, 10 mg/kg

B is the pool average sulphur concentration of that pool for the year, in mg/kg

C is the volume of low-sulphur gasoline that was used to calculate the pool average, in m³

Example: A primary supplier is participating in the trading system in respect of a pool for a refinery. For the year 2016, the pool average for that refinery's gasoline pool was 20 mg/kg, and the volume of low-sulphur gasoline used to calculate the pool average was 1,000 m³.

A = 30 mg/kg, B = 20 mg/kg, C = 1,000 m³

$(A - B) \times C = (30 - 20) \times 1,000 = 10,000$ SCUs created for 2016

M.3: How do I calculate my sulphur compliance units (SCUs) for the years 2012 to 2014 if I was averaging my imports on a provincial basis for those years?

If, as of July 15, 2015, you had elected for the pool average option for gasoline that was imported and have also elected to participate in the trading system, the number of SCUs for the years 2012-2014 is determined for each year, in accordance with subsections 14(1) and 14(2), according to the following formula:

$(A - B) \times C$, where:

A is 30 mg/kg

B is the volume-weighted average sulphur concentration that is calculated using the year-to-date volume-weighted average value of sulphur set out in each report submitted for that year in respect of a province of importation in accordance with section 8 of the *Benzene in Gasoline Regulations*. This value is a national volume weighted average calculated using the provincial volume weighted averages and volumetric data.

C is the sum of the volumes of gasoline supplied as set out in those reports – a national volume calculated by summing the provincial volumes for that year.

Example: A primary supplier imported into 2 provinces under a pool average option for the years 2012 to 2015. To calculate the number of SCUs for the year 2012, 2013 or 2014, data from the *Benzene in Gasoline Regulations* reports is required for the 2 provincial import pools for that year, as follows:

Province A

Volume-weighted average value of sulphur was 25 mg/kg, and the volume of low-sulphur gasoline used to calculate the average was 1,000 m³.

Province B

Volume-weighted average value of sulphur was 15 mg/kg, and the volume of low-sulphur gasoline used to calculate the average was 1,000 m³.

$A = 30 \text{ mg/kg}$

$B = [(25 \text{ mg/kg} \times 1,000 \text{ m}^3) + (15 \text{ mg/kg} \times 1,000 \text{ m}^3)] / (1,000 \text{ m}^3 + 1,000 \text{ m}^3) = 20 \text{ mg/kg}$

$C = 1,000 \text{ m}^3 + 1,000 \text{ m}^3 = 2,000 \text{ m}^3$

$(A - B) \times C = (30 - 20) \times 2,000 = 20,000 \text{ SCUs created for 2013}$

Additionally, SCUs for the years 2015-2019 are determined in accordance with subsection 14(1), according to the following formula (see example in question M.2):

$(A - B) \times C$, where:

- A** is one of the following:
- a) if the SCUs are created for either 2015 or 2016, 30 mg/kg
 - b) if the SCUs are created for any of the years 2017 to 2019, 10 mg/kg
- B** is the pool average sulphur concentration of that pool for the year, in mg/kg
- C** is the volume of low-sulphur gasoline that was used to calculate the pool average, in m³

M.4: How do I calculate my sulphur compliance units (SCUs) for the years 2012 to 2015 if I was complying on the flat limit option for my refinery, blending facility or for gasoline that was imported for those years, but have elected, starting January 1, 2016, for the pool average option?

If, as of July 15, 2015, you were complying with the flat limits for a refinery, blending facility or for gasoline that was imported, but then elected, starting January 1st, 2016, for the pool average compliance option and elected to participate in the trading system, the number of SCUs for the years 2012-2015 is determined for each year, in accordance with subsections 14(1) and 14(3), according to the following formula:

$(A - B) \times C$, where:

- A** is one of the following:
- a) if the SCUs are created for any of the years 2012 to 2016, 30 mg/kg
 - b) if the SCUs are created for any of the years 2017 to 2019, 10 mg/kg
- B** is the volume-weighted average sulphur concentration that is calculated using the year-to-date volume-weighted average value of sulphur set out in each report submitted for that year in respect of a province of importation in accordance with section 8 of the *Benzene in Gasoline Regulations*. This value is a national volume weighted average calculated using the provincial volume weighted averages and volumetric data.
- C** is the sum of the volumes of gasoline supplied as set out in those reports – a national volume calculated by summing the provincial volumes for that year.

Example: A primary supplier imported into 2 provinces complying on a flat limit basis for the years 2012 to 2015 and has elected to comply on a pool average and to participate in the trading system for 2016. To calculate the number of SCUs for the year 2012, 2013, 2014 or 2015, data from the *Benzene in Gasoline Regulations* reports is required for the 2 provincial import pools for that year, as follows:

Province A

Volume-weighted average value of sulphur concentration was 20 mg/kg, and the volume of low-sulphur gasoline used to calculate the average was 1,000 m³.

Province B

Volume-weighted average value of sulphur concentration was 15 mg/kg, and the volume of low-sulphur gasoline used to calculate the average was 1,000 m³.

$$A = 30 \text{ mg/kg}$$

$$B = [(20 \text{ mg/kg} \times 1,000 \text{ m}^3) + (15 \text{ mg/kg} \times 1,000 \text{ m}^3)] / (1,000 \text{ m}^3 + 1,000 \text{ m}^3) = 17.5 \text{ mg/kg}$$

$$C = 1,000 \text{ m}^3 + 1,000 \text{ m}^3 = 2,000 \text{ m}^3$$

$$(A - B) \times C = (30 - 17.5) \times 2,000 = 25,000 \text{ SCUs created for 2012}$$

Additionally, SCUs for the years 2016-2019 are determined in accordance with subsection 14(1), according to the following formula (see example in question M.2):

$(A - B) \times C$, where:

A is one of the following:

- a) if the SCUs are created for any of the years 2012 to 2016, 30 mg/kg
- b) if the SCUs are created for any of the years 2017 to 2019, 10 mg/kg

B is the pool average sulphur concentration of that pool for the year, in mg/kg

C is the volume of low-sulphur gasoline that was used to calculate the pool average, in m³

M.5: When are sulphur compliance units (SCUs) created?

A sulphur compliance unit is created when the primary supplier makes an entry of its creation in the SCU account book maintained by that primary supplier in accordance with section 18 of the Regulations. The entry shall be made no later than February 15 of the year after the year for which the units are being created.

M.6: Does Environment and Climate Change Canada issue sulphur compliance units (SCUs)?

No. SCUs are created by primary suppliers participating in the trading system.

M.7: I am not involved in the fuels business, but would like to buy sulphur compliance units (SCUs) – how can I do this?

You cannot acquire any SCUs. Only primary suppliers participating in the trading system can acquire SCUs (refer to question L.2).

M.8: Will there be government validation or a clearinghouse for sulphur compliance units (SCUs) as a way to protect obligated parties against involuntary non-compliance from acquiring non-valid SCUs?

No, Environment and Climate Change Canada will not validate SCUs. The Regulations have requirements for third-party audits and records and reports can be subject to inspections by Environment and Climate Change Canada's enforcement officers.

M.9: What happens if I buy sulphur compliance units (SCUs) from another party in order to meet my obligation but it is later found that those SCUs were not created?

Compliance with the *Sulphur in Gasoline Regulations* is mandatory. You may wish to put in place practices and procedures to ensure the validity of any SCU that you receive in trade.

SCUs that acquired and were later found to have not created in a valid manner are not valid SCUs and cannot be used or traded. All records must be accurately updated immediately and you should inform Environment and Climate Change Canada immediately. Depending on when this determination happens and the balance of SCUs in your respective pool, this may have an impact on your compliance with the Regulations.

M.10: What happens with the fractions of a unit that are created using the formula in section 14 of the Regulations?

If the number determined in accordance with the formula is not a whole number, it shall be rounded down to the nearest whole number. For example, 15,450.97 is rounded down to 15,450.

Section 15 – Using Sulphur Compliance Units

N.1: In what years can I use my sulphur compliance units (SCUs) to adjust my sulphur concentration?

A primary supplier who is participating in the trading system may use a SCU that they hold in respect of a pool for which an election is made under section 13 of the Regulations, to adjust the pool average of that pool for any of the years 2017, 2018 and 2019.

N.2: How do I adjust my pool?

The adjusted pool average for a year shall be determined in accordance with the formula: $((X \times Y) - Z) / Y$

Where:

- X is the pool average sulphur concentration for the year, in mg/kg;
- Y is the volume of low-sulphur gasoline that was used to calculate the pool average, in m³; and
- Z is the number of SCUs used for the year by the primary supplier.

Under subsection 18(c) of the Regulations, the use of SCUs to adjust the pool average (value Z) and the date of the use are to be recorded in the SCU account book. This record must be made no later than March 31 of the year after the year for which the SCU is used.

Example: A primary supplier is participating in the trading system in respect of a pool for a refinery. For the year 2017, the pool average for that gasoline pool is 20 mg/kg, and the volume of low-sulphur gasoline used to calculate the pool average was 1,000 m³. How many SCUs must be used to comply with the 10 mg/kg pool average limit?

$X = 20 \text{ mg/kg}$, $Y = 1,000 \text{ m}^3$, $Z = ?$

To meet an adjusted pool average of 10 mg/kg, the primary supplier must determine how many SCUs are required (Z).

Adjusted Pool Average = 10 mg/kg = $((X \times Y) - Z) / Y$, therefore:

$$10 \text{ mg/kg} = ((20 \text{ mg/kg} \times 1,000 \text{ m}^3) - Z) / 1,000 \text{ m}^3$$

$$10,000 \text{ m}^3\text{mg/kg} = (20,000 \text{ m}^3\text{mg/kg}) - Z$$

$$Z = (20,000 - 10,000) \text{ m}^3\text{mg/kg} = 10,000 \text{ SCUs required to meet the 10 mg/kg pool average limit for 2017.}$$

N.3: Can I use my sulphur compliance units (SCUs) more than once?

No. SCUs may only be used once, and only for one pool. A SCU is used when the primary supplier makes an entry of its use in the SCU account book maintained by the primary supplier in accordance with section 18 of the Regulations.

N.4: How do I keep track of my balance of sulphur compliance units (SCUs)?

A primary supplier must keep track of their balance of SCUs in their SCU account book in accordance with paragraph 18(f). After each transaction (e.g. creation, transfer or use), there must be a new balance of SCUs entered in the account book as a result.

N.5: When must I record the use of my sulphur compliance units (SCUs)?

An entry may be made into the SCU account book at any time after the compliance year, but no later than March 31 of the year after the year for which the SCU is used. A SCU is considered to be used when the primary supplier makes the entry of its use in the SCU account book.

Section 16 – Transfer of Sulphur Compliance Units

O.1: How do I “trade” a sulphur compliance unit (SCU)?

SCUs may be transferred to another primary supplier who has also elected to participate in the trading system under section 13. A SCU may only be transferred once between two primary suppliers but may be transferred without limitation between the pools owned by a primary supplier who has made elections under section 13. Transfers and the details of the transfer are recorded in the SCU account book as per section 18.

Except for the limitations on the number of transfers between primary suppliers and some record keeping and reporting requirements outlined in sections 13 to 20, the Regulations do not specify how trading occurs or how much the SCUs are valued.

O.2: Is trading of sulphur compliance units (SCUs) restricted to primary suppliers only?

Yes, trading is restricted to primary suppliers who have elected to participate in the temporary SCU trading system.

O.3: Can anyone buy sulphur compliance units (SCUs)?

No, only primary suppliers who have elected to participate in the trading system can acquire SCUs from other trading system participants. No other person can do so, including primary suppliers who have not elected to participate in the trading system.

O.4: Will Environment and Climate Change Canada buy my surplus sulphur compliance units (SCUs)? Will Environment and Climate Change Canada sell me SCUs if I need them?

No.

O.5: How do I determine if sulphur compliance units (SCUs) I want to buy are valid?

Environment and Climate Change Canada does not assess the validity of SCUs for the purposes of validating trades between participants; it is up to individual parties to assess the validity of the SCUs that they are acquiring. You may wish to put in place practices and procedures to ensure the validity of any SCU that you receive in a trade.

Environment and Climate Change Canada receives annual and audit reports from all participants and may inspect participants' records and SCU account books to verify compliance with the Regulations. Also see questions M.9 and M.10.

O.6: Can I trade sulphur compliance units (SCUs) at any time? Can I trade any SCU?

You may transfer any SCU that you hold between your pools for which you have made the election under section 13 or to another primary supplier who is participating in the trading system. However, a SCU may only be transferred between primary suppliers once.

Note that all trades, either internal to a company between pools or between two companies must be recorded in the SCU account book for each respective pool as per section 18.

O.7: Can I trade sulphur compliance units (SCUs) created during 2012 and later years?

Yes. Once an election to participate in the temporary SCU trading system has been made, you can begin trading any of the SCUs that have been created and that you hold. You must cease to trade SCUs on March 31, 2020 as the temporary trading system ends on that date.

O.8: Are there any limits to the number of sulphur compliance units (SCUs) I can trade or receive in trade?

No.

O.9: What do I provide to other primary suppliers if I wish to trade sulphur compliance units (SCUs) to them? What should I receive from primary suppliers from whom I have received SCUs?

A primary supplier who is participating in the trading system must provide the information required for other primary suppliers to maintain their SCU account book in accordance with section 18. The SCU account book must contain the information on the trade, including the number of SCUs transferred or received by the primary supplier in relation to the pool, the date on which each transfer or receipt occurred, the name of the primary suppliers involved and the registration number, for each pool involved in the transaction that belongs to the same primary supplier.

The two primary suppliers trading SCUs must provide each other with such information and must record the trade in their SCU account books. All the conditions required for making trades, under section 16, must be also fulfilled.

Furthermore, primary suppliers must maintain a record that contains a copy of all supporting documents for the records referred to in the SCU account book, according to section 20 and 21.

O.10: How do I keep track of inter-company traded sulphur compliance units (SCUs) vs non-traded SCUs?

In respect of section 16 of the Regulations, the tracking of inter-company traded SCUs vs non-traded SCUs is done solely through the tracking of individual trades, as recorded in the SCU account book. It is the responsibility of the primary supplier to ensure that the same SCU is not traded between companies more than once.

O.11: At what price are sulphur compliance units (SCUs) to be bought or sold?

The Regulations do not set a price for SCUs.

O.12: Under the Regulations, what is the required format for a contract to sell or buy sulphur compliance units (SCUs)? Will Environment and Climate Change Canada provide a template for such contracts?

There is no required format for such contracts and Environment and Climate Change Canada does not intend to provide a template.

O.13: Am I required to report the sale price of any traded sulphur compliance unit (SCU)?

No.

O.14: What happens to the sulphur compliance units (SCUs) if a facility is sold?

Prior to the facility being sold the primary supplier can sell their SCUs to another primary supplier or to another pool they own, provided that all the conditions required for making trades, under section 16, are fulfilled.

Section 17 – Ceasing Participation

P.1: How do I opt out of the trading system?

A primary supplier may cease to participate in the temporary SCU trading system in respect of any of their pools by submitting to the Minister a notice to that effect no later than November 1 of the last year to which the election applies.

If a primary supplier who withdraws their election for the pool average option under subsection 9(4) in respect of a pool, their participation in the trading system in respect of that pool ceases, as of the date of the withdrawal.

P.2: What happens to my sulphur compliance units (SCUs) if I opt out of the trading system?

When a primary supplier ceases to participate in the trading system in respect of a pool in accordance with section 17 of the Regulations, all SCUs that they hold in respect of that pool are cancelled.

P.3: When can I withdraw from the trading system and when does my withdrawal become effective?

Under section 17 of the Regulations, a primary supplier may cease to participate in the temporary SCU trading system in respect of any of their pools no later than November 1

of the last year to which the election to participate applies. Under subsection 9(4) of the Regulations, a primary supplier may cease to comply with the Regulations on the basis of a pool average by submitting to the Minister a notice to that effect at least 60 days before the end of the last year to which the election applies. A primary supplier cannot participate in the trading system if they have not elected for the pool average option.

If a primary supplier ceases to participate in the trading system in respect of a pool, all SCUs that they hold in respect of that pool are cancelled.

P.4: If I withdraw from the trading system, can I participate again at a later date?

No.

Section 18 – Sulphur Compliance Units Account Book

Q.1: Is there a specified format for the sulphur compliance unit (SCU) account book?

There is no specific format mandated under the Regulations, however a template has been developed and distributed by Environment and Climate Change Canada and it may be used on a voluntary basis.

Q.2: What information must my sulphur compliance unit (SCU) account book contain?

The information required is set out in section 18 of the Regulations and includes:

- the composition of the pool for which the book is being maintained;
- for each year, the number of SCUs created, the date of their creation, the calculations performed to determine the number of SCUs created and the values used to perform those calculations;
- for each year, the number of SCUs that are used to adjust the pool average and the dates on which they were used;
- for each year, the number of SCUs transferred or received by the primary supplier in relation to the pool, the date on which each transfer or receipt occurred, the name of the primary suppliers involved and the registration number of each refinery, blending facility or province of importation that corresponds to each pool involved in the transaction for which the primary supplier owns both pools. This means that if a trade occurs between 2 primary suppliers, only the names of the primary suppliers involved are required; however if a trade occurs between 2 pools owned by the same primary supplier, the registration number(s) that correspond to each pool must also be provided;
- the number of SCUs cancelled in relation to the pool, if any; and

- the balance of SCUs that the primary supplier holds in relation to the pool after each occasion on which an SCU is created, used, transferred, received or cancelled.

Q.3: How do I carry forward my sulphur compliance units (SCUs) from one year to the next?

There are no carry forward requirements in the Regulations and no limitations on the number of SCUs a primary supplier can hold and use in a subsequent year. However, all unused compliance units are cancelled as of March 31, 2020, as the trading system ends.

Q.4 When am I required to list registration numbers in my sulphur compliance unit (SCU) account book?

Registration numbers are required to be entered in the SCU account book, under paragraph 18(d) for SCUs traded between pools owned by the same primary supplier.

Example 1 - A company has two refinery pools, and trades SCUs from refinery A pool to refinery B pool. Registration numbers of both refineries are required to be recorded in each record of the transfer in the SCU account books for each refinery pool.

Example 2 - A company has a refinery pool and an import pool (and the import pool contains imports into Manitoba and Ontario), and trades SCUs from the refinery pool to the import pool. Registration numbers of the refinery and from each province of import that correspond to the primary supplier's import pool must be provided (given that registration numbers are created through the *Benzene in Gasoline Regulations*, they would be created by province).

When SCUs are traded between two pools owned by two different primary suppliers, registration numbers are not required but the primary supplier's names must be recorded.

Q.5: What does it mean that a sulphur compliance unit (SCU) is created when the primary supplier makes an entry of its creation in the SCU account book? What happens if I do not record the information immediately? What if I do not have all of the required information?

A SCU is created when the primary supplier makes an entry of its creation in the SCU account book. Until this entry is made, SCUs have not been made and cannot be transferred or used.

The entry shall be made no later than February 15 of the year after the year for which the SCUs are being created. Information shall be entered in the SCU account book in accordance with section 18. Missing information will result in SCUs not being created (refer to question M.1).

Sections 19-20 – Other Records

R.1: Which records do I need to maintain if I participate in the temporary sulphur compliance unit (SCU) trading system? For which years?

A primary supplier who has elected to participate in the temporary SCU trading system must maintain a record containing the following information, for each of the years 2017, 2018 and 2019 for each pool in respect of which they make an election under section 13:

- the pool average;
- the number of SCUs used to adjust the pool average; and
- the adjusted pool average.

A record that contains a copy of all supporting documents for these records, referred to in section 19 must also be maintained.

Primary suppliers must also maintain a SCU account book and a record that contains a copy of all supporting documents (referred to in section 18) for it (see question Q.2).

Section 21 – Maintaining Records

S.1: For how long do I have to keep records referred to in sections 18 to 20 of the Regulations?

You must keep and maintain them in Canada until December 31, 2025.

S.2: Record keeping – has anything changed?

In addition to maintaining the records referred to in sections 18 to 20 in Canada until December 31, 2025, a primary supplier who wishes to adjust the recorded concentration of sulphur of a batch of low-sulphur gasoline to reflect the addition of the oxygenate or butane must keep records that set out this information, as required under paragraph 12(d).

PART 3 – REPORTS

Sections 22-23 – Reports

T.1: Do I have to provide reports if I produce and import less than 400 m³ of gasoline on an annual basis?

No. If your gasoline production and imports total less than 400m³ per year, you are not required to submit reports.

T.2: Can I submit my reports electronically or in a paper format?

The Regulations require that a report be submitted electronically in the form and format specified by the Minister and bears the electronic signature of an authorized official. However, if the Minister has not specified an electronic form and format or if it is impractical to submit the reports electronically because of circumstances beyond the person's control, the reports shall be submitted on paper, signed and dated by the authorized official and in the form and format specified by the Minister. If no form and format have been so specified, it may be in any form and format.

For the purposes of these Regulations, the Minister has specified the form and format of Schedule 1 and 2 annual reports. They are available from Environment and Climate Change Canada upon request. Please contact: ec.carburants-fuels.ec@canada.ca for more information.

T.3 How many decimal places do I need to report and how should I round the values?

When reporting sulphur concentration, the number of decimal places and rounding procedures to be used depends on the sulphur test method used to determine the sulphur concentration. For determining compliance with the prescribed sulphur limits in section 2 of the Regulations, the test method in paragraph 3(2)(a), ASTM D 5453 *Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence* is used.

For reporting purposes, if an alternative test method is being used in accordance with subsection 6(2) of the *Benzene in Gasoline Regulations* (e.g. ASTM D 7039), that method, or ASTM D 5453 may be used for reporting purposes.

The test method should be referred to for accurate reporting of measured concentrations. For example:

- ASTM D 5453, *Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence*: Reporting the appropriate number of decimal places will vary depending on the concentration of sulphur in the sample being tested. If the sample has a sulphur concentration greater than or equal to 10 mg/kg, the test method requires rounding to the nearest whole number in mg/kg. If the sample has a sulphur concentration of less than 10 mg/kg, the test method requires rounding to the nearest tenth of a number, in mg/kg.
- ASTM D 7039, *Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-ray Fluorescence Spectrometry*: Reporting the appropriate number of decimal places will vary depending on the concentration of sulphur in the sample being tested. If the sample has a sulphur

concentration greater than or equal to 100 mg/kg, the test method requires rounding to the nearest whole number, in mg/kg. If the sample has a sulphur concentration of less than 100 mg/kg, then the test method requires rounding to the nearest tenth of a number, in mg/kg.

For primary suppliers participating in the trading system, to calculate the number of SCUs created, only whole numbers are reported. The Regulations require that the number of SCUs be rounded down to the next whole number if your calculation is a fraction, as per subsection 14(4).

Section 24 (and Schedule 1) – Reports

U.1 For which facilities do I submit reports?

Every year, a separate report containing the information referred to in Schedule 1 is required to be submitted for each refinery and blending facility where low-sulphur gasoline or gasoline-like blendstock was produced and for low-sulphur gasoline or gasoline-like blendstock that was imported.

The report shall be submitted no later than February 15 of the year following the year for which the report was prepared.

A primary supplier who participates in the trading system must also submit a report each year, that contains the information referred to in Schedule 2, no later than April 30 following the year for which the report was prepared. See question V.1.

As an example, for the year 2015, the deadline for the annual report containing the information referred to in Schedule 1 is February 15, 2016 and the deadline for the annual report containing the information referred to in Schedule 2 is April 30, 2016.

U.2: What information on gasoline and gasoline-like blendstock do I have to report?

According to section 24 of the Regulations, you are required to provide the information set out in Schedule 1. This includes information such as name, registration number, and contact information as well as information on the gasoline produced or imported during the reporting period. Information required with respect to gasoline includes the annual volume and the maximum concentrations of sulphur during the year and, for those who have elected to meet a pool average, the pool average. The complete list of information requirements is set out in Schedule 1.

If batches were identified as gasoline-like blendstock, the annual volume of gasoline-like blendstock produced or imported must be reported. Additional information in respect of gasoline-like blendstock must be reported as an annex to the annual report set out in Schedule 1 (refer to subsections 6(1) and 24(2)).

If you have elected under section 13 to participate in the trading system, you are required to provide an annual report containing the information referred to in Schedule 2 as required under section 25 of the Regulations. Note that for the years 2017, 2018 and 2019, the information required under Schedule 1 will not be used to determine compliance for primary suppliers participating in the trading system.

U.3: Are the reports the same as those I submit under any other federal fuels regulations?

The reporting requirements for other federal fuels regulations must be met separately. Each regulation is distinct and has its own reporting requirements.

U.4: If I do not produce or import gasoline during a reporting period, do I still have to submit a report?

No.

U.5: Where do I submit the reports to Environment and Climate Change Canada?

Reports can be submitted directly to Environment and Climate Change Canada's headquarters:

Regulations Administration – Reports and Notices
Fuels and Chemicals Section
Oil, Gas and Alternative Energy Division
Environment and Climate Change Canada
351 St. Joseph Blvd, 12th floor
Gatineau, Quebec K1A 0H3
Fax: 819-420-7410
Email: ec.carburants-fuels.ec@canada.ca

Section 25 (and Schedule 2) – Reports

V.1: Do I have to submit an annual report if I participate in the temporary sulphur compliance unit (SCU) trading system?

Yes. For each year that you participate in the temporary SCU trading system, you must submit a report that contains the information referred to in Schedule 2 no later than April 30 of the year after the year for which the report is submitted. Note that you must also submit a report each year that contains the information referred to in Schedule 1 (see question U.1).

As an example, for the year 2015, the deadline for an annual report containing the information referred to in Schedule 1 is February 15, 2016 and the deadline for an annual report containing the information referred to in Schedule 2 is April 30, 2016 (see also question V.2).

V.2: What are the Schedule 2 reporting requirements for years 2012 to 2014?

A Schedule 2 report must be submitted by each participant in the temporary SCU trading system for each of the years 2012, 2013 and 2014. This report must be submitted to Environment and Climate Change Canada within 120 days after the day on which section 25 of the Regulations comes into force (i.e. by November 13, 2015).

V.3 What value is to be reported in Schedule 2, Item 3(c) where it asks for the pool average in mg/kg above 30 mg/kg and equal to and below 30 mg/kg?

The values to be reported are the calculated volume weighted average sulphur concentrations entered separately, as calculated for all batches above 30 mg/kg and all batches equal to and below 30 mg/kg sulphur for the years 2012, 2013, 2014, 2015 and 2016.

The same also applies to Schedule 2, Item 4 (c) where the values are for above 10 mg/kg and all batches equal to and below 10 mg/kg for the years 2017, 2018 and 2019.

V.4: Can I use a record of analysis used for the purposes of the Benzene in Gasoline Regulations for the purpose of submitting the information referred to in Schedule 2?

Yes, you can use a record of analysis referred to in the *Benzene in Gasoline Regulations* provided that the information contained in the record of analysis has been prepared using an approved alternative measuring method in accordance with subsection 6(2) of the *Benzene in Gasoline Regulations*. Otherwise, the information contained in the record of analysis needs to have been prepared using the reference methods set out in the Regulations (see question D.2).

V.5: What is the composition of the pool referred to in Schedule 2 subsections 2(d) and 7(c)? How is this different from the record of composition?

The composition of a pool referred to in Schedule 2 refers to subsection 9(1.1) that prescribes what a pool may be composed of, that is gasoline that is produced at a particular refinery, gasoline that is produced at a particular blending facility or gasoline that is imported. In this sense, the composition of the pool is the way you identify your pool. It does not relate to its chemical or physical composition. As an example, Company X imports gasoline into Canada. The composition of their pool could be "Company X's Imports into Canada".

The record of composition is a record that is required to be made for each batch of gasoline that is part of a pool average. It is required under section 12 and must include: a unique identification number that links the batch to any sample taken, the date or dates on which the primary supplier dispatched or imported the batch, the concentration of sulphur, the volume and the grade of the batch, and its adjusted concentration of

sulphur along with the sulphur concentration and volume of the sulphur-limited oxygenate or sulphur-limited butane if it was added to the batch.

Refer to question A.12.

Section 26 – Auditor Report

W.1: Do I have to have an independent audit?

Only primary suppliers who have elected to comply on a pool average basis must have an independent audit done annually for each refinery, blending facility and for gasoline that is imported in respect of which a pool average was elected.

The audit for the 2015 compliance year for primary suppliers participating in the trading system must include the reports containing the information referred to in Schedule 2, for the years 2012, 2013 and 2014.

W.2: Why is an independent audit required?

The independent audit is one component of the overall compliance program for a primary supplier who has elected to use a pool average for compliance. It provides independent verification that a primary supplier's systems, practices and procedures are appropriate to demonstrate compliance and that required records and reports are complete and accurate.

W.3: What qualifications are required of a third-party auditor?

The auditor must be an individual or a firm that is independent of the primary supplier and is certified, for the purposes of carrying out International Organization for Standardization quality assurance (ISO 9000 or 14000 series) assessments, by the International Register of Certificated Auditors or by any other nationally or internationally recognized accreditation organization as set out in subsection 26(3).

W.4: Where can I find a person capable of undertaking an audit?

Various accreditation organizations, such as the Standards Council of Canada (www.scc.ca) and the International Register of Certificated Auditors (www.irca.org), may be able to assist in finding a person capable of undertaking an ISO 9000 or 14000 series assessment. Other accreditation organizations may also be able to provide assistance.

W.5: What must my auditor do?

The auditor must assess your compliance with the Regulations during the year, and report on any discrepancies and deviations noted. The auditor must also verify that the required records and reports are complete and accurate. The auditor must sign a report

that details its assessment and describes the procedures that it followed to assess the validity of the information required by the Regulations. Details of what the auditor and audit must cover can be found in subsection 26(1).

W.6: What must be reported to Environment and Climate Change Canada and when?

The report must contain information on the audit procedures, a compliance assessment by the auditor and a description of any inaccuracies and deviations, as well as basic information on the primary supplier, the auditor and the volume of gasoline produced or imported (for each type of gasoline identified) as set out in subsection 26(1).

Between the years 2016 to 2020:

- A primary supplier who is participating in the trading system must submit the auditor's report to Environment and Climate Change Canada on or before June 30 of the year after the year in respect of which the audit is carried out.
- A primary supplier who is not participating in the temporary SCU trading system must submit the auditor's report to Environment and Climate Change Canada on or before May 31 of the year after the year in respect of which the audit is carried out.

Additionally, from 2021 onwards:

- All primary suppliers must submit their auditor's report to Environment and Climate Change Canada on or before May 31 of the year after the year in respect of which the audit is carried out.

W.7: Can one audit report cover all of my facilities?

Yes, however the audit findings for each pool must be separated out within the report.

W.8: Are these requirements for an audit in addition to those required for the Benzene in Gasoline Regulations?

Yes, both audit requirements must be met. A single auditor's report that meets the requirements of both regulations is acceptable. The content of the audit report should clearly indicate which regulations they are in respect of.

W.9: If I do not supply gasoline during the year, am I still required to have an audit?

No.

W.10: Will Environment and Climate Change Canada pay for my audit?

No. Engaging and compensating the auditor are your responsibility.

Coming into force

X.1: Many provisions of the Regulations come into effect upon registration of the 2015 Amendments. When were those Regulations registered?

July 16, 2015.

MISCELLANEOUS QUESTIONS

Y.1: When will inspections take place?

Inspections by enforcement officers may occur at any time and be scheduled or not.

Y.2: Do I have to submit to inspections?

Yes. Under the *Canadian Environmental Protection Act, 1999*, designated enforcement officers are authorized to conduct inspections to verify compliance with the Regulations and the Act. The Act also requires that the owner or the person in charge give the enforcement officer reasonable assistance in their duties.

Y.3: What are the penalties if I do not comply with the Sulphur in Gasoline Regulations?

Compliance with the Regulations is mandatory. Environment and Climate Change Canada's Compliance and Enforcement Policy for the *Canadian Environmental Protection Act, 1999* sets out the criteria for responses by Environment and Climate Change Canada enforcement officers to alleged violations. A copy of Environment and Climate Change Canada's Compliance and Enforcement Policy is available from Environment and Climate Change Canada's CEPA Environmental Registry at: <http://www.ec.gc.ca/CEPARegistry/documents/policies/candepolicy/toc.cfm>.

Compliance with the *Canadian Environmental Protection Act, 1999* is mandatory pursuant to subsections 272(1) and 272.1(1) of the Act. Amendments to the fine scheme of the Act came into force on June 22, 2012. Subsections 272(2), (3) and (4) and 272.1(2), (3) and (4) of the Act set the penalties for persons who commit an offence under the Act. Offences include the offence of failing to comply with an obligation arising from the Act and the offence of providing false or misleading information. Penalties for offences can result, upon conviction (either summary conviction or indictment), in fines of not more than \$12 million, imprisonment for a term of not more than three years, or both.

These sections should also be read in conjunction with section 276 of the Act which provides that where an offence is committed or continued on more than one day, then

the person who committed the offence is liable to be convicted for a separate offence for each day on which it is committed or continued.

In addition to financial and administrative penalties, if there is a contravention of the Regulations, under section 148 of the Act the Minister may require a producer, processor, importer, retailer or distributor to take any or all of the following measures:

- provide notification of the relevant characteristics of the fuel and of any danger to the environment or to human life or health that might be posed by the fuel;
- replace the fuel with fuel that meets the applicable requirement;
- accept return of the fuel from the purchaser and refund the purchase price;
- take other measures to mitigate the effect of the contravention on the environment or on human life or health; and
- report on the steps taken.

Y.4: Will information that I submit to Environment and Climate Change Canada be kept confidential?

Information submitted to Environment and Climate Change Canada is treated pursuant to the *Canadian Environmental Protection Act, 1999*, the *Access to Information Act*, and the *Privacy Act*.

As noted in the Regulatory Impact Analysis Statement that accompanied the Regulations, Environment and Climate Change Canada intends to prepare reports, on a regular basis, comparing the actual performance for each primary supplier's facilities and imports to the regulated sulphur limits. The reports will be available to the public and will be distributed to interested parties.

Y.5: How do I obtain a copy of the Sulphur in Gasoline Regulations?

The Amendments were published on July 29, 2015 in the *Canada Gazette*, Part II, and can be found on the Canada Gazette's web site at:

<http://canadagazette.gc.ca/rp-pr/p2/2015/2015-07-29/html/sor-dors187-eng.php>.

The consolidated Regulations which include all the amendments can be found at:

<http://www.laws-lois.justice.gc.ca/eng/regulations/SOR-99-236/index.html>.

Y.6: How do I obtain a copy of the annual Sulphur in Liquid Fuels Reports?

The reports are available on Environment and Climate Change Canada's website at:

<http://www.ec.gc.ca/energie-energy/default.asp?lang=En&n=BEA13229-1>.

Y.7: Where can I find additional information on the Sulphur in Gasoline Regulations?

Additional information on the Regulations can be found on Environment and Climate Change Canada's website at:

<http://www.ec.gc.ca/energie-energy/default.asp?lang=En&n=BEA13229-1>.

You can also ask specific questions via e-mail to: ec.carburants-fuels.ec@canada.ca.

Additional information can be obtained at:

Environment and Climate Change Canada

Public Inquiries Centre

7th Floor, Fontaine Building

200 Sacré-Coeur Boulevard

Gatineau QC K1A 0H3

Telephone: 1-800-668-6767 (in Canada only) or 819-997-2800

Email: ec.enviroinfo.ec@canada.ca