§ 2208. Purpose, Applicability, Definitions, and Reference Documents.
13 CA ADC § 2208
BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

13 CCR § 2208

§ 2208. Purpose, Applicability, Definitions, and Reference Documents.

(a) *Purpose*.
This regulation (California Code of Regulations, title 13, sections 2208, 2208.1, and 2208.2) sets forth optional on-road heavy-duty engine certification flexibility to encourage market launch of innovative new heavy-duty engine technologies. This regulation also defines protocols for certification of truck and bus hybrid conversion systems (also commonly referred to as hybrid aftermarket systems or conversion kits) to further encourage deployment of robust hybrid technology in California's truck and bus fleet.

(b) *Applicability*.

(1) Section 2208.1 applies to the California certification of the following heavy-duty engine technologies:

(A) 2017 through 2021 model year (MY) spark-ignition engines and 2017 through 2024 MY compression-ignition engines certifying to one of California's optional low oxides of nitrogen (NOx) engine emission standards, set forth in California Code of Regulations, title 13, section 1956.8, subdivision (a)(2)(A) or (c)(1)(B). These standards are 0.10 grams per brake-horsepower-hour (g/bhp-hr), 0.05 g/bhp-hr, and 0.02 g/bhp-hr NOx. This regulation does not apply to spark-ignition engines meeting the 0.10 g/bhp-hr NOx emission standard;

(B) 2017 through 2024 MY engines certifying for use in a heavy-duty hybrid vehicle (hybrid engine); and

(C) 2017 through 2027 MY engines certifying to meet the optional low carbon dioxide (CO_2) emission standards pursuant to California Code of Regulations, title 13, section 1956.8, subdivisions (a)(7)(A) and (c)(4)(A)(1). Qualifying engines may not be certified using the provision in Title 40, Code of Federal Regulations, Part 1036, Section 1036.705(d), as amended September 15, 2011, which is hereby incorporated by reference herein, which allows the use of CO_2 emission credits to demonstrate compliance with methane and/or nitrous oxide emission limits or emission standards in lieu of the otherwise applicable emission standards.

(2) Section 2208.2 applies to the California certification of hybrid conversion systems for installation on:

(A) A 2007 and subsequent MY California-certified base vehicle of between 6,001 and 8,500 pounds gross vehicle weight rating (GVWR), where the conversion enables the vehicle to achieve at least 35 miles all-electric range (AER);

(B) A 2007 and subsequent MY California-certified base vehicle of between 8,501 and 14,000 pounds GVWR; and

(C) A 2010 and subsequent MY base engine that is California-certified for installation in a vehicle over 8,500 pounds GVWR.

(c) *Definitions*.

(1) “All-electric range” or “AER” means the total miles driven, after the battery has been fully charged, with the engine and all other combustion sources turned off before the engine turns on for the first time, determined pursuant to section 7(e) of the “*California Certification and Installation Procedures for Medium- and Heavy-Duty Vehicle Hybrid Conversion Systems*,” as adopted on September 1, 2017, which is hereby incorporated by reference herein.

(2) “Applicant” or “manufacturer” means any person who manufactures an engine or vehicle intended for sale in California.

(3) “Average” means the arithmetic mean.

(4) “Base engine” means the California-certified configuration of a pre-converted, non-hybrid conventional engine.

(5) “Base vehicle” means the California-certified configuration of a pre-converted, non-hybrid conventional vehicle.

(6) “Carbon dioxide” or “CO_2” means the most common of the six primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.

(7) “Class 8 vehicle” means an on-road motor vehicle over 33,000 pounds GVWR.

(8) “Compression-ignition engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression-ignition engine.

(9) “Days,” when computing any period of time, means calendar days.

(10) “Engine family” means a grouping of vehicles or engines in a manufacturer's product line, determined in accordance with Title 40, Code of Federal Regulations, Part 86, Section 86.096-24, as amended April 28, 2014, which is hereby incorporated by reference herein.

(11) “Executive Officer” means the Executive Officer of the California Air Resources Board (ARB) or the Executive Officer's designee.

(12) “Family emission limit” or “FEL” means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for certification purposes and for the averaging, banking, and trading program, pursuant to California Code of Regulations, title 13, section 2423, or Title 40, Code of Federal Regulations, Part 89, Section 89.112(d), as amended July 13, 2005, which is hereby incorporated by reference herein.

(13) “Gross vehicle weight rating” or “GVWR” has the same definition as that in California Vehicle Code Section 350, subdivision (a).

(14) “Heavy-duty engine” means an engine used to propel a heavy-duty vehicle. For purposes of this definition, the term “engine” includes internal combustion engines and other devices that convert chemical fuel into motive power. For example, a fuel cell used in a heavy-duty vehicle is a heavy-duty engine.

(15) “Heavy-duty vehicle” means any motor vehicle having a manufacturer's GVWR greater than 14,000 pounds.

(16) “Hybrid vehicle” means a vehicle that draws propulsion energy from both an on-board: 1) internal combustion engine, microturbine, or fuel cell that uses a consumable fuel; and 2) energy storage device, such as a battery, capacitor, pressure reservoir, or flywheel.

(17) “Hydrocarbon” or “HC” means the hydrocarbon group on which the emission standards are based for each fuel type. For alcohol-fueled engines, HC means non-methane hydrocarbon equivalent (NMHCE). For all other engines, HC means non-methane hydrocarbon (NMHC).

(18) “Low-NOx engine” means an on-road heavy-duty engine that is certified to one of the optional 0.10 g/bhp-hr, 0.05 g/bhp-hr, or 0.02 g/bhp-hr NOx emission standards, pursuant to California Code of Regulations, title 13, section 1956.8, subdivision (a)(2)(A) or (c)(1)(B).

(19) “Medium-duty vehicle” has the same definition as that in California Code of Regulations, title 13, section 1900, subdivision (b)(13).

(20) “Model year” or “MY” means the manufacturer's annual new model production period, except as restricted under this definition. It must include January 1 of the calendar year for which the model year is named, may not begin before January 2 of the previous calendar year, and must end by December 31 of the calendar year for which the model year is named. Manufacturers may not adjust model years to circumvent or delay compliance with emission standards or to avoid the obligation to certify annually.

(21) “Oxides of nitrogen” or “NOx” means nitric oxide (NO) and nitrogen dioxide (NO_2) as measured by the procedures specified in Title 40, Code of Federal Regulations, Part 1065, Section 1065.270, as amended April 28, 2014, which is hereby incorporated by reference herein. Oxides of nitrogen are expressed quantitatively as if the NO is in the form of NO_2, such that you use an effective molar mass for all oxides of nitrogen equivalent to that of NO_2.

(22) “Spark-ignition engine” means a gasoline-fueled engine or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle.

(23) “Steady-state” means relating to emission tests in which engine speed and load are held at a finite set of nominally constant values. Steady-state tests are either discrete-mode tests or ramped-modal tests.

(24) “Transit bus” means a passenger-carrying vehicle owned or operated by a public transit agency that is 35 feet or longer and greater than 33,000 pounds GVWR.

(d) *Severability*

If any subsection, subdivision, paragraph, subparagraph, sentence, clause, phrase, or portion of section 2208, 2208.1, or 2208.2 of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

Note: Authority cited: Sections 38510, 38560, 39500, 39515, 39516, 39600, 39601, 43004, 43006, 43008.6, 43009.5, 43011, 43012, 43013, 43100, 43101, 43102, 43105, 43106, 43204, 43205, 43205.5 and 43806, Health and Safety Code; and Sections 27156 and 38391, Vehicle Code. Reference: Sections 38501, 39002, 39003, 39602.5, 39667, 43000, 43010, 43101.5 and 43018, Health and Safety Code.

HISTORY

1. New section filed 10-16-2017; operative 10-16-2017 pursuant to Government Code section 11343.4(b)(3) (Register 2017, No. 42).

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§ 2235. Requirements.

New 1977 ~~and subsequent~~ through 2014 model-year gasoline-fueled motor vehicles and 1993 ~~and subsequent~~ through 2014 model-year methanol-fueled passenger cars, light-duty trucks, medium-duty vehicles and heavy-duty vehicles shall not be sold, offered for sale or registered in California unless such vehicles comply with the Air Resources Board's "Specifications for Fill Pipes and Openings of 1977 through 2014 Model Motor Vehicle Fuel Tanks," dated March 19, 1976 as last amended ~~January 22, 1990~~ March 22, 2012, which is incorporated by reference herein or, in the case of motorcycles, are exempted pursuant to Chapter 1, Article 2, Section 1976(b). New 2015 and subsequent model-year gasoline and alcohol fueled passenger cars, light trucks, medium-duty vehicles, and heavy-duty vehicles shall not be sold, offered for sale, or registered in California unless such vehicles comply with the "Specifications for Fill Pipes and Openings of 2015 and Subsequent Model Motor Vehicle Fuel Tanks," adopted March 22, 2012, which is incorporated by reference. Motorcycles are exempted pursuant to Chapter 1, Article 2, Section 1976(b).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43107 and 43835, Health and Safety Code. Reference: Sections 39003, 43000, 43013, 43018, 43101, 43104, 43106, 43204 and 43835, Health and Safety Code; and Sections 28111 and 28112, Vehicle Code.

THE CALIFORNIA REFORMULATED GASOLINE REGULATIONS

Title 13, California Code of Regulations, Sections 2250-2297
(As Effective on November 1, 1994)

NOTE: This compilation includes all California Air Resources Board motor vehicle gasoline regulations that will be applicable on and after March 1, 1996. It does not include the following currently-effective regulations which are sunsetted February 29, 1996: Section 2251.5 (Reid Vapor Pressure of Gasoline Sold after January 1, 1992 and Before March 1, 1996), and section 2258 (Oxygen Content of Gasoline in the Wintertime).

Article 1. Standards for Gasoline

Subarticle 1. Standards for Gasoline Applicable Prior to April 1, 1996

Section 2250. Degree of Unsaturation for Gasolines Sold Before April 1, 1996.

(a) No person shall sell or supply within the South Coast Air Basin (as defined on January 1, 1976) as a fuel for motor vehicles as defined by the Vehicle Code of the State of California, a gasoline having a degree of unsaturation greater than that indicated by a Bromine Number of 30 as determined according to the "Test Method for Determining Bromine Number of Gasoline," as adopted by the Air Resources Board on August 13, 1987 and incorporated herein by reference.

(b) For the purpose of this rule, the term "gasoline" means any fuel which is commonly or commercially known or sold as gasoline, or any fuel sold to power a vehicle certified by the state board as a gasoline-powered vehicle without modifying the vehicle.

(c) This section shall not apply to gasoline sold or supplied on or after April 1, 1996, except for gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a).

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, 43101, and 43831, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249

(1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 39606, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

* * * *

~~Section 2252. Sulfur Content of Gasoline Represented as Unleaded Sold~~ Before April 1, 1996

(a) No person shall sell, offer for sale, or supply in California, as a fuel for motor vehicles, any gasoline represented as unleaded which has a sulfur content greater than 300 parts per million by weight.

(b) The maximum sulfur content limitations specified in subsection (a) shall be determined by ASTM Test Method D2622-87, or any other test method determined by the executive officer to give equivalent results.

(c) For the purposes of this section, "Motor vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(d)(1) Any person who cannot comply with the requirements set forth in subsection (a) because of extraordinary reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (d)(1), the executive officer shall hold a hearing to determine whether, and under what conditions and to what extent, a variance from the requirements established by subsection (a) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted ~~for publication in the California Regulatory Notice Register and sent to~~

~~(1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 39606, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).~~

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every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsection (a) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance;

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify a final compliance date by which the requirements in subsection (a) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the sulfur content of unleaded gasoline or diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall

have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance from the requirements set forth in subsection (a) based on a plan for compliance which includes the installation of major additional equipment shall have a duration of more than three years.

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (d)(2) and (3), issue an emergency variance to a person from the requirements of subsection (a) upon a showing or reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of subsection (d)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (d)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this paragraph (d)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a) after holding a hearing in accordance with the provisions of subsections (d)(2) and (3).

(e) This section shall not apply to gasoline sold or supplied after April 1, 1996, except for gasoline that is supplied from a small refiner's

California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a).

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43013, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

~~Section 2253.4. Lead in Gasoline.~~

(a) **Regulatory Standard.**

(1) Between January 1, 1992 and December 31, 1993, no person shall sell, offer for sale, supply, or offer for supply California gasoline which has been produced with the use of any lead additive, or which contains more than 0.050 gram of lead per gallon, except as provided in subsection (d).

(2) Between January 1, 1992 and December 31, 1993, no person shall sell, offer for sale, supply, or offer for supply California gasoline represented as unleaded which has been produced with the use of any lead additive, or which contains more than 0.050 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon.

(3) Starting January 1, 1994, no person shall sell, offer for sale, supply, or offer for supply any California gasoline which is not represented as unleaded, which has been produced with the use of any lead additive, or which c$tains more than 0.050 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon, except as provided in subsection (d).

(4) Starting January 1, 1992, no person shall transfer a consumer gasoline additive containing lead into the fuel tank of a motor vehicle, other than an exempt off-road motor vehicle.

(5) Starting January 1, 1992, no person shall sell or offer for sale a consumer gasoline additive containing lead unless the additive container bears a conspicuous legend that use of the additive in passenger cars and ~~other on-road vehicles is unlawful and can result in substantial penalties.~~

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 1. GASOLINE STANDARDS THAT BECAME APPLICABLE BEFORE 1996
This database is current through 12/26/2003, Register 2003, No. 52.

s 2253.4. Lead in Gasoline.

(a) Regulatory Standard.

(1) [Reserved]

(2) [Reserved]

(3) Starting January 1, 1994, no person shall sell, offer for sale, supply, or offer for supply any California gasoline:

(A) which is not represented as unleaded, or

(B) which has been produced with the use of any lead additive, or

(C) which contains more than 0.050 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon, except as provided in subsection (d).

(4) Starting January 1, 1992, no person shall transfer a consumer gasoline additive containing lead into the fuel tank of a motor vehicle, other than an exempt off-road motor vehicle.

(5) Starting January 1, 1992, no person shall sell or offer for sale a consumer gasoline additive containing lead unless the additive container bears a conspicuous legend that use of the additive in passenger cars and other on-road vehicles is unlawful and can result in substantial penalties, and unless the marketing of the additive is directed exclusively towards use in exempt off-road motor vehicles and nonvehicular sources.

(b) Definitions.

For the purposes of this section:

(1) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(2) "Consumer gasoline additive" means any gasoline additive which is designed or marketed to be dispensed into the gasoline tank used to fuel a gasoline engine.

(3) "Exempt off-road vehicle" means any special construction equipment as defined in sections 565 and 570 of the Vehicle Code, and any implement of husbandry as defined in sections 36000 et seq. of the Vehicle Code.

(4) "Gasoline" means any fuel which is commonly or commercially known or sold as gasoline, or which is a mixture of any fuel commonly known or sold as gasoline and alcohol.

(5) "Lead additive" means any substance containing lead or leadcompounds.

(6) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(7) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles other than exempt off-road vehicles.

(8) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(c) Test Methods.

The lead content of gasoline shall be determined in accordance with American Society of Testing and Materials (ASTM) Method D3237-79, which is incorporated herein by reference. The phosphorous content of gasoline shall be determined in accordance with ASTM Method D3231-73, which is incorporated herein by reference.

(d) Exemptions.

Subsections (a)(1) and (3) shall not apply to California gasoline sold, offered from sale, supplied, or offered for supply by a person who demonstrates that:

(i) The gasoline is conspicuously identified as a fuel which may notlawfully be dispensed to motor vehicles other than exempt off-road vehicles; and

(ii) He or she has taken reasonable precautions to assure that the gasoline will not be sold or offered for sale at a retail outlet; and

(iii) Either the gasoline is being directly dispensed into the fuel tank of an exempt off-road vehicle, or the gasoline is the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that he or she will not sell, offer for sale, supply, or offer for supply the gasoline for use in motor vehicles other than exempt off-road vehicles.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 430181 and 43101, Health and Safety Code; and Western Oil & Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 43000, 43013, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-12-91; operative 8-12-91 (Register 91, No. 43).

2. Change without regulatory effect amending subsection (a)(3) filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

3. Editorial correction of subsection (a)(1) (Register 95, No. 43).

4. Change without regulatory effect repealing subsections (a)(1) and (a)(2) filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

13 CA ADC s **2253.**4
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
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This database is current through 12/26/2003, Register 2003, No. 52.

s 2254. Manganese Additive Content.

(a) Except as provided in subparagraph (b), no person shall add manganese or any manganese compound, including the compound methylcyclopentadienyl manganese tricarbonyl (MMT), to gasoline represented as unleaded intended to be sold, offered for sale, or delivered for sale at retail in the State of California.

(b) The prohibitions set forth in subparagraph (a) shall not apply to any person who has applied for and received from the Executive Officer written approval to add manganese or any manganese compound, including MMT, to gasoline represented as unleaded for the purpose of conducting tests or research into the effect thereof on vehicle emissions, fuel economy, performance, or for other related research objectives.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal Rptr. 249 (1975). Reference: Sections 39000-39003, 39500, 39515, 39516, 43000, 43013 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n v. Orange County APCD, 14 Cal3d. 411, 121 Cal. Rptr 249 (1975).

HISTORY

1. New section filed 8-1-77; effective thirtieth day thereafter (Register 77, No. 32).

2. Amendment filed 10-25-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 44).

3. Amendment of NOTE filed 3-3-83; effective thirtieth day thereafter (Register 83, No. 10).

4. Amendment of subsections (a) and (b) filed 7-12-91; operative 8-12-91 (Register 91, No. 43).

13 CA ADC s **2254**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
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This database is current through 12/26/2003, Register 2003, No. 52.

s 2257. Required Additives in Gasoline.

(a) Regulatory Standard.

(1) On or after January 1, 1992, no person shall sell, offer for sale, supply, or offer for supply any California gasoline unless at the time of the transaction:

[i] the producer, importer, or distributor of the gasoline has been issued a currently effective certification for California gasoline pursuant to subsection (c), originally dated no earlier than July 1, 1996. Existing certifications dated between July 1, 1996 and July 16, 1999 that meet the standards described in subsection (c)(1)(A)(i) and (c)(1)(A)(ii) [including those which used test method ASTM D 5500-94] are exempted from subsection (c)(1)(A)(iii), and

[ii] the gasoline contains at least the minimum concentration of the additive or additives identified in the final application for certification.

(2) Subsection (a)(1) shall not apply to transactions where the person selling, supplying, or offering the gasoline demonstrates that:

[i] the gasoline has not yet been sold, offered, or supplied from the final distribution facility, and either

[ii] the person has taken reasonably prudent precautions to assure that he or she will bring the gasoline into satisfaction with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility, or

[iii] at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the gasoline stating that he or she is a distributor who has been issued a currently effective certification pursuant to subsection (c), and will cause the gasoline to satisfy the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility.

(3) Subsection (a)(1)[ii] shall not apply to the sale, supply, or offer of gasoline from a final distribution facility where the person selling, supplying, or offering the gasoline demonstrates that the gasoline will be corrected to comply with section (a)(1)[ii] prior to the sale of gasoline from the retail outlet to be dispensed into motor vehicles. If such corrective action is taken, the producer, importer, or distributor of the gasoline must notify the Compliance Division of the Air Resources Board by telephone or in writing within 2 business days of the correction and must maintain records to document each occurrence in accordance with subsection (d).

(4) For the purposes of subsection (a)(1), each sale of gasoline at retail for use in a motor vehicle, and each supply of gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of subsection (a)(1).

(b) Definitions.

For the purposes of this section:

(1) "Additive" means any substance or mixture of substances that is intentionally added to gasoline for the purpose of reducing or preventing fuel injection system or intake valve deposits, and that is not intentionally removed prior to the gasoline's sale or use.

(2) "Bulk purchaser-consumer" means a person who purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(3) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(4) "Chemical composition" means the name, percentage by weight, and chemical identification of each compound in an additive.

(5) "Distributor" means any person who transports or stores or causes the transportation or storage of gasoline, produced or imported by another person, at any point between any producer's or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

(6) "Final distribution facility" means the stationary gasoline transfer point from which gasoline is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles.

(7) "Gasoline" means any fuel which is sold or intended for sale as a California motor vehicle fuel and is either: (a) commonly or commercially known or sold as gasoline, or (b) any fuel blend of gasoline as defined in (a) and alcohol in which the portion of gasoline is more than 50 percent of the total blend.

(8) "Gasoline production facility" means a facility in California at which gasoline is produced; it does not include a facility whose sole operation is to transfer gasoline or to blend additives into gasoline.

(9) "Importer" means any person who first accepts delivery of gasoline in California.

(10) "Import facility" means the facility at which imported gasoline is first received in California, including, in the case of gasoline imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline is imported.

(11) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(12) "Produce" means to convert liquid compounds which are not gasoline into gasoline.

(13) "Producer" means any person who produces California gasoline in California.

(14) "Retail outlet" means any establishment at which gasoline is sold or offered for sale for use in motor vehicles.

(15) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(c) Certification Requirements.

(1)(A) No gasoline formulation shall be certified under this subsection (c) unless the applicant for certification demonstrates each of the following to the executive officer's satisfaction:

(i) The gasoline formulation meets a maximum of 50 milligrams averaged over all intake valves when tested in accordance with ASTM D 5500-98, which is incorporated herein by reference. As an alternative, intake valve deposits may be tested in accordance with subsection (c)(1)(A)(iii).

(ii) The gasoline formulation does not result in a flow loss of more than five percent for any fuel injector when tested in accordance with ASTM D 5598-95a, which is incorporated herein by reference.

(iii) The gasoline formulation meeting the requirements of (c)(1)(A)(i), does not result in more than 1300 milligrams total deposit weight, averaged over all four combustion chambers, or, does not result in more than 140 percent total deposit weight from all four combustion chambers, relative to the gasoline formulation containing no additive, when tested in accordance with the Stationary Source Division's Test Method for Evaluating Intake Valve and Combustion Chamber Deposits in Vehicle Engines, dated March 12, 1999, which is incorporated herein by reference.

(B) The executive officer may approve alternative test procedures for demonstrating satisfaction with any of the performance criteria set forth in subsection (c)(1)(A) if an applicant or potential applicant demonstrates to the executive officer's satisfaction that a gasoline formulation which meets the performance criteria of the alternative test procedure would also meet the performance criteria specified in subsection (c)(1)(A).

(2) Any producer, importer, or distributor may apply to the executive officer for certification of a gasoline formulation in accordance with this subsection (c). The application shall be in writing and shall include, at a minimum, the following:

(A) The name and chemical composition of the additive or

additives in the gasoline formulation, except that if the chemical composition is not known to either the applicant or to the manufacturer of the additive (if other than the applicant), the applicant may provide a full disclosure of the chemical process of manufacture of the additive in lieu of its chemical composition.

(B) The minimum concentration of each additive in the gasoline formulation in terms of gallons of additive per thousand gallons of gasoline.

(C) The results of tests conducted on the gasoline formulation pursuant to the test procedures set forth in subsection (c)(1), all data generated by the tests, the identity of the entity which conducted each test, and a description of the quality assurance and quality control procedures used during the testing.

(D) Data demonstrating that the fuel used for certification testing ("certification test fuel") is representative of the gasoline formulation for which certification is requested. Properties of the certification test fuel must be at least 80 percent of the maximum properties of the gasoline formulation to be certified for the following: aromatic hydrocarbon content, olefin content, sulfur content, and oxygen content. The T90 distillation temperature of the certification test fuel cannot be less than 40° F below the gasoline formulation for which certification is requested. All other certification test fuel properties must be representative of typical commercial gasoline.

(E) Data demonstrating how the certification test fuel was produced including a list of blend stocks, such as reformate, oxygenates, cracked stocks, alkylate, isomerate, straight run stocks and any other blend stocks, along with the percentage of the total which each blend stock comprises. Data may also be requested which demonstrates that the certification test fuel blend stocks are representative of typical California refinery blend stocks used for the production of California gasoline.

(F) The theoretical mechanism of action (if known) of the additive in meeting any of the performance criteria set forth in subsection (c)(1)(A).

(G) Copies of all material pertaining to the additive or additives in the gasoline formulation, submitted by the applicant to the U.S. Environmental Protection Agency pursuant to 40 CFR sections 79.6, 79.10 and 79.11. If the applicant has submitted no such material, copies of all material pertaining to the additive or additives in the gasoline formulation, submitted by the additive manufacturer to the U. S. Environmental Protection Agency pursuant to 40 CFR sections 79.6, 79.20 and 79.21.

(H) A test method reasonably adequate for determining the presence and concentration of each additive in the gasoline, including test method reproducibility. The test method may involve identification of the presence of a surrogate marker substance if the applicant demonstrates that such test method will adequately demonstrate the presence and concentration of the additive.

(3) Within 30 days of receipt of an application, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 30 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete.

(4) If the executive officer finds that an application meets the requirements of this section and determines that the applicant has satisfactorily made the demonstrations identified in subsection (c)(1), then he or she shall issue an Executive Order certifying the gasoline fuel formulation. The executive officer shall act on a complete application within 30 days after the application is deemed complete.

(5) If the executive officer determines that the gasoline sold by a producer, importer or distributor contains the minimum concentration of additives identified in an applicable certification, but substantially fails to meet the performance criteria set forth in subsection (c)(1), the executive officer shall revoke or modify the prior certification as is necessary to assure that gasoline sold by the producer, importer or distributor meets the performance criteria set forth in subsection (c)(1). The executive officer shall not revoke or modify a prior certification order without first affording the applicant for the certification an opportunity for a hearing in accordance with title 17, California Code of Regulations, part III, chapter 1, subchapter 1, article 4 (commencing with section 60040). If the executive officer determines that a producer, importer or distributor would be unable to comply with this regulation as a direct result of a certification revocation or modification pursuant to this subsection, the executive officer may delay the effective date of such revocation or modification for such period of time as is necessary to permit the person to come into compliance in the exercise of all reasonable diligence.

(d) Recordkeeping.

(1) Each producer, importer, and distributor who has been issued a certification pursuant to subsection (c) must maintain records identifying each facility at which he or she adds an additive to California gasoline in order to comply with subsection (a)(1). For each such facility, the producer, importer or distributor must compile records showing on a monthly basis for each grade of gasoline:

[i] the volume of California gasoline supplied from the facility by the producer, importer or distributor,

[ii] the volume of California gasoline to which the producer, importer or distributor added the additive to comply with subsection (a)(1), and

[iii] the name and volume of each additive (or additive package) added to the California gasoline fuel. Records covering a month must be compiled no later than 30 days after the end of the month, and must be retained for at least two years after the end of the month.

(2) Any person required by subsection (d)(1) to compile and retain records must provide to the executive officer any such records within 20 days of a written request received from the executive officer or his/her designee before expiration of the period during which the records are required to be retained. Whenever such a person fails to provide records regarding a volume of California gasoline in accordance with this subsection (d)(2), the volume of California gasoline will be presumed to have been sold by the person in violation of subsection (a)(1).

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101 of the Health and Safety Code, and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code, and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-12-91; operative 8-12-91 (Register 91, No. 43).

2. Amendment filed 9-13-96; operative 10-13-96 (Register 96, No. 37).

3. Amendment filed 5-17-99; operative 7-16-99 (Register 99, No. 21).

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 1. GASOLINE STANDARDS THAT BECAME APPLICABLE BEFORE 1996
This database is current through 12/26/2003, Register 2003, No. 52.

s 2259. Exemptions for Motor Vehicle Fuels Used in Test Programs.

(a)(1) Any person may request an exemption for fuel used in a test program by submitting an application to the executive officer that includes all the information listed in paragraphs (c), (d), (e), and (f) of this section.

(2) For the purpose of this section, "fuel requirement" means any requirement for a motor vehicle fuel established in Chapter 5 (Standards for Motor Vehicle Fuels) of Division 3, Title 13, California Code of Regulations.

(3) For the purpose of this section, "exemption" means an exemption from one or more fuel requirements that is granted by the executive officer for the purpose of research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration.

(4) For the purpose of this section, "test track" means a roadway that is closed to the general public, is used to test motor vehicles or motor vehicle fuels, and is not used to transport persons or property.

(b)(1) In order for an exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the state board's monitoring requirements.

(2) Paragraphs (c), (d), (e), and (f) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (b)(1)(A) through (D) of this section.

(3) Within 20 days of receipt of an application for an exemption, the executive officer shall advise the applicant in writing either that the application is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the application complete or that specified additional information is still required to make it complete. Within 20 days after the application is deemed complete, the executive officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(c) An appropriate purpose is limited to research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration. The exemption application must include a concise statement of the purpose(s) of the proposed test program.

(d) With respect to the necessity for an exemption, the applicant must identify each specific fuel requirement that would be violated by the test program, and demonstrate an inability to achieve the stated purpose in a practical manner without violating the identified fuel requirement(s). If any site of the proposed test program is located in an area that is classified as a nonattainment area for purposes of a state or federal ambient air quality standard, and the fuel requirement that would be violated is designed to reduce emissions of the pollutant, or a precursor of the pollutant, for which the area is classified as a nonattainment area, the applicant must also demonstrate a practical inability to perform the test program in an area that is in attainment with respect to that pollutant.

(e) With respect to reasonableness, a test program must

exhibit a duration of reasonable length, affect a reasonable number of vehicles or engines, and utilize a reasonable amount of noncomplying fuel. In this regard, the application for exemption must include:

(1) An estimate of the program's duration;

(2) An estimate of the maximum number of vehicles or engines involved in the program;

(3) The time or mileage duration of the test program;

(4) The range of the noncomplying properties of the fuel expected to be used in the program, and

(5) The quantity of fuel which exceeds the applicable standard that is expected to be used in the program.

(f)With respect to control, a program must be capable of affording the executive officer a monitoring capability. At a minimum, the application for exemption must also include:

(1) The technical nature of the test program;

(2) The site(s) of the program (including the street address, city, county, and zip code);

(3) The manner in which information on vehicles and engines used in the program will be recorded and made available to the executive officer;

(4) The manner in which results of the program will be recorded and made available to the executive officer;

(5) The manner in which information on the fuel used in the test program (including noncomplying properties, name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the executive officer;

(6) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;

(7) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the request may be obtained; and

(8) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who will be responsible for recording and making the information specified in paragraphs (f)(3), (4), and (5) of this section available to the executive officer and the location in which such information will be maintained.

(g) An exemption shall be granted by the executive officer upon a demonstration that the requirements of paragraphs (b), (c), (d), (e) and (f) of this section have been met. The exemption will be granted in the form of memorandum of exemption signed by the applicant and the executive officer (or his delegate), which shall include such terms and conditions as the executive officer determines necessary to monitor the exemption and to carry out the purpose of this section. Any violation of such term or condition shall cause the exemption to be void.

(h) No fuel requirement shall apply to fuel used for an engine or vehicle dynamometer test, or to fuel used in the testing of motor vehicles or motor vehicle fuels on a test track.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2260. Definitions.

(a) For the purposes of this subarticle, the following definitions apply:

(0.5) "Air basin" has the same meaning as defined in section 39012 of the Health and Safety Code.

(0.7) "Alternative emission reduction plan" means with respect to a specific gasoline property, the compliance option set forth in section 2265.5.

(1) "Alternative gasoline formulation" means a final blend of gasoline that is either a PM alternative gasoline formulation or a test-certified alternative gasoline formulation.

(2) "Averaging compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.3(c).

(3) "ASTM" means the American Society of Testing and Materials.

(4) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks or motor vehicles owned or operated by the person.

(5) "Bulk plant" means an intermediate gasoline distribution facility where delivery of gasoline to and from the facility is solely by truck.

(6) "California gasoline" means:

(A) Gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California; and

(B) Gasoline that is produced in California, and that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as gasoline produced in California and suitable for sale as a motor vehicle fuel in California.

(6.5) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

(6.6) "CaRFG Phase 2" means California Phase 2 reformulated gasoline.

(6.7) "CaRFG Phase 3" means California Phase 3 reformulated gasoline.

(6.8) "CARBOB limits" means, for a final blend of CARBOB, CARBOB specifications for maximum Reid vapor pressure, sulfur content, benzene content, olefin content, aromatic hydrocarbon content, T50 and T90, and maximum and minimum oxygen content, expressed to the number of significant figures identified for each property in the section 2262 standards table, and for any other property identified in a certification order issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a), if applicable.

(6.9) "Common carrier pipeline" means a pipeline operating under Public Utilities Commission tariffs which offers refined petroleum product transportation services to any qualified shipper.

(7) "Designated alternative limit" means an alternative gasoline specification limit, expressed in the nearest part per million by weight for sulfur content, nearest hundredth percent by volume for benzene content, nearest tenth percent by volume for aromatic hydrocarbon content, nearest tenth percent for olefin content, and nearest degree Fahrenheit for T90 and T50, which is assigned by a producer or importer to a final blend of California gasoline pursuant to section 2264.

(7.5) "Designated emissions offsetting limit" means an alternative gasoline specification limit, expressed in the nearest hundredth pound per square inch for RVP, nearest tenth percent by weight for oxygen, nearest part per million by weight for sulfur content, nearest hundredth percent by volume for benzene content, nearest tenth percent by volume for aromatic hydrocarbon content, nearest tenth percent for olefin content, and nearest degree Fahrenheit for T90 and T50, which is assigned by a producer or importer that produces gasoline to a final blend of California gasoline pursuant to section 2265.1.

(8) "Ethanol" means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

(8.5) "Emissions associated with permeation" means the incremental increase in emissions because of permeation which is calculated as the difference between the emissions from the producer's or importer's final blend formulation and the flat limits without ethanol. The Phase 3 reformulated gasoline Predictive Model, as described in the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, which is incorporated herein by reference, shall be used to calculate emissions associated with permeation.

Emissions are calculated as follows:

Ozone Forming Potential (tons per day) = 18.4 (tons per day) * (PCE(OFP)/ 2.39) * 2.80 * percent share of California gasoline sales covered by the AERP, and

NOx (tons per day) = 427.8 (tons per day) * PCE(NOx) * percent share of California gasoline sales covered by the AERP, where

PCE(OFP) and PCE(NOx) = Percent change in emissions, as predicted by the CaRFG3 Predictive Model for Ozone Forming Potential (OFP) and Oxides of Nitrogen (NOx), respectively, as described in the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, which is incorporated herein by reference.

(9) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(10) "Final blend" means a distinct quantity of gasoline or CARBOB which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

(10.5) "Final blend credit" means the credit from a final blend of gasoline that may be used to offset a producer's or importer's final blend deficit. The amount of final blend credit shall be calculated as follows:

Final Blend Credit = (PCE - PCEt) * V_c, where

PCE = Percent change in emissions values as reported by the producer or importer pursuant to section 2265(a)(2)(C).

PCEt= Percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, for the PM alternative specifications that the producer or importer was intending to produce and which would have met the criteria for approval in the applicable Predictive Model Procedures but for the elevated sulfur content.

V_c = volume, in barrels, of the final blend that has a final blend credit.

(10.7) "Final blend deficit" means the deficit from a final blend of gasoline that a producer or importer must offset. The amount of final blend deficit shall be calcu-

lated as follows:

Final Blend Deficit = (PCE - 0.04) * V_d, where

PCE = Percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, which are greater than 0.04%. If the percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, are all less than 0.04%, there is no final blend deficit.

V_d= volume, in barrels, of the final blend that has a final blend deficit.

(11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline or CARBOB is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution facility where the cargo tank truck is used to transport CARBOB and gasoline and carries written documentation demonstrating that the designated type and amount or range of amounts of oxygenates designated by the producer or importer will be or have been blended directly into the cargo tank truck prior to delivery of the resulting gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.

(12) "Flat limit compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.3(b), section 2262.4(b)(1), or section 2262.5(c).

(13) "Further process" means to perform any activity on gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in this subarticle.

(14) "Gasoline" means any fuel that is commonly or commercially known, sold or represented as gasoline, including any volatile mixture of predominantly liquid hydrocarbons that is sold or represented as suitable for use in an automotive spark-ignition engine.

(15) "Imported California gasoline" means California gasoline which is transported into California and does not meet the definition in section 2260(a)(6)(B).

(16) "Import facility" means the storage tank to which imported California gasoline or CARBOB is first delivered in California, including, in the case of gasoline or CARBOB imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline or CARBOB is imported.

(17) "Importer" means any person who first accepts delivery in California of imported California gasoline.

(18) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(19) "Oxygenate" is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which, when added to gasoline increases the amount of oxygen in gasoline.

(19.3) "Oxygenate blending facility" means any facility (including a truck) at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.

(19.6) "Oxygenate blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.

(19.7) "Percent change in emissions values, as they pertain to the PM emissions offsetting compliance option" means values calculated, each for oxides of nitrogen, total ozone forming potential, and potency-weighted toxics, from the Phase 3 Predictive Model using the designated emissions offsetting limits for the candidate fuel and the flat limits in section 2262 for the reference fuel, as described in the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, which is incorporated herein by reference.

(19.8) "Pipeline tender" means a specific volume of product having a unique name or designation which is offered to a pipeline for transportation.

(20) "PM alternative gasoline formulation" means a final blend of gasoline that is subject to a set of PM alternative specifications assigned pursuant to section 2265(a).

(21) "PM alternative specifications" means the specifications for the following gasoline properties, as determined in accordance with section 2263 and expressed to the number of significant figures identified for each property in the section 2262 standards table: maximum Reid vapor pressure, maximum sulfur content, maximum benzene content, maximum olefin content, minimum and maximum oxygen content, maximum T50, maximum T90, and maximum aromatic hydrocarbon content.

(22) "PM averaging compliance option" means, with reference to a specific gasoline property, the compliance option for PM alternative gasoline formulations under which final blends of gasoline are assigned designated alternative limits in accordance with section 2264.

(23) "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

(23.5) "PM emissions offsetting compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2265.1(a).

(23.7) "PM emissions offsetting formulation" means a final blend of gasoline that is subject to a set of designated emissions offsetting limits assigned pursuant to section 2265.1(a).

(24) "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

(25) "PM flat limit compliance option" means, with reference to a specific gasoline property, the compliance option under which each gallon of gasoline must meet the specification for the property contained in the PM alternative specifications.

(26)(A) "Produce" means, except as otherwise provided in section (a)(26)(B) or (a)(26)(C), to convert liquid compounds which are not gasoline into gasoline or CARBOB. When a person blends volumes of blendstocks which are not gasoline with volumes of gasoline acquired from another person, and the resulting blend is gasoline, the person conducting such blending has produced only the portion of the blend which was not previously gasoline. When a person blends gasoline with other volumes of gasoline, without the addition of blendstocks which are not gasoline, the person does not produce gasoline.

(B) Where a person supplies gasoline to a refiner who agrees in writing to further process the gasoline at the refiner's refinery and to be treated as the producer of the gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the gasoline.

(C) Where an oxygenate blender blends oxygenates into CARBOB which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the CARBOB or the resulting gasoline in any other manner except for the addition of deposit control additives or other similar additives, the oxygenate blender is not producing any portion of the resulting gasoline, and the producer or importer of the CARBOB is treated as the producer or importer of the full volume of the resulting gasoline.

(26.5) "Produced at a California production facility with the use of any oxygenate other than ethanol or MTBE" means produced at a California production facility in part by either (i) adding at the California production facility any oxygenate, other than ethanol or MTBE, in neat form to the California gasoline or to a blending component used in the gasoline; or (ii) using a blending component that contained greater than 0.10 weight percent total oxygen from oxygenates other than ethanol or MTBE when it was supplied to the California production facility.

(27) "Producer" means any person who owns, leases, operates, controls or supervises a California production

facility.

(28) "Production facility" means a facility in California at which gasoline or CARBOB is produced. Upon request of a producer, the executive officer may designate, as part of the producer's production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer, and (C) is not used to store or distribute gasoline or CARBOB that is not supplied from the production facility.

(28.5) "Qualifying small refiner" means a small refiner whose California refinery was used in 1998 and 1999 to produce and supply California gasoline meeting the CaRFG Phase 2 standards.

(29) "Qualifying volume" means, for each small refiner, a volume of gasoline determined in accordance with the following four steps, provided that the qualifying volume for Kern Oil & Refining Co.'s Bakersfield refinery shall not exceed 2,920,000 barrels per year (equal to 8000 barrels per day; 2,928,000 barrels per year in leap years):

(A) First, the barrel per calendar day "operating crude oil capacity" of the small refiner's refinery in March 1999 is identified, based on data which are reported to the executive officer from the California Energy Commission (CEC) and are derived from "Monthly Refinery Reports" (EIA 810) submitted to the CEC no later than June 30, 1999. If the CEC is unable to derive such data from the Monthly Refinery Reports for a particular small refiner, the executive officer shall determine the small refiner's operating crude oil capacity in March 1999 based on other publicly available and generally recognized sources.

(B) Second, this operating crude oil capacity is multiplied by 0.9794, representing the highest monthly refinery operating utilization rate in the California refining industry for January 1998 through March 1999, as compiled in the "Monthly Refinery Capacity Data Statewide" report of the CEC.

(C) Third, the resulting crude throughput volume is multiplied by the refinery's highest monthly ratio of gasoline produced to crude oil distilled in January 1998 through March 1999, based on data derived by the CEC from the Monthly Refinery Reports submitted to the CEC no later than June 30, 1999.

(D) Fourth, the resulting gasoline volume is multiplied by 365 to identify an annualized value. In the case of leap years, the gasoline volume is multiplied by 366 to identify the annualized value.

(29.5) "Racing vehicle" means a competition vehicle not used on public highways.

(30) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(31) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(32) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(32.5) "South Coast Area" means the counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura.

(33) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(34) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation

system.

(35) "TC limits" means the set of specifications identified in a certification issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a).

(36) "Test-certified alternative gasoline formulation" means a final blend of gasoline that is subject to a set of specifications identified in a certification issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a).

(37) "Third party" means any person who applies for, or has a, third party AERP or a third party EERP.

(38) "Third party AERP" means an AERP whose application was submitted by a third party and approved by the Executive Officer.

(39) "Third party EERP" means an EERP whose application was submitted by a third party and approved by the Executive Officer.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New subarticle 2 and section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. New subsection (a)(6.5), amendment of subsections (a)(10)-(11) and (a)(16), new subsections (a)(19.3) and (a)19.6), and amendment of subsections (a)(26(A), (a)(26)(C) and (a)(28) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

4. New subsections (a)(29.5) and (a)(32.5) filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).

5. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

6. Amendment of subsection (a)(1), new subsection (a)(6.8), amendment of subsections (a)(20)-(21) and new subsections (a)(35)-(36) filed 8-20-2001;

operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

7. New subsection (a)(26.5) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

8. Amendment of subsection (a)(16) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

9. New subsections (a)(0.5), (a)(0.7), (a)(6.9), (a)(7.5), (a)(8.5), (a)(10.5), (a)(10.7), (a)(19.7), (a)(19.8), (a)(23.5), (a)(23.7), (a)(37), (a)(38) and (a)(39) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2260, 13** CA ADC § **2260**

13 CA ADC § **2260**
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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2261. Applicability of Standards; Additional Standards.

(a) Applicability of the CaRFG Phase 2 Standards.

(1)(A) Unless otherwise specifically provided, the CaRFG Phase 2 cap limit standards set forth in section 2262, and the CaRFG Phase 2 cap limit compliance requirements in sections 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply:

1. starting April 15, 1996 to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:

a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and

2. starting June 1, 1996 to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(B) The remaining CaRFG Phase 2 standards and requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after March 1, 1996.

(2) The CaRFG Phase 2 cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to April 15, 1996, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to June 1, 1996.

(b) Applicability of the CaRFG Phase 3 Standards.

(1)(A) Unless otherwise specifically provided, the CaRFG Phase 3 cap limit standards set forth in section 2262, and the CaRFG Phase 3 cap limit compliance requirements in 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply starting December 31, 2003. The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262, and the CaRFG Phase 3 benzene and sulfur content cap limit compliance requirements in 2262.3(a), shall apply:

1. starting December 31, 2003 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit), December 31, 2005 (for the 30 parts per million sulfur content cap limit), and December 31, 2011 (for the 20 parts per million sulfur content cap limit) to all sales, supplies or offers of California gasoline from the production facility or import facility at which it was produced or imported.

2. starting February 14, 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit), February 14, 2006 (for the 30 parts per million sulfur content cap limit), and February 14, 2012 (for the 20 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:

a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and

3. starting March 31, 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit), March 31, 2006 (for the 30 parts per million sulfur content cap limit), and March 31, 2012 (for the 20 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(B) The remaining CaRFG Phase 3 standards and compliance requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after December 31, 2003.

(2) The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to February 14, 2004 (for the benzene content limit and the 60 parts per million sulfur content limit), February 14, 2006 (for the 30 parts per million sulfur content limit), or February 14, 2012 (for the 20 parts per million sulfur content limit) or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to March 31, 2004 (for the benzene content limit and the 60 parts per million sulfur content limit), March 31, 2006 (for the 30 parts per million sulfur content limit), or March 31, 2012 (for the 20 parts per million sulfur content limit).

(3) Early Compliance with the CaRFG Phase 3 Standards Before December 31, 2003.

(A) Any producer or importer wishing to supply from its production or import facility, before December 31, 2003, any final blends of gasoline subject to the CaRFG Phase 3 standards instead of the CaRFG Phase 2 standards may notify the executive officer of its wish to do so. The notification shall include all of the following:

1. The approximate date by which it intends to begin supplying from its production or import facility gasoline complying with the CaRFG Phase 3 standards if permitted to do so;

2. A reasonably detailed demonstration of the producer's or importer's ability and plans to begin supplying from its production or import facility substantial quantities of one or more grades of gasoline meeting the CaRFG Phase 3 standards on or after the date specified;

(B)1. Within 15 days of receipt of a request under section 2261(b)(3)(A), the executive officer shall notify the producer or importer making the request either that the request is complete, or specifying what additional information is necessary to make the request complete.

2. Within 15 days of notifying the producer or importer that the request is complete, the executive officer shall either grant or deny the request. If the request is granted the executive officer shall specify the date on which producers and importers may start to supply from their production or import facilities final blends that comply with the CaRFG Phase 3 standards. The executive officer shall grant the request if he or she determines it is reasonably likely that the producer or importer making the request will start supplying substantial quantities of one or more grades of gasoline complying with the CaRFG Phase 3 standards reasonably soon after the date specified. If the executive officer denies the request, he or she shall provide the producer or importer with a written statement explaining the reason for denial.

3. Upon granting a request made under section 2261(b(3)(A), the executive officer shall notify interested parties of the date on which (i) producers and importers will be permitted to start supplying final blends of gasoline complying with the CaRFG Phase 3 standards, and (ii) the CaRFG Phase 2 cap limits for RVP and aromatics will become 7.20 psi and 35.0 volume percent respectively for gasoline downstream of the production or import facility. This notification shall be made by posting the pertinent information on the state board's Internet site, providing electronic mail notification to all persons subscribing to the state board's Fuels-General Internet electronic mail list, and mailing notice

to all persons registered as motor vehicle fuel distributors under Health and Safety Code section 43026.

4. With respect to all final blends supplied from a production or import facility from the day specified by the executive officer in granting a request made under section 2261(b)(3)(A) through December 30, 2003, any producer or importer may comply with the CaRFG Phase 3 standards that apply starting December 31, 2003 as an alternative to the CaRFG Phase 2 standards. Whenever a producer or importer is supplying a final blend subject to the CaRFG Phase 3 standards pursuant to this section 2261(b)(3)(B)4., any notification required by sections 2264.2 or 2265(a) shall indicate that the final blend is subject to the CaRFG Phase 3 standards. When it is sold or supplied from the production or import facility, no such final blend may contain MTBE in concentrations greater than 0.60 volume percent, or contain a total of more than 0.10 weight percent oxygen collectively from all of the oxygenates identified in section 2262.6(c)(4) that have not received a determination by the California Environmental Council as described in section 2262.6(c)(1).

(4) Early compliance with the CaRFG Phase 3 Amendments (Emissions Associated with Permeation) Before December 31, 2009.

(A) Any producer or importer that produces gasoline electing to supply from its production or import facility, before December 31, 2009, any final blends of gasoline subject to the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, shall notify the Executive Officer of its wish to do so. The notification shall include all of the information listed in section 2261(b)(4)(E).

(B) Any producer or importer that produces gasoline electing to supply from its production or import facility, before December 31, 2009, any final blends of CARBOB subject to the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, shall notify the Executive Officer of its wish to do so. The notification shall include all of the information listed in section 2261(b)(4)(E).

(C) Any producer or importer electing to supply from its production or import facility, before December 31, 2009, any final blends of gasoline subject to the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, or to the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, may elect to use either one of the two compliance options (exhaust + evaporative emissions model elements or the exhaust emissions model element only) as defined in the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model" to certify alternative blends of gasoline. Beginning December 31, 2009, only the first compliance option (exhaust + evaporative emissions model elements) shall be used during the RVP regulatory control periods in section 2262.4(b)(2) and only the second compliance option (exhaust emissions model element only) shall be used outside of the RVP regulatory control period.

(D) Any producer or importer electing to use an alternative emission reduction plan or third party electing to use a third party alternative emissions reduction plan, before December 31, 2009, shall notify the Executive Officer of its wish to do so. The notification shall include all of the information listed in section 2265.5.

(E) Notification.

1. The approximate date by which it intends to begin supplying from its production or import facility gasoline complying with the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008 or the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted

April 25, 2001, last amended August 7, 2008, referred to as the amended Procedures Guides, if permitted to do so;

2. A reasonably detailed demonstration of the producer's or importer's ability and plans to begin supplying from its production or import facility substantial quantities of one or more grades of gasoline or CARBOB meeting the amended Procedures Guides on or after the date specified;

3. All of the information required pursuant to section 2265.5(b)(2).

(F)1. Within 15 days of receipt of a request under section 2261(b)(4)(A) or (B), the Executive Officer shall notify the producer or importer making the request either that the request is complete, or specifying what additional information is necessary to make the request complete.

2. Within 15 days of notifying the producer or importer that the request is complete, the Executive Officer shall either grant or deny the request. If the request is granted the Executive Officer shall specify the date on which producers and importers that produce gasoline may start to supply from their production or import facilities final blends that comply with the amended Procedures Guides. The Executive Officer shall grant the request if he or she determines it is reasonably likely that the producer or importer making the request will start supplying substantial quantities of one or more grades of gasoline or CARBOB complying with the amended Procedures Guides reasonably soon after the date specified. If the Executive Officer denies the request, he or she shall provide the producer or importer with a written statement explaining the reason for denial.

3. Upon granting a request made under section 2261(b)(4)(A) or (B), the Executive Officer shall notify interested parties of the date on which producers and importers that produce gasoline will be permitted to start supplying final blends of gasoline complying with the amended Procedures Guides. This notification shall be made by posting the pertinent information on ARB's Internet site, providing electronic mail notification to all persons subscribing to ARB's Fuels-General Internet electronic mail list, and mailing notice to all persons registered as motor vehicle fuel distributors under Health and Safety Code section 43026.

4. With respect to all final blends supplied from a production or import facility from the day specified by the Executive Officer in granting a request made under section 2261(b)(4)(A) or (B) through December 30, 2009, any producer or importer that produces gasoline may comply with the amended Procedures Guides that apply starting December 31, 2009. Whenever a producer or importer that produces gasoline is supplying a final blend subject to the amended Procedures Guides pursuant to this section 2261(b)(4)(F)4., any notification required by sections 2264.2 or 2265(a) shall indicate that the final blend is subject to the amended Procedures Guides. When it is sold or supplied from the production or import facility, no such final blend may result in emissions associated with permeation unless those emissions are offset through the Predictive Model or a valid AERP or third party AERP.

(G) AERPs and third party AERPs approved under this section are subject to sections 2265.5(d)-(i).

(5) Early compliance with the CaRFG Phase 3 Amendments (PM Emissions Offsetting) Before December 31, 2009.

(A) Any producer or importer that produces gasoline wishing to supply from its production or import facility, before December 31, 2009, any final blends of gasoline subject to section 2264.2(d), shall notify the Executive Officer of its wish to do so. The notification shall include all of the following:

1. The approximate date by which it intends to begin supplying from its production or import facility gasoline complying with section 2264.2(d), if permitted to do so;

2. A reasonably detailed demonstration of the producer's or importer's ability and plans to begin supplying from its production or import facility substantial quantities of one or more grades of gasoline meeting section

2264.2(d) on or after the date specified;

3. All of the information required pursuant to section 2265.1(a)(2)(A).

(B)1. Within 15 days of receipt of a request under section 2261(b)(5)(A), the Executive Officer shall notify the producer or importer making the request either that the request is complete, or specifying what additional information is necessary to make the request complete.

2. Within 15 days of notifying the producer or importer that the request is complete, the Executive Officer shall either grant or deny the request. If the request is granted the Executive Officer shall specify the date on which producers and importers that produce gasoline may start to supply from their production or import facilities final blends that comply with section 2264.2(d). The Executive Officer shall grant the request if he or she determines it is reasonably likely that the producer or importer making the request will start supplying substantial quantities of one or more grades of gasoline complying with section 2264.2(d) reasonably soon after the date specified. If the Executive Officer denies the request, he or she shall provide the producer or importer with a written statement explaining the reason for denial.

3. Upon granting a request made under section 2261(b)(5)(A), the Executive Officer shall notify interested parties of the date on which producers and importers that produce gasoline will be permitted to start supplying final blends of gasoline complying with section 2264.2(d). This notification shall be made by posting the pertinent information on ARB's Internet site, providing electronic mail notification to all persons subscribing to ARB's Fuels-General Internet electronic mail list, and mailing notice to all persons registered as motor vehicle fuel distributors under Health and Safety Code section 43026.

4. With respect to all final blends supplied from a production or import facility from the day specified by the Executive Officer in granting a request made under section 2261(b)(5)(A) through December 30, 2009, any producer or importer that produces gasoline may comply with section 2264.2(d) that applies starting December 31, 2009. Whenever a producer or importer that produces gasoline is supplying a final blend subject to section 2264.2(d) pursuant to this section 2261(b)(5)(B)4., any notification required by sections 2264.2 or 2265(a) shall indicate that the final blend is subject to the PM emissions offsetting provisions. When it is sold or supplied from the production or import facility, no such final blend may result in sulfur levels above the applicable standards unless those sulfur emissions are fully offset as provided in section 2265.1.

(C) Any producer or importer that produces gasoline that supplies from its production or import facility, before December 31, 2009, any final blends of gasoline subject to section 2264.2(d), shall comply with section 2265.1.

(6) Ethanol Emission Reduction Plan (EERP)

(A) Applicability. This section shall apply to a producer or importer that produces gasoline that elects to use an EERP or to a third party that elects to use a third party EERP when all of the following conditions are satisfied:

1. In the case of a third party EERP, the third party has a contract or agreement to offset, in whole or in part, the elevated emissions associated with increased ethanol blending from the producer's or importer's gasoline.

2. With regard to a batch of gasoline that does not meet the criteria for approval in the applicable Predictive Model Procedures, immediately prior to producing or importing that batch, the producer or importer has reported its gasoline as a PM alternative gasoline formulation pursuant to section 2265(a),

3. But for the elevated emissions associated with increased ethanol blending, the PM alternative specifications would have met the criteria for approval in the applicable Predictive Model Procedures,

4. All measures to correct the emissions associated with increased ethanol blending would result in an eco-

nomic hardship to the producer or importer and the benefit in allowing the producer or importer to use an EERP is not outweighed by the public interest in enforcing the applicable Predictive Model Procedures,

5. The producer or importer is not subject to any outstanding requirements to provide offsets at the same production facility or import facility pursuant to section 2264(c), and

6. The amount of ethanol blended into the final blend may not exceed 10.0 volume percent denatured ethanol.

7. All EERPs and third party EERPs sunset on December 30, 2009.

(B) Requirements.

1. Where the producer or importer that produces gasoline has reported its final blend of gasoline as a flat limit formulation pursuant to section 2264.2(b), averaging limit formulation pursuant to section 2264.2(a), PM alternative gasoline formulation pursuant to section 2265(a), or test-certified alternative gasoline formulation pursuant to section 2266(c), compliance with a valid EERP or third party EERP shall constitute compliance with the requirements of section 2262.3(b), 2262.3(c), 2265, or 2266, respectively.

2. An EERP or third party EERP application demonstrating compliance with this subsection shall contain at a minimum all of the following information:

a. The company name, address, phone number, and contact information,

b. The producer's or importer's name, batch name, number or other identification, grade of California gasoline, and other information that uniquely identify the California gasoline subject to the EERP or third party EERP,

c. An explanation describing why the producer or importer cannot eliminate the emissions associated with increased ethanol blending by reformulation or reprocessing its gasoline,

d. The total emissions of oxides of nitrogen (NOx), total ozone forming potential, and potency-weighted toxics that would be associated with the use of California gasoline were the producer or importer to eliminate the emissions associated with increased ethanol blending from its gasoline,

e. Documentation, calculations, emissions test data, or other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the producer's or importer's gasoline,

f. The emission reduction strategy(ies) for the EERP or third party EERP and the date(s) that the offsets will accrue and expire for each strategy,

g. The producer or importer's market share for the fuel produced under the EERP or third party EERP,

h. Demonstration that the emission reduction strategy(ies) in the EERP or third party EERP will result in equivalent or better emission benefits for NOx, total ozone forming potential, and potency-weighted toxics than would be achieved through elimination of emissions associated with increased ethanol blending from the gasoline for the same affected region and for the period the EERP or third party EERP will be in effect, during and outside the RVP regulatory control periods in section 2262.4(b)(2),

i. Demonstration that the emission reductions are achieved in the general region where the fuel is sold,

j. The proposed recordkeeping, reporting, monitoring, and testing procedures that the producer or importer plans to use to demonstrate continued compliance with the EERP or third party EERP and achievement of each increment of progress toward compliance,

k. Adequate enforcement provisions,

l. The projected volume of each final blend of California gasoline subject to the EERP or third party EERP during the period the EERP or third party EERP will be in effect,

m. The period that the EERP or third party EERP will be in effect,

n. A compliance plan that includes increments of progress (specific events and dates) that describe periodic, measurable steps toward compliance during the proposed period of the EERP or third party EERP,

o. The date by which the producer or importer plans to discontinue using the EERP or third party EERP,

p. A statement, signed by a legal representative for the producer or importer that all information submitted with the EERP or third party EERP application is true and correct, and

q. The producer's or importer's agreement to be bound by the terms of the EERP or third party EERP.

r. In the case of a third party EERP, all of the above including all of the following:

i. The third party's name, address, phone number, and contact information,

ii. Documentation of the contract or agreement between the third party and the producer or importer,

iii. Documentation of the amount of NOx, total ozone forming potential, and potency-weighted toxics (reported as tons/day and percentage of the total tons/day) from the producer's or importer's gasoline that will be offset by the third party EERP,

iv. A list of all EERPs and third party EERPs that currently apply to the producer or importer,

v. A statement, signed by a legal representative for the third party that all information submitted with the third party EERP application is true and correct, and

vi. The third party's agreement to be bound by the terms of the third party EERP.

3. Emission reduction calculations demonstrating equivalence between the EERP or third party EERP and elimination of the emissions associated with increased ethanol blending from the gasoline shall only include NOx, total ozone forming potential, and potency-weighted toxics emissions from California gasoline sold or supplied in California.

4. A producer or importer wishing to participate in an EERP may include one or more production facilities or import facilities, but the producer or importer shall only include such facilities that the producer or importer owns or operates under their direct control. A third party wishing to participate in a third party EERP may include one or more production facilities or import facilities, but the third party shall only include such facilities with which the third party has a contract or agreement to offset emissions associated with permeation.

5. The emission reduction associated with the EERP or third party EERP must be from combustion related sources or gasoline related sources.

6. EERPs and third party EERPs may include, but are not limited to:

a. Vehicle scrappage,

b. Offsetting emissions with lower emitting diesel fuel batches,

c. Incentive grants for cleaner-than-required engines, equipment and other sources of pollution providing early or extra emission reductions.

7. Emission reductions included in an EERP or third party EERP shall not include reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from equipment not located within the region associated with the EERP or third party EERP, or that are claimed under section 2265.1, or that are claimed under another program, such as the Voluntary Accelerated Vehicle Retirement or Carl Moyer program, or the result of standard business practices that the producer or importer would have done without the EERP or third party EERP.

8. The producer or importer subject to an approved EERP or third party EERP shall maintain all records required to verify compliance with the provisions of the

EERP or third party EERP in a manner and form specified by the Executive Officer in the approved EERP or third party EERP. Required records may include, but are not limited to, volume of California gasoline sold, offered, or supplied to which the EERP or third party EERP applies, and/or emissions test results. Such records shall be retained for a period of not less than five (5) years and shall be submitted to the Executive Officer within 20 days in the manner specified in the approved EERP or third party EERP and upon request by the Executive Officer.

9. Prior to selling, offering, or supplying a batch of California gasoline with increased ethanol blending, the producer or importer shall first have established sufficient offsets for the applicable emissions associated with permeation. With the exception of offsets from vehicle scrappage and incentive grants for cleaner-than-required engines, equipment, and other sources of pollution, offsets shall expire at midnight on the day they accrued.

(C) Application Process.

1. Applications for an EERP or third party EERP shall be submitted in writing to the Executive Officer for evaluation.

2. The application shall be accompanied by a fee of $6,700.00 to cover the costs of processing the EERP or third party EERP application. If the producer or importer withdraws the application before the 30-day comment period, $4,100.00 of the fee shall be refunded.

3. The Executive Officer shall make available for public review all documents pertaining to an EERP or third party EERP application.

4. The Executive Officer will send a notice to subscribers of the Fuels listserv that a person has requested the Executive Officer consider a request for an EERP or third party EERP. The Executive Officer shall also provide a copy of all such documents to each person who has requested copies of the documents. Collectively, those persons on the Fuels listserv and those persons who have requested copies of the documents shall be treated as interested parties.

5. After an EERP or third party EERP application has been received and deemed complete, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the EERP or third party EERP application. Any public comment addressing whether the Executive Officer should approve or disapprove the EERP or third party EERP application shall be based on the contents and merits of the application. No comment received by the Executive Officer after the 30- day period will be considered. The Executive Officer shall send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, the following:

a. The identity of the applicant producer(s) or importer(s);

b. The start and end dates for the 30-day comment period;

c. The address of the EERP internet site where the application is posted; and,

d. Where and how to submit comments.

The Executive Officer shall post on the EERP internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, notification of public comments received during the 30-day comment period.

6. The Executive Officer may hold a public hearing to accept public comments or decide the merits of the application.

7. Final Action.

After the public comment period ends, the Executive Officer may take final action to either approve or deny the EERP or third party EERP application. The Executive Officer shall notify the producer or importer, post on the ARB internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of the final action.

8. Notification to the Executive Officer of Changes to information in the EERPorthird party EERP application.The producer or importer shall notify the Executive Officer in writing within 30 days upon learning of any information that would alter any information provided in the EERP or third party EERP application.

(D) Revocation or Modification of an Approved EERP or third party EERP.

1. With 30-days written notice to the producer or importer, the Executive Officer may revoke or modify, as needed, an approved EERP in any of the following situations:

a. There has been more than one violation of the approved EERP or third party EERP,

b. The Executive Officer has reason to believe that an approved EERP or third party EERP has been granted that no longer meets the criteria or requirements for an EERP or third party EERP,

c. The producer or importer demonstrates that it can no longer comply with the requirements of the approved EERP or third party EERP in its current form,

d. The producer or importer demonstrates to the satisfaction of the Executive Officer that the continuation of the EERP or third party EERP will result in economic hardship to the producer or importer, the producer or importer submits a substitute plan in accordance with section 2265.5(c) to offset any emissions not otherwise offset by the EERP or third party EERP, and the Executive Officer approves the substitute plan, or

e. The producer or importer's facility modifications and/or other means of eliminating emissions associated with increased ethanol blending from its gasoline have been completed.

2. The Executive Officer shall notify the producer or importer, post on the EERP internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of a revocation or modification of an approved EERP or third party EERP.

3. Any violations incurred pursuant to subsection (E) shall not be cancelled or in any way affected by the subsequent cancellation or modification of an EERP or third party EERP.

(E) Additional prohibitions.

1. No person may sell, offer, or supply California gasoline that creates emissions associated with increased ethanol blending unless the producer or importer, or in the case of a third party EERP, the third party has first been notified in writing by the Executive Officer that the EERP or third party EERP application has been approved.

2. Failure to meet any requirement of this section or any condition of an approved EERP or third party EERP shall constitute a single, separate violation of this article for each day until such requirement or condition is satisfied.

3. False reporting of any information contained in an EERP or third party EERP application, or any supporting documentation or amendments thereto, shall constitute a single, separate violation of the requirements of this article for each day that the approved EERP or third party EERP is in effect.

4. Any net exceedance at any given time, taking into consideration the amount of offsets and the gasoline produced under the EERP or third party EERP, of NOx, total ozone forming potential, or potency-weighted toxics during the period the EERP or third party EERP is in effect shall constitute a single, separate violation of the requirements of this article for each day the California gasoline subject to the EERP or third party EERP is sold, supplied, or offered in California.

5. Any of the following actions shall each constitute a single, separate violation of the requirements of this article for each day after the applicable deadline until the requirement or condition is satisfied:

a. Failure to report data or failure to report data accurately in writing to the Executive Officer when required by this section or the approved EERP or third party EERP;

b. False reporting of any information submitted to the Executive Officer for determining compliance with the EERP or third party EERP;

c. Failure to completely offset emissions, pursuant to any offset reconciliation requirements in the EERP or third party EERP, during the period the EERP or third party EERP is in effect;

d. Sale, supply, or offer of volumes of California gasoline which purportedly complies with the EERP or third party EERP in excess of the approved EERP or third party EERP.

6. Offsets shall not include offsets or other reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from California gasoline not produced in the same air basin as the gasoline associated with the EERP or third party EERP, or that are claimed under section 2265.1.

(F) A cause of action against the producer or importer or third party under this section shall be deemed to accrue on the date(s) when the records establishing a violation of the EERP or third party EERP are received by the Executive Officer.

(G) Transferability.Rights to use, or protection under, the EERP or third party EERP are non-transferable, unless such transfer is approved in writing by the Executive Officer.

(H) Notification of final blends associated with an EERP or third party EERP

1. Except as otherwise provided, for each final blend, the producer or importer shall notify the Executive Officer in writing, for receipt by the Executive Officer before the start of physical transfer of the gasoline from the production facility or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend, with the following information:

a. The company name, address, phone number, and contact information,

b. The production facility or import facility name, batch name, number, or other identification, the blend identity, grade of California gasoline, the location (with sufficient specificity to allow ARB inspectors to locate and sample the gasoline; this shall include, but is not limited to, the name of the facility, address, and identification of the tank), and other information that uniquely identifies the California gasoline subject to the EERP or third party EERP,

c. The estimated volume (in barrels),

d. The identity of the EERP or third party EERP, which was approved by the Executive Officer and the NOx, total ozone forming potential, and potency-weighted toxics emission limits stated in that plan,

e. The PM alternative specifications for RVP, sulfur content, benzene content, aromatics content, olefins content, T50, T90, and oxygen content,

f. Documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the final blend of California gasoline to which the EERP or third party EERP applies,

g. A statement, signed by a legal representative for the producer or importer that all information submitted with the notification is true and correct, and

h. Within 24 hours after the start of the physical transfer, the date and time of the start of physical transfer from the production facility or import facility.

2. A producer or importer may report an actual volume that is less than the estimated volume, as long as notification of the actual volume is received by the Executive Officer no later than 48 hours after completion of the physical transfer of the final blend from the production facility or import facility. If notification of the actual volume is not timely received by the Executive Officer, the reported estimated volume shall be deemed the reported actual volume. If the actual volume is larger than initially estimated, the producer or importer shall revise the reported estimated volume by notify-

ing the Executive Officer no later than 24 hours after completion of the physical transfer of the final blend from the production facility or import facility.

(I) Notification of Increased Ethanol Blending Offsets

1.Vehicle scrappage.The producer or importer shall notify the Executive Officer in writing as provided in the EERP or third party EERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the vehicle scrappage and the date(s) the offsets accrued.

2. Fuels.Except as otherwise provided, the producer or importer shall notify the Executive Officer in writing as provided in the EERP or third party EERP, for receipt by the Executive Officer before the start of physical transfer of the gasoline from the production facility or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend, with the information in subsection (H)1. as they relate to other batches of California gasoline or diesel fuel used to offset the emissions associated with increased ethanol blending.

3. Incentive grants. The producer or importer shall notify the Executive Officer in writing as provided in the EERP or third party EERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the incentive grants for cleaner-than-required engines, equipment and other sources of pollution providing early or extra emission reductions and the date(s) the offsets accrued.

4. Other reduction strategies.The producer or importer shall notify the Executive Officer in writing as provided in the EERP or third party EERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the reduction strategy and the date(s) the offsets accrued.

(7) Election allowing a producer or importer that produces gasoline to blend percentages of denatured ethanol into CARBOB that are higher than the common carrier pipeline specifications for oxygen and denatured ethanol until December 30, 2009.

(A) A producer or importer that produces gasoline may elect to blend a higher volume of denatured ethanol into CARBOB than the amount specified by the common carrier pipeline specification. The producer or importer that produces gasoline may elect to do such blending after it supplies from its production or import facility a CARBOB that concurrently meets the common carrier pipeline CARBOB specification and a CARBOB PM formulation having oxygen and denatured ethanol ranges greater than the common carrier pipeline specification. A producer or importer that produces gasoline may elect to do such blending before December 31, 2009. A person may not elect to blend a higher volume of denatured ethanol into CARBOB than the amount specified by the common carrier pipeline specification after December 30, 2009.

(B) In order to elect to blend higher volumes of denatured ethanol, the producer or importer must satisfy the following requirements:

1. Notification for each elected final blend by the producer or importer.For each final blend that the producer or importer elects to blend higher volumes of denatured ethanol, the producer or importer must notify the Executive Officer. The notification must be consistent with the requirements specified in section 2266.5 and must include the following additional information:

a. Statement of election.A statement that the producer or importer is electing to have the final blend subject to the requirements of section 2261(b)(7);

b. CARBOB certification for pipeline specifications. Information set forth in section 2266.5(b) demonstrating that the CARBOB meets the current common carrier pipeline specifications;

c. CARBOB certification for a wider range of oxy-

gen and oxygenate. Information set forth in section 2266.5(b) demonstrating that the same CARBOB identified in (B)1.b. meets a CARBOB PM formulation with a wider range of oxygen and denatured ethanol. The wider ranges must encompass the oxygen and denatured ethanol ranges specified by the common carrier pipeline specifications;

d. Volume of the final blend. The volume (gallons) of CARBOB of the final blend. This information will be replaced with the actual volume upon receipt of the producer's or importer's month end reconciliation report;

e. Final blend identification. The final blend identification number (batch number), grade of CARBOB, production tank number, tank location, name of producer or importer, name and phone number of contact person;

f. Start of transfer. The estimated date that transfers of the final blend from the production or import facility will begin;

g. Bulk terminals.The name, address, and contact person's name and phone number of oxygenate blending facilities that the producer or importer has arranged for blending at higher volumes of denatured ethanol.

2. Agreement with an oxygenate blender. Before a producer or importer notifies an oxygenate blender to blend higher volumes of denatured ethanol into CARBOB, the producer or importer must enter into a contractual agreement with the oxygenate blender stating that the oxygenate blender agrees to be obligated by the requirements in section (C) regarding the blending of denatured ethanol into CARBOB, record keeping and retention, and month end reconciliation notification to CARB. The producer or importer must submit a copy of the contractual agreement to the Executive Officer for each oxygenate blending facility before notifying an oxygenate blender to blend higher volumes of denatured ethanol into CARBOB.

3. Notification to the oxygenate blender. After the producer or importer notifies the Executive Officer of its election in (B)1., the producer or importer may notify the oxygenate blender of the maximum volume percent of denatured ethanol to blend into CARBOB, the maximum number of gallons of CARBOB that may be blended with higher volumes of denatured ethanol, and the start of blending date which blending higher volumes of denatured ethanol may begin. The notification must include a statement that permission for blending higher volumes of denatured ethanol is in accordance with the producer's or importer's election in section 2261(b)(7). The notification must also include a statement that the oxygenate blender must not exceed the volume percent of denatured ethanol, not exceed the volume of CARBOB, not start blending higher volumes of denatured ethanol before the start date, and not blend higher volumes of denatured ethanol after December 30, 2009. The producer or importer may notify only oxygenate blenders located in the geographical area normally supplied by its production or import facility.

4. Month end reconciliation by the producer or importer. The producer or importer must notify the Executive Officer of the following. The notification shall be received by the Executive Officer by the twentieth of the month for all final blends elected by the producer or importer in accordance with section 2261(b)(7)(B)1., which completed physical transfer of at least one pipeline tender from the production or import facility during the preceding calendar month. If the twentieth occurs on a weekend or holiday, the notification shall be received by the Executive Officer by the first business day after the twentieth of the month. The notification must include:

a. The final blend identification number;

b. With reference to each final blend identification number:

i. The grade of CARBOB;

ii. The estimated volume (gallons) of CARBOB as reported in (B)1.d.;

iii. For each discrete sale or supply of CARBOB:

I. The pipeline tender identification number;

II. The volume (gallons) of the pipeline tender;

III. The date that the pipeline tender started and ended delivery from the production tank to the pipeline;

IV. The identification of the pipeline; and

V. The identification of the oxygenate blending facility that receive the pipeline tender;

iv. Actual volume (gallons) of CARBOB supplied from the final blend; and

v. Date of completion of physical transfer of the last pipeline tender of CARBOB from the final blend;

c. The sum of the volume (gallons) CARBOB listed in section (B)4.b.iv. for each final blend identified in section (B)4.a.;

d. Copies of each notification specified in section (B)3.;

e. The volume (gallons) of CARBOB blended at a higher volume of denatured ethanol than the amount specified by the common carrier pipeline specifications listed by each individual oxygenate blending facility. The sum of the volume (gallons) from all oxygenate blending facilities;

f. The opening balance at the beginning of the month. The volume (gallons) of CARBOB qualified under this section 2261(b)(7) that was not blended at a rate higher than common carrier pipeline specifications carried over from the previous calendar month. This volume is available for blending at the higher rate; and

g. The ending balance at the end of the month. The volume (gallons) calculated as follows:

The volume listed in section (B)4.f. plus the volume listed in section (B)4.c. minus the sum of the volumes in section (B)4.e..

This volume is available to carry over to the next calendar month.

5. Whenever a producer or importer fails to provide the notification in section (B)4., regarding a volume of California gasoline or CARBOB in accordance with this section (B)4., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (B)8..

6 .Averaging. A producer or importer may not elect the provisions in section 2261(b)(7) if the producer or importer is using the provisions of section 2264 for Designated Alternative Limits or the provisions of section 2266.5(a)(5) for averaging. If the producer or importer is using the provisions in section 2261(b)(7) and notifies the Executive Officer that it elects to use the provisions of section 2264 or section 2266.5(a)(5), the election of the provisions of section 2261(b)(7) shall terminate and no further blending of higher volumes of denatured ethanol into CARBOB may occur beyond the date of such election. Any remaining volume (gallons) that otherwise may be blended with higher volumes of denatured ethanol are forfeited.

7. Start of oxygenate blending date. The start of oxygenate blending date is the date on which at least one pipeline tender has completed physical transfer from the production or import facility.

8. Producer's or importer's responsibilities. A producer or importer electing final blends in accordance with section 2261(b)(7) is responsible for the activities at the oxygenate blending facility involving blend a higher volume of denatured ethanol. A producer or importer may not blend or allow the blending of denatured ethanol at the oxygenate blending facility that:

a. Exceeds the volume available for blending at higher rates as determined by the notifications identified in section (B)1.;

b. Exceeds the denatured ethanol volume percent designated by the producer or importer; or

c. Precedes the start of oxygenate blending date.

9. Producer or importer must specify denatured ethanol that meets the requirements in section 2262.9(a)(1).

10. Recordkeeping by producers and importers. Each producer or importer must compile and maintain records that affirmatively demonstrate the production or import and the sale or supply of all final blends elected under section (B). The records must show, at a minimum:

a. Information regarding the production or import of the final blend;

i. The final blend identification number;

ii. The grade of CARBOB;

iii. The CARBOB PM formulation that shows compliance with the common carrier pipeline specifications;

iv. The CARBOB PM formulation having oxygen and denatured ethanol ranges greater than, and encompasses, the common carrier pipeline specification for oxygen and denatured ethanol;

v. Volume of the blend;

vi. Tank number, location; and

vii. Date of notification to CARB of the final blend.

b. Information regarding sales or supply of the final pipeline tender;

i. Pipeline tender identification number;

ii. Start and end date and time;

iii. Volume of the pipeline tender;

iv. Destination of the pipeline tender; and

v. Pipeline company name.

c. Copies of the notifications specified in section (B)3. that the producer or importer sent to the oxygenate blender regarding oxygenate blending; and

d. Information regarding the reconciliation of gallons of CARBOB certified for a wider range at the production or import facility and the gallons of CARBOB blended with higher volumes of denatured ethanol at the oxygenate blending facility.

11. Each producer or importer must provide to the Executive Officer any such records within 20 days of written request received from the Executive Officer or his or her designee. Whenever a producer or importer fails to provide records regarding a volume of California gasoline or CARBOB in accordance with this section (B)11., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (A).

12. Nothing in section 2261(b)(7) shall be construed to allow monthly averaging of volumes of CARBOB blended at higher volumes of denatured ethanol at the oxygenate blending facility.

(C) Oxygenate blender. An oxygenate blender that has entered into a contractual agreement in accordance with section (B)2. with a producer or importer may blend higher volumes of denatured ethanol into CARBOB at it's oxygenate blending facility provided that:

1. The oxygenate blender complies with the instructions specified in section (B)3. from the producer or importer. The oxygenate blender must not exceed the maximum volume percent of denatured ethanol to blend into CARBOB, the maximum volume (gallons) of CARBOB that may be blend with higher volumes of denatured ethanol, and must not begin such blending before the start of oxygenate blending date.

2. Month end reconciliation by the oxygenate blender. The oxygenate blender notifies the Executive Officer of the following. The notification shall be received by the Executive Officer by the twentieth of the month for all oxygenate blending related activities occurring at its facility during the preceding calendar month. If the twentieth occurs on a weekend or holiday, the notification shall be received by the Executive Officer by the first business day after the twentieth of the month. If the oxygenate blender operates more than one oxygenate blending facility, the information in the notification must be presented per facility. The notification must include:

a. Information regarding the receipts of CARBOB. The pipeline tender identification number of each re-

ceipt of CARBOB to the oxygenate blending facility by pipeline or identification number of any receipt other than pipeline. With reference to each receipt:

i. Grade of CARBOB;

ii. The volume (gallons) of the CARBOB pipeline tender;

iii. The date the oxygenate facility began receiving the CARBOB pipeline tender;

iv. Name of the supplier of the CARBOB; and

v. Identification number of the storage tank that received the CARBOB pipeline tender;

b. Information regarding the receipts of denatured ethanol. The identification number or bill of lading number of each receipt of denatured ethanol to the oxygenate blending facility. With reference to each receipt:

i. The volume (gallons) of denatured ethanol;

ii. The means by which the denatured ethanol was delivered to the oxygenate blending facility (by truck, rail car, etc.);

iii. The name of the supplier of the denatured ethanol;

iv. The date the denatured ethanol was received; and

v. Identification number of the storage tank that received the denatured ethanol;

c. Information regarding oxygenate blending. For each day of the calendar month at the oxygenate blending facility (if the oxygenate blender is oxygenate blending for more than one producer or importer, the information must be listed for each producer or importer):

i. The volume (gallons) of CARBOB that was blended with higher volumes of denatured ethanol (if more than one producer or importer, identify the producer or importer);

ii. The volume (gallons) of denatured ethanol that was blended at the higher rate (if more than one producer or importer, identify the producer or importer);

iii. If blending denatured ethanol at two rates that are higher than the common carrier pipeline specifications, list the CARBOB volumes and the denatured ethanol volumes for section c.i. and c.ii. separately for the two rates;

iv. The volume (gallons) of CARBOB that was blended with denatured ethanol according to common carrier pipeline specifications;

v. The volume (gallons) of denatured ethanol that was blended according to common carrier pipeline specifications;

d. Summary. Sums of the daily volumes (gallons) listed in c.i, c.ii., c.iv., and c.v. for the calendar month.

3. Whenever the oxygenate blender fails to provide the notification in section (C)2., regarding a volume of California gasoline or CARBOB in accordance with section (C)2., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (C)1.

4. Recordkeeping by the oxygenate blender. The oxygenate blender compiles and maintains records that affirmatively demonstrate the denatured ethanol blending activities at it's oxygenate blending facility. The must records show, at a minimum:

a. All information regarding the receipt of each pipeline tender of CARBOB;

b. All information regarding the receipt of each delivery of denatured ethanol;

c. All information regarding the daily oxygenate blending activities at the rack. If the oxygenate blender is oxygenate blending for more than one producer or importer, the information must be listed for each producer or importer;

d. All notifications specified in section (B)3. from the producer or importer to the oxygenate blender re-

garding oxygenate blending and any responses from the oxygenate blender to the producer or importer;

e. The oxygenate blender shall provide to the Executive Officer any such records within 20 days of written request received from the Executive Officer or his or her designee. Whenever the oxygenate blender fails to provide records regarding a volume of California gasoline or CARBOB in accordance with this section (C)4., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (C)1.

(D) Protocols.

1. Recordkeeping or reporting for producers or importers. The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying alternative recordkeeping or reporting requirements to satisfy the requirements of sections (B)1., (B)2., (B)3., (B)4., (B)10., and (B)11.. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (B)1., (B)2., (B)3., (B)4., (B)10., and (B)11. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

2. Recordkeeping or reporting for oxygenate blenders. The Executive Officer may enter into a written protocol with any oxygenate blender for the purpose of specifying alternative recordkeeping or reporting requirements to satisfy the requirements of sections (C)2., and (C)4. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (C)2. and (C)4. Any such protocol shall include the oxygenate blender's agreement to be bound by the terms of the protocol.

3. Notifications from producers or importers to oxygenate blenders. The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying alternative notification requirements from the producer or importer to the oxygenate blender to satisfy the requirements of section (B)3. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of section (B)3. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

4. Number of ethanol ranges for producers or importers. The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying a different number of denatured ethanol ranges to satisfy the requirements of section (H). The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of section (H). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(E) Proprietary pipeline. Nothing in this regulation prohibits the use of this election in a producer's or importer's proprietary pipeline and terminaling system.

(F) Electing to use section 2261(b)(7) will not be considered an act of changing from an initial to a new type of CARBOB as described in section 2266.5(f)(1)(C).

(G) The provisions in this section 2261(b)(7) are not specific or limited to the grade of CARBOB.

(H) Maximum of two ethanol blending levels. Producers or importers of each production or import facility electing to use section 2261(b)(7) may designate up to two levels of denatured ethanol when certifying its CARBOB. For example, one mid-level of at about 7.7 v% and another level at about 10.0 v%.

(I)Use the same version of the Predictive Model.If the producer or importer elects to have two levels of denatured ethanol, the producer or importer must use the

same version of the Predictive Model when evaluating and reporting PM formulations to ARB.

(c) California gasoline sold or supplied on or after March 1, 1996, is also subject to section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline). California gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a), shall also be subject to section 2250 (Degree of Unsaturation of Gasoline) and section 2252 (Sulfur Content of Gasoline).

(d) The standards contained in this subarticle shall not apply to a sale, offer for sale, or supply of California gasoline to a refiner if: (1) the refiner further processes the gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the gasoline, and (2) in the case of standards applicable only to producers or importers, the refiner to whom the gasoline is sold or supplied is the producer of the gasoline pursuant to section 2260(a)(26)(B).

(e) The prohibitions in sections 2262.3(b) and (c), 2262.4(b), and 2262.5(c) shall not apply to gasoline which a producer or importer demonstrates was neither produced nor imported by the producer or importer.

(f) This subarticle 2, section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline) shall not apply to gasoline where the person selling, offering or supplying the gasoline demonstrates as an affirmative defense that the person has taken reasonably prudent precautions to assure that the gasoline is used only in racing vehicles.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47). For prior history, see Register 92, No. 4.

2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment of subsection (b) and new subsection (e) filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).

4. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment of subsection (f) filed 8-20-2001; operative 8-20-2001 pursuant

to Government Code section 11343.4 (Register 2001, No. 34).

6. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

7. Amendment of subsection (b)(3)(B)4. filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

8. Amendment of subsections (b)(1)(A)1.-2., (b)(1)(A)3. and (b)(2) and new subsections (b)(4)-(b)(7)(I) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2261**, **13** CA ADC § **2261**

13 CA ADC § **2261**
END OF DOCUMENT

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2262. The California Reformulated Gasoline Phase 2 and Phase 3 Standards.

The CaRFG Phase 2 and CaRFG Phase 3 standards are set forth in the following table. For all properties but Reid vapor pressure (cap limit only) and oxygen content, the value of the regulated property must be less than or equal to the specified limit. With respect to the Reid vapor pressure cap limit and the oxygen content flat and cap limit, the limits are expressed as a range, and the Reid vapor pressure and oxygen content must be less than or equal to the upper limit, and more than or equal to the lower limit. A qualifying small refiner may comply with the small refiner CaRFG Phase 3 standards, in place of the CaRFG Phase 3 standards in this section, in accordance with section 2272.

The California Reformulated Gasoline Phase 2 and Phase 3 Standards

Property	*Flat Limits*		*Averaging Limits*		*Cap Limits*	
	CaRFG Phase 2	*CaRFG Phase 3*	*CaRFG Phase 2*	*CaRFG Phase 3*	*CaRFG Phase 2*	*CaRFG Phase 3*
Reid Vapor Pressure[1] (pounds per square inch)	7.00	7.00 or 6.90[2]	Not Applicable	Not Applicable	7.00[3]	6.40–7.20
Sulfur Content (parts per million by weight)	40	20	30	15	80	60[4] 30[4] 20[4]
Benzene Content (percent by volume)	1.00	0.80	0.80	0.70	1.20	1.10
Aromatics Content (percent by volume)	25.0	25.0	22.0	22.0	30.0[3]	35.0
Olefins Content (percent by volume)	6.0	6.0	4.0	4.0	10.0	10.0
T50 (degrees Fahrenheit)	210	213	200	203	220	220
T90 (degrees Fahrenheit)	300	305	290[5]	295	330	330
Oxygen Content (percent by weight)	1.8–2.2	1.8–2.2	Not Applicable	Not Applicable	1.8[6]–3.5 0[6]–3.5	1.8[6]–3.5[7] 0[6]–3.5[7]
Methyl tertiary-butyl ether (MTBE) and oxygenates other than ethanol	Not Applicable	Prohibited as provided in § 2262.6	Not Applicable	Not Applicable	Not Applicable	Prohibited as provided in § 2262.6

[1] The Reid vapor pressure (RVP) standards apply only during the warmer weather months identified in section 2262.4.

[2] The 6.90 pounds per square inch (psi) flat limit applies when a producer or importer is using the CaRFG Phase 3 Predictive Model to certify a final blend not containing ethanol. Otherwise, the 7.0 psi limit applies.

[3] For sales, supplies, or offers of California gasoline downstream of the production or import facility starting on the date on which early compliance with the CaRFG Phase 3 standards is permitted by the Executive Officer under section 2261(b)(3), the CaRFG Phase 2 cap limits

for Reid vapor pressure and aromatics content shall be 7.20 psi and 35.0 percent by volume respectively.

[4] The CaRFG Phase 3 sulfur content cap limits of 60, 30, and 20 parts per million are phased in starting December 31, 2003, December 31, 2005, and December 31, 2011, respectively, in accordance with section 2261(b)(1)(A).

[5] Designated alternative limit may not exceed 310.

[6] The 1.8 percent by weight minimum oxygen content cap only applies during specified winter months in the areas identified in section 2262.5(a).

[7] If the gasoline contains more than 3.5 percent by weight oxygen from ethanol but no more than 10.0 volume percent ethanol, the maximum oxygen content cap is 3.7 percent by weight.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018, 43101 and 43830, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101, 43830 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31). For prior history see Register 92, No. 4.

2. Amendment of table footnotes filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

3. Amendments to Table (footnotes 2 and 7) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

4. Amendment of table footnotes 1 and 2 filed 9-9-2005 as an emergency; operative 9-9-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-2006 or emergency language will be repealed by operation of law on the following day.

5. Reinstatement of section as it existed prior to 9-9-2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting footnote 1 of the Standards Table identified CaRFG Phase 3 flat and cap maximum RVP limits of 9.00 psi during the 2005 Hurricane Katrina RVP relaxation period identified in section 2262.4.

6. Editorial amendment ofHistory 5 (Register 2006, No. 42).

7. Amendment of table and table footnotes filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2262**, **13** CA ADC § **2262**

13 CA ADC § **2262**
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C

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This database is current through 12/26/08, Register 2008, No. 52

§ 2262.3. Compliance With the CaRFG Phase 2 and CaRFG Phase 3 Standards for Sulfur, Benzene, Aromatic Hydrocarbons, Olefins, T50 and T90.

(a) Compliance with cap limits. No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which exceeds an applicable cap limit for sulfur, benzene, aromatic hydrocarbons, olefins, T50 or T90 set forth in section 2262.

(b) Compliance by producers and importers with the flat limits. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which exceeds an applicable flat limit for the properties of sulfur, benzene, aromatic hydrocarbons, olefins, T50, or T90 set forth in section 2262, unless the gasoline (1) is subject to the averaging compliance option for the property in accordance with section 2264.2(a), (2) has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), (3) has been reported as a test-certified alternative gasoline formulation pursuant to section 2266(c), (4) has been reported as a PM emissions offsetting formulation pursuant to section 2265.1 (applicable only to producers and importers that produce gasoline), or (5) is subject to an alternative emission reduction plan pursuant to section 2265.5 (applicable only to producers and importers that produce gasoline). Notwithstanding section 2265.5(a), a producer or an importer that produces gasoline and that has elected to be subject to the flat limits specified in section 2262 shall offset its emissions associated with permeation by complying with sections 2265.5(b)-(i). An importer that does not produce gasoline shall not sell, offer for sale, supply, or offer for supply California gasoline if the gasoline creates emissions associated with permeation.

(c) Optional compliance by producers and importers with the averaging limits. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which is subject to the averaging compliance option for the properties of sulfur, benzene, aromatic hydrocarbons, olefins, T50 or T90 in accordance with section 2264.2(a) if any of the following occurs. Notwithstanding section 2265.5(a), a producer or an importer that produces gasoline and that has elected to be subject to an averaging limit specified in section 2262 shall offset its emissions associated with permeation by complying with sections 2265.5(b)-(i). An importer that does not produce gasoline shall not sell, offer for sale, supply, or offer for supply California gasoline if the gasoline creates emissions associated with permeation.

(1) The gasoline exceeds the applicable averaging limit for the property set forth in section 2262 and no designated alternative limit for the property has been established for the gasoline in accordance with the requirements of section 2264(a); or

(2) A designated alternative limit for the property has been established for the gasoline in accordance with the requirements of section 2264(a), and the gasoline exceeds the designated alternative limit for that property; or

(3) Where the designated alternative limit exceeds the averaging limit for the property, the exceedance is not fully offset in accordance with section 2264(c).

(d) Optional compliance by producers or importers that produce gasoline with the PM emissions offsetting compliance option. No producer or importer that produces gasoline shall sell, offer for sale, supply, or offer for supply from its production facility or import facility a final blend of California gasoline as a PM emissions

offsetting formulation subject to the designated emissions offsetting limits if any of the following occurs:

(1) The gasoline exceeds any of the designated emissions offsetting limits for sulfur, benzene, aromatic hydrocarbons, olefins, oxygen, T50, or T90 for the final blend; or

(2) The gasoline exceeds the designated emissions offsetting limit for the final blend for RVP during any of the regulatory control periods in section 2262.4(b)(2).

(3) The excess emissions of oxides of nitrogen, total ozone forming potential, or the potency-weighted toxics associated with excess sulfur in a final blend of gasoline is not fully and timely offset in accordance with section 2265.1(c).

(4) The gasoline required to be offset and the offsetting gasoline are sold, offered, or supplied in different regions where the gasoline is normally offered for sale.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (b)-(c) and repealer of subsection (d) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).

4. Repealer and new section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment of section heading and subsection (b) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

6. Amendment of subsections (b) and (c) and new subsections (d)-(d)(4) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

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This database is current through 12/26/08, Register 2008, No. 52

§ 2262.4. Compliance With the CaRFG Phase 2 and CaRFG Phase 3 Standards for Reid Vapor Pressure.

(a) Compliance with the cap limits for Reid vapor pressure.

(1) No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which exceeds the applicable cap limit for Reid vapor pressure within each of the air basins during the regulatory period set forth in section (a)(2).

(2) Regulatory Control Periods.

(A) April 1 through October 31 (May 1 through October 31 in 2003 and 2004):

South Coast Air Basin and Ventura County

San Diego Air Basin

Mojave Desert Air Basin

Salton Sea Air Basin

(B) May 1 through September 30:

Great Basin Valley Air Basin

(C) May 1 through October 31:

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

(D) June 1 through September 30:

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(E) June 1 through October 31:

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(b) Compliance by producers and importers with the flat limit for Reid vapor pressure.

(1) Reid vapor pressure standard for producers and importers.

(A) In an air basin during the regulatory control periods specified in section (b)(2), no producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a Reid vapor pressure exceeding the applicable flat limit set forth in section 2262 unless the gasoline has been reported as either a PM alternative gasoline formulation pursuant to section 2265(a) or a PM emissions offsetting formulation pursuant to section 2265.1 (applicable only to producers and importers that produce gasoline) using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model.

(B) In an air basin during the regulatory control periods specified in section (b)(2), no producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has been reported either as a PM alternative gasoline formulation pursuant to section 2265(a) or a

PM emissions offsetting formulation pursuant to section 2265.1 (applicable only to producers and importers that produce gasoline) using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model if the gasoline has a Reid vapor pressure exceeding the PM flat limit for Reid vapor pressure in the identified PM alternative specifications or the designated emissions offsetting limits, as applicable.

(2) Regulatory control periods for production and import facilities.

(A) 1. March 1 through October 31 (Except as otherwise provided in (A)2. and (A)3. below):

South Coast Air Basin and Ventura County

San Diego Air Basin

Mojave Desert Air Basin

Salton Sea Air Basin

2. In the areas identified in section 2262.4(b)(2)(A)1., California gasoline that is supplied March 1 through March 31, 2003 from a production or import facility that is qualified under this subsection is not subject to the prohibitions of section 2262.4(b)(1), as long as the gasoline either is designated as subject to the CaRFG Phase 3 standards, or is subject to the CaRFG Phase 2 standards and also meets the prohibitions in sections 2262.6(a)(1) and 2262.6(c) regarding the use of oxygenates. In order for a production or import facility to be qualified, the producer or importer must notify the Executive Officer in writing by February 14, 2003 that it has elected to have the facility be subject to this subsection during March 2003.

3. In the areas identified in section 2262.4(b)(2)(A)1., California gasoline that is supplied March 1 through March 31, 2004 from a production or import facility that was not qualified under section 2262.4(b)(2)(A)2. is not subject to the prohibitions of section 2262.4(b)(1).

(B) April 1 through September 30:

Great Basin Valley Air Basin

(C) April 1 through October 31:

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

(D) May 1 through September 30:

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(E) May 1 through October 31:

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(c) Applicability.

(1) Section (a)(1) shall not apply to a transaction occurring in an air basin during a regulatory control period in section (a)(2) where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility when the station or facility is not subject to a regulatory control period in section (a)(2).

(2) Section (b) shall not apply to a transaction occurring in an air basin during the applicable regulatory control period for producers and importers where the person selling, supplying, offering or transporting the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to

a retail service station or bulk purchaser-consumer's fueling facility located in an air basin not then subject to the regulatory control period for producers and importers set forth in section (b)(2).

(3) Section (a)(1) shall not apply to a transaction occurring in an air basin during the regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred more than fourteen days before the start of the regulatory control period.

(4) Gasoline that is produced in California, and is then transported to the South Coast Air Basin, Ventura County, or the San Diego Air Basin by marine vessel shall be subject to the regulatory control periods for production and import facilities identified in section 2262.4(b)(2)(A).

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101, 43830 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (b)-(c) and repealer of subsection (d) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).

4. Repealer of section and renumbering of former section 2262.1 to section 2262.4, including amendment of section heading, section and Note, filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government
Code section 11343.4 (Register 2002, No. 52).

6. Amendment of subsections (b)(1) and (c)(4) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

7. New subsections (a)(2)(F) and (b)(2)(F) filed 9-9-2005 as an emergency;

operative 9-9-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-2006 or emergency language will be repealed by operation of law on the following day.

8. Reinstatement of section as it existed prior to 9-9-2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting subsections (a)(2)(F) and (b)(2)(F) identified a Hurricane Katrina RVP relaxation period from 9-12-2005 through the end of the 2005 RVP season, during which a less stringent RVP standard of 9.00 psi applied pursuant to section 2262.

9. Editorial amendment ofHistory 8 (Register 2006, No. 42).

10. Amendment of subsections (b)(1)(A)-(B) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2262.4**, **13** CA ADC § **2262.4**

13 CA ADC § **2262.4**
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This database is current through 12/26/08, Register 2008, No. 52

§ 2262.5. Compliance With the Standards for Oxygen Content.

(a) Compliance with the minimum oxygen content cap limit standard in specified areas in the wintertime.

(1) Within the areas and periods set forth in section (a)(2), no person shall sell, offer for sale, supply, offer for supply, or transport California gasoline unless it has an oxygen content of not less than the minimum oxygen content cap limit in section 2262.

(2)(A) November 1 through February 29:

South Coast Area

Imperial County

(B) October 1 through October 31, (1996 through 2002 only):

South Coast Area

(b) Compliance with the maximum oxygen content cap limit standard . No person shall sell, offer for sale, supply, or transport California gasoline which has an oxygen content exceeding the maximum oxygen content cap limit in section 2262, or which has an ethanol content exceeding 10.0 percent by volume.

(c) Compliance by producers and importers with the flat limits for oxygen content.No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which has an oxygen content less than flat limit for minimum oxygen content, or more than flat limit for maximum oxygen content, unless the gasoline has been (1) reported as a PM alternative gasoline formulation pursuant to section 2265(a), or as a PM emissions offsetting formulation pursuant to section 2265.1 (applicable only to producers and importers that produce gasoline), or as an alternative gasoline formulation pursuant to section 2266(c), and (2) complies with the standards contained in sections (a) and (b).

(d) Restrictions on adding oxygenates to California gasoline after it has been supplied from the production or import facility.

(1) Basic Restriction. No person may add oxygenates to California gasoline after it has been supplied from the production or import facility at which it was produced or imported, except where the person adding the oxygenates demonstrates that: (A) the gasoline to which the oxygenates are added has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), or as a PM emissions offsetting formulation pursuant to section 2265.1 (applicable only to producers and importers that produce gasoline), or as an alternative gasoline formulation pursuant to section 2266(c), and has not been commingled with other gasoline, and (B) both before and after the person adds the oxygenate to the gasoline, the gasoline has an oxygen content within the oxygen content specifications of the applicable PM alternative gasoline formulation, PM emissions offsetting formulation, or alternative gasoline formulation. Nothing in this section (d) prohibits adding oxygenates to CARBOB.

(2) Bringing gasoline into compliance with the minimum oxygen content cap limit. Notwithstanding section (d)(1), a person may add an oxygenate that is not prohibited under section 2262.6 to California gasoline that does not comply with an applicable minimum oxygen content cap limit under sections 2262 and 2262.5(a), where the person obtains the prior approval of the executive officer based on a demonstration that adding the

oxygenate is necessary to bring the gasoline into compliance with the minimum oxygen content cap limit.

(e) Application of prohibitions.

(1) Section (a) shall not apply to a transaction occurring in the areas and periods shown in (a)(2) where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will not be delivered to a retail service station or bulk purchaser-consumer's fueling facility in the areas and periods shown in (a)(2).

(2)(A) Section (a) shall not apply to a transaction occurring in the South Coast Area in October 2000, 2001, 2002, or 2003, where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred no later than September 16 of that year.

(B) Section (a) shall not apply to a transaction occurring in November either in Imperial County or, starting in 2004, in the South Coast Area, where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred no later than October 17 of that year.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsection (c) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment of subsections (a)(2)(C) and (d), repealer of subsection (e)(1) and subsection relettering filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

4. Editorial correction of subsection (a)(2)(B) (Register 97, No. 10).

5. Amendment of subsections (a)-(a)(2)(C) and (e)(1), and new subsection (e)(2) filed 9-21-98; operative 9-21-98 pursuant to Government Code section

11343.4(d) (Register 98, No. 39).

6. Amendment of subsection (b) filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

7. Amendment of subsections (a)(2)(A)-(B), new subsection (a)(2)(C) and subsection relettering filed 9-8-99; operative 9-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 37).

8. Amendment of section heading, section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

9. Amendment of subsections (a)(2)(A)-(B), repealer of subsections (a)(2)(C)-(D), new subsection (e)(2)(A) and redesignation and amendment of former subsection (e)(2) as new subsection (e)(2)(B) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

10. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

11. Amendment of subsection (b) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

12. Amendment of subsections (c) and (d)(1) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2262.5**, **13** CA ADC § **2262.5**

13 CA ADC § **2262.5**
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§ 2262.6. Prohibition of MTBE and Oxygenates Other Than Ethanol in California Gasoline Starting December 31, 2003.

(a)Basic MTBE prohibitions.

(1) Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply California gasoline which has been produced at a California production facility in part by either (i) adding at the California production facility any methyl tertiary-butyl ether (MTBE) in neat form to the California gasoline or to a blending component used in the gasoline; or (ii) using a blending component that contained greater than 0.60 volume percent MTBE when it was supplied to the California production facility.

(2) No person shall sell, offer for sale, supply or offer for supply California gasoline which contains MTBE in concentrations greater than: 0.60 volume percent starting December 31, 2003, 0.30 volume percent starting July 1, 2004, 0.15 volume percent starting December 31, 2005, and 0.05 volume percent starting July 1, 2007.

(b)Phase-in of MTBE prohibitions.

(1)Phase-in of MTBE prohibitions starting December 31, 2003, and 2005.In the first year in which a prohibition applies under section 2262.6(a) starting on December 31, the prohibition shall be phased in as follows:

(A) Starting December 31, for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting the following February 14, for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting the following March 31, for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(2)Phase-in of MTBE prohibitions starting July 1, 2004 and 2007. In the first year in which a prohibition applies under section 2262.6(a) starting on July 1, the prohibition shall be phased in as follows

(A) Starting July 1, for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting the following August 15, for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting the following October 1, for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(3)Phase-in for low-throughput fueling facilities. The prohibitions in section (a) starting respectively on December 31, 2003, July 1, 2004, December 31, 2005,

and July 1, 2007, shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to the date on which the delivery became subject to the prohibition pursuant to the phase-in provisions in section (b).

(c)Use of oxygenates other than ethanol or MTBE in California gasoline on or after December 31, 2003.

(1) Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply California gasoline which has been produced at a California production facility with the use of any oxygenate other than ethanol or MTBE unless a multimedia evaluation of use of the oxygenate in California gasoline has been conducted and the California Environmental Policy Council established by Public Resources Code section 71017 has determined that such use will not cause a significant adverse impact on the public health or the environment.

(2) Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply California gasoline which contains a total of more than 0.10 weight percent oxygen collectively from all of the oxygenates identified in section (c)(4), other than oxygenates not prohibited by section (c)(1).

(3) Starting July 1, 2004, no person shall sell, offer for sale, supply or offer for supply California gasoline which contains a total of more than 0.06 weight percent oxygen collectively from all of the oxygenates identified in section (c)(4), other than oxygenates not prohibited by section (c)(1).

(4)Covered oxygenates. Oxygen from the following oxygenates is covered by the prohibitions in section 2262.6(c)(1), (2) and (3):

Methanol

Isopropanol

n-Propanol

n-Butanol

iso-Butanol

sec-Butanol

tert-Butanol

Tert-pentanol (tert-amylalcohol)

Ethyltert-butylether (ETBE)

Diisopropylether (DIPE)

Tert-amylmethylether (TAME)

(5) The prohibitions in section 2262.6(c)(1) and (2), and in section 2262.6(c)(3), shall be phased in respectively as follows:

(A) Starting December 31, 2003 and July 1, 2004 respectively for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting February 14, 2004 and August 15, 2004 respectively for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting March 31, 2004 and September 30, 2004 respectively for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(6)Phase-in for low-throughput fueling facilities. The prohibitions in section 2262.6(c)(1) and (2), and in section 2262.6(c)(3), starting respectively on December 31, 2003 and July 1, 2004, shall not apply to transactions directly involving the fueling of motor vehicles at a re-

tail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to the date on which the delivery became subject to the prohibition pursuant to the phase-in provisions in section 2262.6(c)(5).

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).

4. Repealer and new section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment of section heading and section filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

6. Amendment filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

7. Amendment of subsections (c)(2)-(3) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

13 CCR § **2262.6, 13** CA ADC § **2262.6**

13 CA ADC § **2262.6**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2262.9. Requirements Regarding Denatured Ethanol Intended For Use as a Blend Component in California Gasoline.

(a) Standards.

(1) Standards for denatured ethanol. Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply denatured ethanol intended for blending with CARBOB or California gasoline that fails to comply with any of the following standards:

(A) Standards for properties regulated by the CaRFG Phase 3 standards.

1. A sulfur content not exceeding 10 parts per million;

2. A benzene content not exceeding 0.06 percent by volume; and

3. An olefins content not exceeding 0.5 percent by volume; and

4. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.

(B) Standards based on ASTM D 4806-99.All test methods and standards identified in the title and the table below are incorporated herein by reference.

Specification	*Value*	*Test method*
Ethanol, vol.%, min.	92.1	ASTM D 5501–94(1998)ε1
Methanol, vol.%, max.	0.5	
Solvent–washed gum, mg/100 ml, max.	5.0	ASTM D 381–00, air jet apparatus
Water content, vol.%, max.	1	ASTM E 203–96 or E 1064–00
Denaturant content, vol.%, min. vol.% max. The only denaturants shall be natural gasoline, gasoline components, or unleaded gasoline.	1.96 5.00[a]	
Inorganic Chloride content, mass ppm (mg/l), max.	40 (32)	Modification of ASTM D512–89(1999), Procedure C[b]
Copper content, mg/kg, max.	0.1	Modification of ASTM D1688–95, Test Method A[c]
Acidity (as acetic acid), mass % (mg/l), max.	0.007 (56)	ASTM D 1613–96 (1999)
pHe	6.5 – 9.0	ASTM D 6423–99
Appearance	Visibly free of suspended or precipitated contaminants (clean and bright)	Determined at indoor ambient temperature unless otherwise agreed upon between the supplier and purchaser

Note a: The maximum denaturant content limit is changed from 4.76 v% to 5.00 v% to be consistent with ASTM 4806-06c

Note b: The modification of ASTM D 512-89(1999), Procedure C consists of using 5 ml of sample diluted with 20 ml of water in place of the 25 ml sample specified in the standard procedure. The water shall meet ASTM D 1193-99, Type II. The volume of the sample prepared by this modification will be slightly larger than 25 ml. To allow for the dilution factor, report the chloride ion present in the fuel ethanol sample as the chloride ion present in the diluted sample multiplied by five.

Note c: The modification of ASTM D 1688-95, Test Method A (atomic absorption) consists of mixing reagent grade ethanol (which may be denatured according to the U.S. Bureau of Alcohol, Tobacco, and Firearms (BATF) of the U.S. Treasury Department Formula 3A or 30, as set forth in 27 CFR sections 21.35 and 21.57, as in effect April 1, 2001) in place of water as the solvent or diluent for the preparation of reagents and standard solutions. However, this must not be done to prepare the stock copper solution described in 11.1 of ASTM D 1688-95. Because a violent reaction may occur between the acid and the ethanol, use water, as specified, in the acid solution part of the procedure to pre-

pare the stock copper solution. Use ethanol for the rinse and dilution only.

(2)Exemption.

(A)Inapplicability of basic standards.The standards in section (a)(1)(A) do not apply to a quantity of denatured ethanol sold, offered for sale, supplied, or offered for supply by a person who demonstrates as an affirmative defense that:

1. The person has complied with section (c)(1)(B); and

2. He or she has taken reasonably prudent precautions to assure that the denatured ethanol will only be added to CARBOB which has been designed to be lawfully oxygenated with denatured ethanol having the properties identified in the document provided pursuant to section (c)(1)(B).

(B) Substitute standards. Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply denatured ethanol that is intended for blending with CARBOB or California gasoline and is exempt pursuant to section (a)(2)(A), if the denatured ethanol fails to comply with any of the properties identified in the document provided pursuant to section (c)(1)(B).

(3) Standards for products represented as appropriate for use as a denaturant in ethanol.

(A) Except as otherwise provided in section (a)(3)(B), starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply a product represented as appropriate for use as a denaturant in ethanol intended for blending with CARBOB or California gasoline, if the denaturant has:

1. A benzene content exceeding 1.10 percent by volume; or

2. An olefins content exceeding 10.0 percent by volume; or

3. An aromatic hydrocarbon content exceeding 35.0 percent by volume.

(B) A person may sell, offer for sale, supply or offer for supply a product that is represented as only suitable for use as an ethanol denaturant in ethanol intended for blending with CARBOB or California gasoline if the denatured ethanol contains no more than a specified percentage of the denaturant that is less than 5.00 percent. In this case, the product must be prominently labeled as only lawful for use as a denaturant where the denatured ethanol contains no more than the specified percentage of the denaturant, and the seller, supplier or offeror must take reasonably prudent precautions to assure that the denaturant will not be used in concentrations greater than the specified percentage in ethanol intended for blending with CARBOB or California gasoline. If these conditions are met, the standards in section (a)(3)(A) for the denaturant will be adjusted by multiplying the stated values by (5.00 Bmax.%), where "max.%" is the maximum percentage by volume of denaturant specified for the denatured ethanol.

(b) Test Methods.

(1) In determining compliance with the denatured ethanol standards in section (a)(1)(A):

(A) The sulfur content of denatured ethanol shall be determined by ASTM D 5453-93, which is incorporated herein by reference.

(B) The aromatic hydrocarbon, benzene and olefins content of denatured ethanol shall be determined by sampling the denaturant and using the methods specified in section 2263 to determine the content of those compounds in the denaturant. The result will then be multiplied by 0.0500, except that where it is demonstrated that the denatured ethanol contains less than 5.00 percent denaturant, the result will be multiplied by the decimal fraction representing the percent denaturant.

(2) In determining compliance with the denaturant standards in section (a)(3), the aromatic hydrocarbon, benzene and olefins content of the denaturant shall be determined by the methods specified in section 2263 for determining the content of those compounds in gasoline.

(c) Documentation required for the transfer of denatured ethanol intended for use as a blend component in California gasoline.

(1)(A) Starting December 31, 2003, and except as provided in section (c)(1)(B), on each occasion that any person transfers custody or title of denatured ethanol intended for use as a blend component in California gasoline, the transferor shall provide the transferee a document that prominently states that the denatured ethanol complies with the standards for denatured ethanol intended for use as a blend component in California gasoline.

(B) Starting December 31, 2003, on each occasion that any person transfers custody or title of denatured ethanol that is intended to be added to CARBOB designated for blending with denatured ethanol exceeding any of the standards in section (a)(1)(A), the transferor shall provide the transferee a document that prominently identifies the maximum sulfur, benzene, olefin and aromatic hydrocarbon content of the denatured ethanol, and states that the denatured ethanol may only be lawfully added to CARBOB that is designated for blending with denatured ethanol having such properties.

(2) Starting December 31, 2003, any person who sells or supplies denatured ethanol intended for use as a blend component in California gasoline from the California facility at which it was imported or produced shall provide the purchaser or recipient a document that identifies:

(A) The name and address of the person selling or supplying the denatured ethanol, and identification of the person as the producer or importer of the denatured ethanol; and

(B) With respect to imported denatured ethanol, the name, location and operator of the facility(ies) at which the ethanol was produced and at which the denaturant was added to the ethanol. As an alternative, the document provided to the purchaser or recipient may identify the date and time the ethanol was supplied from its import or production facility, and state that the person selling or supplying the denatured ethanol from the California facility at which it was imported or produced maintains at the facility a list of the name, location, and operator of all of the facilit(ies) at which the ethanol was produced and at which the denaturant was added to the ethanol. In this case, the person shall for at least two years maintain such information, and records identifying the entities that produced the ethanol and added the denaturant in each batch of denatured ethanol imported to the facility; during that two year period, the person shall make the information and records, available to the Executive Officer within five days after a request for the material.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

2. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government

Code section 11343.4 (Register 2002, No. 52).

3. Amendment of subsections (a)(1), (a)(1)(A)2.-3., (a)(3)(A)1.-3. and (c)(2)(A)-(B) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

4. Amendment of table and table footnotes and subsections (a)(3)(B) and (b)(1)(B) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2262.9, 13** CA ADC § **2262.9**

13 CA ADC § **2262.9**
END OF DOCUMENT

C

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
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SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2263. Sampling Procedures and Test Methods.

(a) Sampling Procedures. In determining compliance with the standards set forth in this subarticle 2, an applicable sampling methodology set forth in 13 C.C.R. section 2296 shall be used.

(b) Test Methods.

(1) In determining compliance with the gasoline standards set forth in this subarticle 2, including those in the sections identified in Table 1, the test methods presented in Table 1 shall be used. All identified test methods are incorporated herein by reference.

Table 1

Section	*Gasoline Specification*	*Test Method*[a]
2262	Reid Vapor Pressure	ASTM D 323–58[b] or 13 C.C.R. Section 2297
2262	Sulfur Content	ASTM D 2622–94[c, d] or ASTM D 5453–93
2262	Benzene Content	ASTM D 5580–00[e]
2262	Olefin Content	ASTM D 1319–95a[f] (Through December 31, 2001) ASTM D 6550–00[g, h, i] (Starting January 1, 2002)
2262	Oxygen Content	ASTM D 4815–04
2262	T90 and T50	ASTM D 86–99a[g, i]
2262	Aromatic Hydrocarbon Content	ASTM D 5580–00[j]
2262.5(b)	Ethanol Content	ASTM D 4815–04
2262.6	MTBE Content	ASTM D 4815–04
2262.6(c)	Oxygen from oxygenates identified in section 2262.6(c)(4)	ASTM D 4815–04

[a] Do not report values below the limit of detection (LOD) specified in the test method. Where a test method does not specify a LOD, do not report values below the lower limit of the scope of the test method.

[b] Delete paragraph 4(b) concerning sampling.

[c] Make the following modifications to paragraph 9.1:

Low Level Sulfur Calibration Procedure

Reagents Thiophene, at least 99% purity 2-Methylthiophene, at least 98% purity Toluene, reagent grade 2,2,4-Trimethylpentane, reagent grade

Preparation of Stock Standard Weigh standard materials thiophene (° 0.7290 gm) and 2-methylthiophene (° 0.7031 gm) separately into a tared volumetric flask and record the individual mass to 0.1 mg. Add "mixed solvent" containing 25% toluene and 75% iso-octane (by volume) into the flask to a net weight of approximately 50 gm and record the weight. This "Stock Standard" contains approximately 10 mg/gm sulfur. The actual sulfer concentration can be calculated as follows:

Sulfur from thiophene (gm) = Weight of thiophene *32.06* purity/84.14

Sulfur from 2-methylthiophene (gm) = Weight of 2-methylthiophene *32.06* purity/98.17

Sulfur concentration of Stock Standard (gm/gm) = (sulfur from thiophene + sulfur from 2-methylthiophene)/net weight of the stock standard

Multiply the sulfur concentration by 1000 to convert the unit to mg/gm.

Preparation of Calibration Standards Pipet 2.5 ml of the Stock Standard to 250 ml flask and dilute with the "mixed solvent" to the mark. The "Diluted Standard" contains approximately 100 mg/kg sulfur. Prepare 5, 10, 20, 30, 50, 75 ppm calibration standards by pipetting 5, 10, 20, 30, 50, 75 ml of the Diluted Standard into a 100 ml flask, respectively, and diluting with the "mixed solvent" to the mark. The actual concentration of the calibration standard should be determined from the stock standard. The standards with concentration ranging from 5 to 100 ppm and the "mixed solvent" are to be used for calibrating the instrument.

[d] Replace ASTM D 2622-94 reproducibility values with the following:

Sulfur Content, ppm	Reproducibility
10 to 30	40.5% x Sulfur Content (ppm)
>30	19.2% x Sulfur Content (ppm)

[e] The reproducibility of benzene is as follows:

Reproducibility = 0.1409 ($X^{1.133}$), where X = vol %

[f] Add the following reproducibility statement for oxygenate-containing samples:

	Range	Reproducibility
Olefins	0.3 - 33	$0.819(X)^{0.6}$

X = Volume %

[g] Replace ASTM D6550-00 reproducibility equation with the following:

Reproducibility = 0.32 $X^{0.5}$ where X is between 0.3 and 25 mass % olefin

[h] The conversion from mass % olefin to volume % olefin is defined as follows: volume % olefin = 0.857 *

mass % olefin

[i] Replace the last sentence in ASTM D6550-00 section 1.1 with the following: The application range is from 0.3 to 25 mass % total olefins.

[j] The reproducibility of total aromatic hydrocarbon is as follows:

Reproducibility = 1.4 volume%

(c) Equivalent Test Methods. Whenever this section provides for the use of a specified test method, another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results with the specified method.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Repealer of designation of subsection (b)(1), amendment of Table 1 and repealer of subsections (b)(2)-(2)(C) filed 9-1-94; operative 9-1-94 (Register 94, No. 35).

3. Amendment of Table 1 filed 8-7-95; operative 8-7-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

4. Redesignation of first paragraph of subsection (b) as (b)(1), amendment of Table 1, new Table 1 footnote a and footnote relettering, repealer of former footnote b, and new footnotes c-g, filed 2-26-96; operative 2-26-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

5. Editorial correction of subsection (b)(1) - Table (Register 2000, No. 31).

6. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

7. Amendment filed 8-20-2001; operative 8-20-2001 pursuant to Government

Code section 11343.4 (Register 2001, No. 34).

8. Amendment of subsection (b)-Table 1 filed 8-29-2001; operative 9-28-2001 (Register 2001, No. 35).

9. Amendment filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

10. Amendment of subsection (b)(1) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

11. Amendment of table 1 filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2263, 13** CA ADC § **2263**

13 CA ADC § **2263**
END OF DOCUMENT

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This database is current through 12/26/08, Register 2008, No. 52

§ 2263.7. Multiple Notification Requirements.

Where a producer or importer is subject to multiple notification requirements pursuant to sections 2264(a)(2)(A), 2265.1 (applicable only to producers and importers that produce gasoline), 2265.5 (applicable only to producers and importers that produce gasoline), 2264.2(a)(2), 2264.2(b)(2), 2265(a)(2), 2266(c) or 2266.5(b), the producer or importer shall combine the notifications to the extent practicable.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

2. Amendment of Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

3. Amendment filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2263.**7, **13** CA ADC § **2263.**7

13 CA ADC § **2263.**7
END OF DOCUMENT

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§ 2264. Designated Alternative Limits.

(a) Assignment of a designated alternative limit.

(1) A producer or importer that has elected to be subject to an averaging limit specified in section 2262 may assign a designated alternative limit to a final blend of California gasoline produced or imported by the producer or importer by satisfying the notification requirements in this section (a). In no case shall a designated alternative limit be less than the sulfur, benzene, olefin or aromatic hydrocarbon content, or T90 or T50, of the final blend shown by the sample and test conducted pursuant to section 2270, or section 2266.5(a), as applicable. If a producer or importer intends to assign designated alternative limits for more than one gasoline specification to a given quantity of gasoline, the party shall identify the same final blend for all designated alternative limits for the gasoline.

(2)(A) The producer or importer shall notify the executive officer of the estimated volume (in gallons), the designated alternative limit, the blend identity, and the location of each final blend receiving a designated alternative limit. This notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend. A producer or importer may revise the reported estimated volume, as long as notification of the revised volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production or import facility. If notification of the revised volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume.

(B) For each final blend receiving a designated alternative limit exceeding an applicable averaging limit in section 2262, the producer or importer shall notify the executive officer of the date and time of the start of physical transfer from the production or import facility, within 24 hours after the start of such physical transfer. For each final blend receiving a designated alternative limit less than an applicable averaging limit in section 2262, the producer or importer shall notify the executive officer of the date and time of the completion of physical transfer from the production or import facility, within 24 hours after the completion of such physical transfer.

(3) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(3) have been met, timely notification shall be deemed to have occurred.

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section (a)(2) and (c) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (a)(2) and (c). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) Whenever the final blend of a producer or importer includes volumes of gasoline the party has produced or imported and volumes the party has neither produced nor imported, the producer's or importer's designated alternative limit shall be assigned and applied only to the volume of gasoline the party has produced or imported. In such a case, the producer or importer shall report to the executive officer in accordance with section (a) both the volume of gasoline produced and imported by the party, and the total volume of the final blend. The party shall also additionally report the sulfur content, benzene content, olefin content, aromatic hydrocarbon content, T90, and T50, as applicable, of the portion of the final blend neither produced nor imported by the party, determined as set forth in section 2270(b), or section 2266.5(a)(2), as applicable.

(b) Additional prohibitions regarding gasoline to which a designated alternative limit has been assigned.

(1) No producer or importer shall sell, offer for sale, or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit exceeding an applicable averaging limit in section 2262, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to section (a).

(2) No producer or importer shall sell, offer for sale or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit less than an applicable averaging limit in section 2262, where the total volume of the final blend sold, offered for sale, or supplied is less than the volume reported to the executive officer pursuant to section (a).

(c) Offsetting exceedances of an applicable averaging limit.

(1) With respect to each property for which a producer or importer has elected to be subject to the averaging limit in section 2262, within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for the property exceeding the applicable averaging limit in section 2262, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below the applicable averaging limit in section 2262 to fully offset the extent to which the gasoline exceeded the applicable averaging limit in section 2262. In the case of benzene, olefins, or aromatic hydrocarbons, the total volume of benzene, olefins, or aromatic hydrocarbons in excess of the averaging limit must be offset within the specified time period; the total mass of sulfur and the degree gallons of T50 and T90 in excess of the averaging limit must be similarly offset.

For example, within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for olefin exceeding 4.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 4.0 percent by volume to offset the volume of the olefins in excess of a limit of 4.0 percent by volume.

(2) A producer or importer may enter into a protocol with the Executive Officer under which the producer or importer is allowed to have up to six separate averaging banks at a single production or import facility, applicable to operationally distinct products (e.g. different grades of gasoline or oxygenated and nonoxygenated). The offset requirements will apply independently for each separate averaging bank. Once averaging is selected for a particular product, the compliance scheme for that product may only be changed if the change meets the applicable criteria and conditions in sections 2264.2 and 2265(c) with respect to that product. The protocol shall specify how the requirements in section (a)(2) and (c)(1) will be applied to the producer's or importer's particular operations and the separate averaging banks. In order to enter into the protocol, the Executive Officer must determine that application of the requirements under the protocol will not be less stringent or enforceable

than application of the express terms of sections (a)(2) and (c). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(d) Designated alternative limits for PM alternative gasoline formulations. The producer or importer of a final blend of California gasoline that is subject to the PM averaging compliance option for one or more properties may assign a designated alternative limit to the final blend by satisfying the notification requirements of section 2264(a). The producer or importer of such a final blend shall be subject to all of the provisions of this section 2264, except that, with respect to that final blend, the PM averaging limit (if any) for for each property subject to the PM averaging compliance option shall replace any reference in this section 2264 to the averaging limit specified in section 2262.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District , 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District , 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (a)(1)-(5), (b)(1)-(2), and (h) and new subsection (i) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment of subsections (a)(1) and (a)(4)-(5) and new subsection (j) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

4. Editorial correction of subsection (j) (Register 97, No. 17).

5. Change without regulatory effect providing correct placement of subsection (j) filed 4-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 17).

6. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

7. Amendment of subsection (a)(4), redesignation and amendment of former subsection (c) as new subsection (c)(1) and new subsection (c)(2) filed 8-20-

2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

13 CCR § **2264, 13** CA ADC § **2264**

13 CA ADC § **2264**
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C

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2264.2. Election of Applicable Limit for Gasoline Supplied From a Production or Import Facility.

(a) Election of the averaging compliance option.

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect pursuant to this section 2264.2(a) to have the final blend subject to the averaging compliance option for one or more of the following properties: sulfur, benzene, olefins, aromatic hydrocarbons, T90 or T50. Once a producer or importer has made such an election for a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the averaging compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(b) to have a final blend at the facility subject to the flat limit compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(2) In order to elect to have a final blend subject to the averaging option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the information identified in section 2264(a)(2)(A), within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(3) A producer or importer may not elect to sell, offer, or supply from its production facility or import facility a final blend of California gasoline subject to the averaging compliance option in section 2264 if the producer or importer is subject to any outstanding requirements to provide PM emissions offsets pursuant to section 2265.1(c) or emission reductions pursuant to section 2265.5 at the same production facility or import facility.

(b) Election of flat limit compliance option.

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect to have the final blend subject to the flat limit compliance option in accordance with this section 2264.2(b). No such election may be made if there are outstanding requirements to provide offsets for the gasoline property at the facility pursuant to section 2264(c).

(2) In order to elect to have a final blend subject to the flat limit compliance option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the blend identity and the location of the final blend, within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(3) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the flat limit compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(a) to have a final blend at the facility subject to the averaging compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2264.2(d) to sell or supply a final blend at the facility as a PM emissions offsetting formulation (applicable only to producers and importers that produce gasoline), or (D) elects in accordance with section 2265.5 to have a final blend at the facility subject

to a PM alternate emissions reduction plan (applicable only to producers and importers that produce gasoline), or (E) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(4) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property of a final blend at a production or import facility, the producer or importer may not use any previously assigned designated alternative limit for that property to provide offsets pursuant to section 2264(c) for any final blend sold or supplied from the production or import facility subsequently to the election.

(5) A producer or importer may not elect to sell, offer, or supply from its production facility or import facility a final blend of California gasoline subject to the flat limit compliance option if the producer or importer is subject to any outstanding requirements to provide PM emissions offsets pursuant to section 2265.1(c) or emission reductions pursuant to section 2265.5 at the same production facility or import facility.

(c) Inapplicability to elections for PM alternative gasoline formulations.

Any election for a final blend to be subject to a PM averaging compliance option or a PM flat limit compliance option shall be made in accordance with section 2265 rather than this section 2264.2.

(d) Election of the PM emissions offsetting compliance option.

(1) Applicability. A producer or importer that produces gasoline and is selling, offering, or supplying a final blend of gasoline from its production facility or import facility may elect pursuant to this section 2264.2(d) to have the final blend subject to the PM emissions offsetting compliance option when all of the following conditions are satisfied:

(A) With regard to a batch of gasoline that does not meet the criteria for approval in the applicable Predictive Model Procedures, immediately prior to producing that batch, the producer or importer has reported its gasoline as a PM alternative gasoline formulation pursuant to section 2265(a),

(B) The actual sulfur content in the PM alternative gasoline formulation exceeds the PM alternative specification,

(C) But for the elevated sulfur content, the PM alternative specifications would have met the criteria for approval in the applicable Predictive Model Procedures,

(D) The gasoline reported as a PM alternative gasoline formulation has a percent change in emissions value either for oxides of nitrogen, total ozone forming potential, or potency-weighted toxics that results in a final blend deficit, and

(E) The producer or importer is not subject to any outstanding requirements to provide offsets at the same production facility or import facility pursuant to section 2264(c).

(2) Once a producer or importer has made such an election for a final blend of gasoline, all final blends subsequently sold or supplied from the production facility or import facility, whether associated with a final blend deficit or a final blend credit, shall be subject to the PM emissions offsetting compliance option until the producer or importer either (A) elects in accordance with section 2264.2(a) to have a final blend at the facility subject to the averaging compliance option, or (B) elects in accordance with section 2264.2(b) to have a final blend at the facility subject to the flat limit compliance option for all fuel properties, or (C) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (D) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(3) In order to elect to have a final blend subject to the PM emissions offsetting compliance option for a final blend, the producer or importer shall notify the Executive Officer of such election and of the information identified in section 2265.1(a)(2)(A), within the time limits set forth in section 2265.1(a)(2)(A) and subject to sec-

tion 2265.1(a)(3) and (4).

(4) Once a producer or importer has made an election under this section 2264.2(d) with respect to the PM emissions offsetting compliance option, the producer or importer may not use any previously assigned designated alternative limit for any fuel property to provide offsets pursuant to section 2264(c) for any final blend sold or supplied from the production facility or import facility subsequent to the election.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

2. Amendment of subsections (b)(1) and (b)(4) and amendment of Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

3. New subsection (a)(3), amendment of subsection (b)(3) and new subsections (b)(5) and (d)-(d)(4) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2264.2**, **13** CA ADC § **2264.2**

13 CA ADC § **2264.2**
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This database is current through 12/26/08, Register 2008, No. 52

§ 2265. Gasoline Subject to PM Alternative Specifications Based on the California Predictive Model.

(a) Election to sell or supply a final blend as a PM alternative gasoline formulation.

(1) In order to sell or supply from its production facility or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to PM alternative specifications, a producer or importer shall satisfy the requirements of this section (a).

(2) The producer or importer shall evaluate the candidate PM alternative specifications for gasoline subject to the CaRFG Phase 2 standards in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995 and last amended December 11, 1998, which is incorporated herein by reference. The producer or importer shall evaluate the candidate PM alternative specifications for gasoline subject to the CaRFG Phase 3 standards in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004, which is incorporated herein by reference. Starting December 31, 2009, the producer or importer shall evaluate the candidate PM alternative specifications for gasoline subject to the CaRFG Phase 3 standards in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004 and last amended August 7, 2008, which is incorporated herein by reference. The three documents incorporated by reference in this section 2265(a)(2) are collectively referred to as the "Predictive Model Procedures." If the PM alternative specifications meet the criteria for approval in the applicable Predictive Model Procedures, the producer shall notify the executive officer of: (A) The identity and location of the final blend; (B) the PM alternative specifications that will apply to the final blend, including for each specification whether it applies as a PM flat limit or a PM averaging limit; and (C) the numerical values for percent change in emissions for oxides of nitrogen, total ozone forming potential, and potency-weighted toxic air contaminants as determined in accordance with the applicable Predictive Model Procedures. The notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(3) Once a producer or importer has notified the executive officer pursuant to this section 2265(a) that a final blend of California gasoline is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of California gasoline subsequently sold or supplied from that production or import facility shall be subject to the same PM alternative specifications until the producer or importer either (A) designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications, (B) elects in accordance with section 2264.2 to have a final blend at that facility subject to flat limit compliance options and/or averaging compliance options, or (C) elects in accordance with section 2266(c) to sell a final blend at that facility as an alternative gasoline formulation, or (D) elects in accordance with section 2264.2(d) to sell or supply a final blend at that facility as a PM emissions offsetting formulation (applicable only to producers and importers

that produce gasoline), or (E) elects in accordance with section 2265.5 to have a final blend at that facility subject to a PM alternative emissions reduction plan (applicable only to producers and importers that produce gasoline).

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section (a)(2) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (a)(2). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in section (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(5) have been met, timely notification shall be deemed to have occurred.

(b) Prohibited activities regarding PM alternative gasoline formulations.

(1) No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which is reported pursuant to section 2265(a) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:

(A) The identified PM alternative specifications do not meet the criteria for approval in the applicable Predictive Model Procedures; or

(B) The producer was prohibited by section 2265(c) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or

(C) The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications (see section 2262.4(b) in the case of specifications for Reid vapor pressure); or

(D) With respect to any property for which the producer or importer has identified a PM averaging limit.

1. the gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a); or

2. a designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a), and either of the following occur:

a. The gasoline exceeds the designated alternative limit for the property, or

b. Where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable provisions in section 2264(c).

(2) Where a producer or importer has elected to sell or supply a final blend of California gasoline as a PM alternative gasoline formulation in accordance with this section 2265, the final blend shall not be subject to section 2262.3(b) and (c), section 2262.4(b), and section 2262.5(c).

(c) Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations.

(1) A producer or importer may not elect to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to section 2264(c).

(2) Once a producer or importer has elected to sell or

supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more properties, the producer or importer may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to section 2264(c). However, this section (c)(2) shall not preclude a producer or importer under the circumstances described above from electing another PM alternative gasoline formulation where:

(A) the only changes are that either:

1. PM flat limits for one or more properties are changed to PM averaging limits, or

2. a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit, and

(B) there are no changes to the PM alternative specifications for the remaining properties, and

(C) the new PM alternative formulation meets the criteria for approval in the applicable Predictive Model Procedures.

(3) Once a producer or importer has elected to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation, the producer or importer may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to section 2264(c) for any final blend sold or supplied from the production or import facility subsequent to the election.

(4) A producer or importer may not elect to sell or supply from its production facility or import facility a final blend of California gasoline as a PM alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets pursuant to section 2265.1(c) or emission reductions pursuant to section 2265.5 at the same production facility or import facility.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

2. Amendment of subsection (c)(2) and new subsections (c)(A)-(C) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

3. Amendment of subsection (a)(2) filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

4. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment of subsection (a)(2) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

6. Amendment of subsections (b) and (b)(1)(C) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

7. Amendment of subsection (a)(2) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

8. Amendment of subsections (a)(2) and (a)(3) and new subsection (c)(4) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

9. Editorial correction of subsection (a)(2) (Register 2008, No. 38).

13 CCR § **2265, 13** CA ADC § **2265**

13 CA ADC § **2265**
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This database is current through 12/26/08, Register 2008, No. 52

§ 2265.1. Offsetting Emissions Associated with Higher Sulfur Levels.

(a) Assignment of designated emissions offsetting limits and percent change in emissions values for batches of gasoline for which the emissions associated with higher sulfur levels are being offset.

(1) A producer or an importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option must assign a designated emissions offsetting limit for the sulfur, benzene, olefin, aromatic hydrocarbon, and oxygen (maximum and minimum) contents, and for the T90, T50, and RVP (during the RVP regulatory control period in section 2262.4(b)(2)) for each final blend of California gasoline produced by the producer or the importer and satisfying the notification requirements in this section (a). In no case shall a designated emissions offsetting limit be less than the sulfur, benzene, olefin, or aromatic hydrocarbon contents, T90, T50, or RVP, or less than the maximum oxygen content or greater than the minimum oxygen content of the final blend shown by the sample and test conducted pursuant to section 2270. For each final blend, the producer or the importer that produces gasoline shall also assign the percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, for oxides of nitrogen, total ozone forming potential, and potency-weighted toxics.

(2) Notification of final blends associated with a final blend deficit

(A) Except as otherwise provided, for each final blend that has a percent change in emissions value greater than 0.04 percent for oxides of nitrogen, total ozone forming potential, or potency-weighted toxics (referred to as the deficit final blend), the producer or the importer that produces gasoline shall notify the executive officer in writing, for receipt by the executive officer before the start of physical transfer of the gasoline from the production facility or the import facility, and in no case less than 12 hours before the producer or the importer that produces gasoline either completes physical transfer or commingles the final blend, with the following information:

1. Justification for using the PM emissions offsetting compliance option, including but not limited to, an explanation for the elevated sulfur level in the final blend and why the batch will not be re-blended or a different predictive model formulation will not be developed,

2. The targeted PM alternative specifications that the producer or the importer that produces gasoline was intending to produce and which would have resulted in a passing PM formulation but for the actual sulfur content of the blend,

3. The percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, for oxides of nitrogen, total ozone forming potential, and potency-weighted toxics for the targeted PM alternative specifications,

4. The company name, address, phone number, and contact information,

5. The production facility or import facility name, batch name, number, or other identification, the blend identity, grade of California gasoline, the location (with sufficient specificity to allow ARB inspectors to locate and sample the gasoline; this shall include, but is not limited to, the name of the facility, address, and identification of the tank), and other information that uniquely identifies the California gasoline subject to the PM emissions offsetting compliance option,

6. The estimated volume (in barrels),

7. The designated emissions offsetting limit for RVP, sulfur content, benzene content, aromatics content, olefins content, T50, T90, and oxygen content for the final blend,

8. The percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, for oxides of nitrogen, total ozone forming potential, and potency-weighted toxics for the final blend,

9. A statement, signed by a legal representative for the producer or the importer that produces gasoline that all information submitted with the notification is true and correct, and

10. Within 24 hours after the start of the physical transfer, the date and time of the start of physical transfer from the production facility or import facility.

(B) A producer or importer that produces gasoline may report an actual volume that is less than the estimated volume, as long as notification of the actual volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production facility or import facility. If notification of the actual volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume. If the actual volume is larger than initially estimated, the producer or the importer that produces gasoline shall revise the reported estimated volume by notifying the executive officer no later than 24 hours after completion of the physical transfer of the final blend from the production facility or import facility.

(3) Notification of final blends associated with a final blend credit.

(A) For each final blend associated with a final blend credit, the producer or the importer that produces gasoline shall notify the executive officer in writing for receipt by the executive officer before the start of physical transfer of the gasoline from the production facility or the import facility, and in no case less than 12 hours before the producer or the importer that produces gasoline either completes physical transfer or commingles the final blend, with the following information:

(1) The company name, address, phone number, and contact information,

(2) The production facility or the import facility name, batch name, number, or other identification, the blend identity, grade of California gasoline, the location (with sufficient specificity to allow ARB inspectors to locate and sample the gasoline; this shall include, but is not limited to, the name of the facility, address, and identification of the tank), and other information that uniquely identifies the California gasoline associated with a final blend credit,

(3) The estimated volume (in barrels),

(4) The designated emissions offsetting limits for RVP, sulfur content, benzene content, aromatics content, olefins content, T50, T90, and oxygen content for the final blend,

(5) The percent change in emissions values, as they pertain to the PM emissions offsetting compliance option, for oxides of nitrogen, total ozone forming potential, and potency-weighted toxics for the final blend,

(6) A statement, signed by a legal representative for the producer or the importer that produces gasoline that all information submitted with the notification is true and correct, and

(7) Within 24 hours after the completion of the physical transfer, the date and time of the completion of physical transfer from the production facility or the import facility.

(B) A producer or importer that produces gasoline may report an actual volume that is more than the estimated volume, as long as notification of the actual volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production facility or the import facility. If notification of the actual volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume. If

the actual volume is less than initially estimated, the producer or the importer that produces gasoline shall revise the reported estimated volume by notifying the executive officer no later than 24 hours after completion of the physical transfer of the final blend from the production facility or import facility.

(4) If, through no intentional or negligent conduct, a producer or importer that produces gasoline cannot report within the time period specified in (a)(2) or (a)(3) above, the producer or importer that produces gasoline may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(4) have been met, timely notification shall be deemed to have occurred.

(5) The executive officer may enter into a written protocol with any individual producer or importer that produces gasoline for the purposes of specifying how the requirements in sections (a)(2) and (c) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of sections (a)(2) and (c). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(b) Additional prohibitions regarding gasoline with designated emissions offsetting limits and final blend credits or deficits.

(1) No producer or importer that produces gasoline shall sell, offer for sale, or supply California gasoline with a final blend deficit, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to section (a).

(2) No producer or importer that produces gasoline shall sell, offer for sale or supply California gasoline with a final blend credit, where the total volume of the final blend sold, offered for sale, or supplied is less than the volume reported to the executive officer pursuant to section (a).

(3) Final blend credits shall not include offsets or other reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from California gasoline not produced or imported in the same air basin as the gasoline with a final blend deficit, or that are claimed under any alternative emission reduction plan.

(c) Offsetting a final blend deficit. With respect to each final blend for which a producer or importer that produces gasoline has elected to be subject to the PM emissions offsetting compliance option, within 90 days after the start of physical transfer from a production facility or import facility of any final blend of California gasoline with a final blend deficit, the producer or importer shall complete physical transfer from the same production facility or import facility of California gasoline with a final blend credit in sufficient quantity and for the same emissions parameter (oxides of nitrogen, total ozone forming potential, or potency-weighted toxics) to fully offset the final blend deficit.

For example, within 90 days after the start of physical transfer from a production facility or import facility of 100 barrels of any final blend of California gasoline to which a producer or importer that produces gasoline has assigned a designated emissions offsetting limit which results in a 0.10 percent increase in oxides of nitrogen, the producer or importer that produces gasoline shall complete physical transfer from the same production facility or import facility of California gasoline in sufficient quantity and quality to offset the 6 deficit points for oxides of nitrogen. The final blend deficit is calculated as:

Final Blend Deficit = (0.10 - 0.04) x 100 = 6

(d) Automatic termination of the producer's or importer's use of the PM emissions offsetting compliance option.

When a producer or importer that produces gasoline has

fully offset the final blend deficit, the producer's or importer's use of the PM emissions offsetting compliance option automatically terminates. Prior to selling, supplying, or offering California gasoline after the termination, the producer or importer that produces gasoline must elect to use the flat limits, designated alternative limits, PM alternative specifications, or TC limits for its next final blend. The producer or importer that produces gasoline may not use any remaining final blend credits to provide offsets pursuant to section 2265.1(c) for any final blend sold, offered, or supplied from the production facility or import facility subsequent to the election.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n.v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2265.**1, **13** CA ADC § **2265.**1

13 CA ADC § **2265.**1
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§ 2265.5. Alternative Emission Reduction Plan (AERP).

(a) Applicability. This section shall apply to a producer or importer that produces gasoline that elects to use an AERP or to a third party that elects to use a third party AERP when all of the following conditions are satisfied:

(1) In the case of a third party AERP, the third party has a contract or agreement to offset, in whole or in part, the elevated emissions associated with permeation from the producer's or importer's gasoline.

(2) With regard to a batch of gasoline that does not meet the criteria for approval in the applicable Predictive Model Procedures, immediately prior to producing or importing that batch, the producer or importer has reported its gasoline as a PM alternative gasoline formulation pursuant to section 2265(a),

(3) But for the elevated emissions associated with permeation, the PM alternative specifications would have met the criteria for approval in the applicable Predictive Model Procedures,

(4) All measures to correct the emissions associated with permeation would result in an economic hardship to the producer or importer and the benefit in allowing the producer or importer to use an alternative emission reduction plan is not outweighed by the public interest in enforcing the applicable Predictive Model Procedures,

(5) The producer or importer is not subject to any outstanding requirements to provide offsets at the same production facility or import facility pursuant to section 2264(c), and

(6) All AERPs and third party AERPs sunset on December 31, 2011, unless the producer or importer, or the third party in the case of a third party AERP, requests in writing, and the Executive Officer approves in advance, an extension of the AERP or third party AERP for up to one additional year.

(b) Requirements.

(1) Where the producer or importer that produces gasoline has reported its final blend of gasoline as a flat limit formulation pursuant to section 2264.2(b), averaging limit formulation pursuant to section 2264.2(a), PM alternative gasoline formulation pursuant to section 2265(a), or test-certified alternative gasoline formulation pursuant to section 2266(c), compliance with a valid AERP or third party AERP shall constitute compliance with the requirements of section 2262.3(b), 2262.3(c), 2265, or 2266, respectively.

(2) An AERP or third party AERP application demonstrating compliance with this subsection shall contain at a minimum all of the following information:

(A) The company name, address, phone number, and contact information,

(B) The producer's or importer's name, batch name, number or other identification, grade of California gasoline, and other information that uniquely identify the California gasoline subject to the AERP or third party AERP,

(C) An explanation describing why the producer or importer cannot eliminate the emissions associated with permeation by reformulation or reprocessing its gasoline,

(D) The total emissions of oxides of nitrogen (NOx), total ozone forming potential, and potency-weighted

toxics that would be associated with the use of California gasoline were the producer or importer to eliminate the emissions associated with permeation from its gasoline,

(E) Documentation, calculations, emissions test data, or other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the producer's or importer's gasoline,

(F) The emission reduction strategy(ies) for the AERP or third party AERP and the date(s) that the offsets will accrue and expire for each strategy,

(G) The producer's or importer's market share for the fuel produced under the AERP or third party AERP,

(H) Demonstration that the emission reduction strategy(ies) in the AERP or third party AERP will result in equivalent or better emission benefits for NOx, total ozone forming potential, and potency-weighted toxics than would be achieved through elimination of emissions associated with permeation from the gasoline for the same affected region and for the period the AERP or third party AERP will be in effect, during and outside the RVP regulatory control periods in section 2262.4(b)(2),

(I) Demonstration that the emission reductions are achieved in the general region where the fuel is sold,

(J) The proposed recordkeeping, reporting, monitoring, and testing procedures that the producer or importer plans to use to demonstrate continued compliance with the AERP or third party AERP and achievement of each increment of progress toward compliance,

(K) Adequate enforcement provisions,

(L)The projected volume of each final blend of California gasoline subject to the AERP or third party AERP during the period the AERP or third party AERP will be in effect,

(M) The period that the AERP or third party AERP will be in effect,

(N) A compliance plan that includes increments of progress (specific events and dates) that describe periodic, measurable steps toward compliance during the proposed period of the AERP or third party AERP,

(O) The date by which the producer or importer plans to discontinue using the AERP or third party AERP,

(P) A statement, signed by a legal representative for the producer or importer that all information submitted with the AERP or third party AERP application is true and correct,

(Q) The producer's or importer's agreement to be bound by the terms of the AERP or third party AERP, and

(R) In the case of a third party AERP, all of the above including all of the following:

1. The third party's name, address, phone number, and contact information,

2. Documentation of the contract or agreement between the third party and the producer or importer,

3. Documentation of the amount of NOx, total ozone forming potential, and potency-weighted toxics (reported as tons/day and percentage of the total tons/day) from the producer's or importer's gasoline that will be offset by the third party AERP,

4. A list of all AERPs and third party AERPs that currently apply to the producer or importer,

5. A statement, signed by a legal representative for the third party that all information submitted with the third party AERP application is true and correct, and

6. The third party's agreement to be bound by the terms of the third party AERP.

(3) Emission reduction calculations demonstrating equivalence between the AERP or third party AERP and elimination of the emissions associated with permeation from the gasoline shall only include NOx, total ozone forming potential, and potency-weighted toxics emissions from California gasoline sold or supplied in Cali-

fornia.

(4) A producer or importer wishing to participate in an AERP may include one or more production facilities or import facilities, but the producer or importer shall only include such facilities that the producer or importer owns or operates under their direct control. A third party wishing to participate in a third party AERP may include one or more production facilities or import facilities, but the third party shall only include such facilities with which the third party has a contract or agreement to offset emissions associated with permeation.

(5) The emission reduction associated with the AERP or third party AERP must be from combustion related sources or gasoline related sources.

(6) AERPs and third party AERPs may include, but are not limited to:

(A) Vehicle scrappage,

(B) Offsetting emissions with lower emitting diesel fuel batches,

(C) Incentive grants for cleaner-than-required engines, equipment and other sources of pollution providing early or extra emission reductions.

(7) Emission reductions included in an AERP or third party AERP shall not include reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from equipment not located within the region associated with the AERP or third party AERP, or that are claimed under section 2265.1, or that are claimed under another program, such as the Voluntary Accelerated Vehicle Retirement or Carl Moyer program, or the result of standard business practices that the producer or importer would have done without the AERP or third party AERP.

(8) The producer or importer subject to an approved AERP or third party AERP shall maintain all records required to verify compliance with the provisions of the AERP or third party AERP in a manner and form specified by the Executive Officer in the approved AERP or third party AERP. Required records may include, but are not limited to, volume of California gasoline sold, offered, or supplied to which the AERP or third party AERP applies, and/or emissions test results. Such records shall be retained for a period of not less than five (5) years and shall be submitted to the Executive Officer within 20 days in the manner specified in the approved AERP or third party AERP and upon request by the Executive Officer.

(9) Prior to selling, offering, or supplying a batch of California gasoline with emissions associated with permeation, the producer or importer shall first have established sufficient offsets for the applicable emissions associated with permeation. With the exception of offsets from vehicle scrappage and incentive grants for cleaner-than-required engines, equipment and other sources of pollution, offsets shall expire at midnight on the day they accrued.

(c) Application Process.

(1) Applications for an AERP or third party AERP shall be submitted in writing to the Executive Officer for evaluation.

(2) The application shall be accompanied by a fee of $6,700.00 to cover the costs of processing the AERP or third party AERP application. If the applicant withdraws the application before the 30-day first comment period, $4,100.00 of the fee shall be refunded.

(3) The Executive Officer shall make available for public review all documents pertaining to an AERP or third party AERP application.

(4) The Executive Officer will send a notice to subscribers of the Fuels listserv that a person has requested the Executive Officer consider a request for an AERP or third party AERP. The Executive Officer shall also provide a copy of all such documents to each person who has requested copies of the documents. Collectively, those persons on the Fuels listserv and those persons who have requested copies of the documents shall be treated as interested parties.

(5) After an AERP or third party AERP application has

been received and deemed complete, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the AERP or third party AERP application. Any public comment addressing whether the Executive Officer should approve or disapprove the AERP or third party AERP application shall be based on the contents and merits of the application. No comment received by the Executive Officer after the 30-day period will be considered. The Executive Officer shall send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of the following:

(A) The identity of the applicant producer(s) or importer(s);

(B) The start and end dates for the 30-day comment period;

(C) The address of the AERP internet site where the application is posted; and.

(D) Where and how to submit comments.

The Executive Officer shall post on the AERP internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, notification of public comments received during the 30-day comment period.

(6) The Executive Officer may hold a public hearing to accept public comments or decide the merits of the application.

(7) Final Action.

After the public comment period ends, the Executive Officer may take final action to either approve or deny the AERP or third party AERP application. The Executive Officer shall notify the applicant, post on the ARB internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of the final action.

(8) Notification to the Executive Officer of Changes to information in the AERP or third party AERP application. The applicant shall notify the Executive Officer in writing within 30 days upon learning of any information that would alter any information provided in the AERP or third party AERP application.

(d) Revocation or Modification of an Approved AERP or third party AERP.

(1) With 30-days written notice to the producer or importer, or in the case of a third party AERP, the third party, the Executive Officer may revoke or modify, as needed, an approved AERP or third party AERP in any of the following situations:

(A) There has been more than one violation of the approved AERP or third party AERP,

(B) The Executive Officer has reason to believe that an approved AERP or third party AERP has been granted that no longer meets the criteria or requirements for an AERP or third party AERP,

(C) The producer or importer, or in the case of a third party AERP the third party, demonstrates that it can no longer comply with the requirements of the approved AERP or third party AERP in its current form,

(D) The producer or importer, or in the case of a third party AERP the third party, demonstrates to the satisfaction of the Executive Officer that 1. the continuation of the AERP or third party AERP will result in economic hardship to the producer or importer, or in the case of a third party AERP, the third party, 2. the producer or importer, or in the case of a third party AERP the third party, submits a substitute plan in accordance with section 2265.5(c) to offset any emissions not otherwise offset by the AERP or third party AERP, and 3. the Executive Officer approves the substitute plan, or

(E) The producer's or importer's facility modifications and/or other means of eliminating emissions associated with permeation from its gasoline have been completed.

(2) The Executive Officer shall notify the applicant, post on the AERP internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of a revocation or

modification of an approved AERP or third party AERP.

(3) Any violations incurred pursuant to subsection (e) shall not be cancelled or in any way affected by the subsequent cancellation or modification of an AERP or third party AERP.

(e) Additional prohibitions.

(1) No person may sell, offer, or supply California gasoline that creates emissions associated with permeation unless the producer or importer, or in the case of a third party AERP, the third party has first been notified in writing by the Executive Officer that the AERP or third party AERP application has been approved.

(2) Failure to meet any requirement of this section or any condition of an approved AERP or third party AERP shall constitute a single, separate violation of this article for each day until such requirement or condition is satisfied.

(3) False reporting of any information contained in an AERP or third party AERP application, or any supporting documentation or amendments thereto, shall constitute a single, separate violation of the requirements of this article for each day that the approved AERP or third party AERP is in effect.

(4) Any net exceedance at any given time, taking into consideration the amount of offsets and the gasoline produced under the AERP or third party AERP, of NOx, total ozone forming potential, or potency-weighted toxics during the period the AERP or third party AERP is in effect shall constitute a single, separate violation of the requirements of this article for each day the California gasoline subject to the AERP or third party AERP is sold, supplied, or offered in California.

(5) Any of the following actions shall each constitute a single, separate violation of the requirements of this article for each day after the applicable deadline until the requirement or condition is satisfied:

(A) Failure to report data or failure to report data accurately in writing to the Executive Officer when required by this section or the approved AERP or third party AERP;

(B) False reporting of any information submitted to the Executive Officer for determining compliance with the AERP or third party AERP;

(C) Failure to completely offset emissions, pursuant to any offset reconciliation requirements in the AERP or third party AERP, during the period the AERP or third party AERP is in effect;

(D) Sale, supply, or offer of volumes of California gasoline which purportedly complies with the AERP or third party AERP in excess of the approved AERP or third party AERP.

(6) Offsets shall not include offsets or other reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from California gasoline not produced in the same air basin as the gasoline associated with the AERP or third party AERP, or that are claimed under section 2265.1.

(f) A cause of action against the producer, importer, or third party under this section shall be deemed to accrue on the date(s) when the records establishing a violation of the AERP or third party AERP are received by the Executive Officer.

(g) Transferability. Rights to use, or protection under, the AERP or third party AERP are nontransferable, unless such transfer is approved in writing by the Executive Officer.

(h) Notification of final blends associated with an AERP or third party AERP

(1) Except as otherwise provided, for each final blend, the producer or importer shall notify the Executive Officer in writing, for receipt by the Executive Officer before the start of physical transfer of the gasoline from the production facility or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend, with the following information:

(A) The company name, address, phone number, and contact information,

(B) The production facility or import facility name, batch name, number, or other identification, the blend identity, grade of California gasoline, the location (with sufficient specificity to allow ARB inspectors to locate and sample the gasoline; this shall include, but is not limited to, the name of the facility, address, and identification of the tank), and other information that uniquely identifies the California gasoline subject to the AERP or third party AERP,

(C) The estimated volume (in barrels),

(D) The identity of the AERP or third party AERP, which was approved by the Executive Officer and the NOx, total ozone forming potential, and potency-weighted toxics emission limits stated in that plan,

(E) The PM alternative specifications for RVP, sulfur content, benzene content, aromatics content, olefins content, T50, T90, and oxygen content,

(F) Documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the final blend of California gasoline to which the AERP or third party AERP applies,

(G) A statement, signed by a legal representative for the producer or importer that all information submitted with the notification is true and correct, and

(H) Within 24 hours after the start of the physical transfer, the date and time of the start of physical transfer from the production facility or import facility.

(2) A producer or importer may report an actual volume that is less than the estimated volume, as long as notification of the actual volume is received by the Executive Officer no later than 48 hours after completion of the physical transfer of the final blend from the production facility or import facility. If notification of the actual volume is not timely received by the Executive Officer, the reported estimated volume shall be deemed the reported actual volume. If the actual volume is larger than initially estimated, the producer or importer shall revise the reported estimated volume by notifying the Executive Officer no later than 24 hours after completion of the physical transfer of the final blend from the production facility or import facility.

(i) Notification of permeation offsets

(1) Vehicle scrappage. The producer or importer shall notify the Executive Officer in writing as provided in the AERP or third party AERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the vehicle scrappage and the date(s) the offsets accrued.

(2) Fuels. Except as otherwise provided, the producer or importer shall notify the Executive Officer in writing as provided in the AERP or third party AERP, for receipt by the Executive Officer before the start of physical transfer of the gasoline from the production facility or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend, with the information in subsection (h)(1) as they relate to other batches of California gasoline or diesel fuel used to offset the emissions associated with permeation.

(3) Incentive grants. The producer or importer shall notify the Executive Officer in writing as provided in the AERP or third party AERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone forming potential, and potency-weighted toxics associated with the incentive grants for cleaner-than-required engines, equipment and other sources of pollution providing early or extra emission reductions and the date(s) the offsets accrued.

(4) Other reduction strategies. The producer or importer shall notify the Executive Officer in writing as provided in the AERP or third party AERP with all documentation, calculations, emissions test data, and other information that establishes the amount of NOx, total ozone

forming potential, and potency-weighted toxics associated with the reduction strategy and the date(s) the offsets accrued.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2265.**5, **13** CA ADC § **2265.**5

13 CA ADC § **2265.**5
END OF DOCUMENT

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2266. Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emissions Testing.

(a) Certification of test-certified alternative gasoline formulations. Following application by a producer or importer, the executive officer may certify, and identify alternative specifications for, a test-certified alternative gasoline formulation pursuant to the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," as last amended April 25, 2001, which is incorporated herein by reference. Notwithstanding section 2265.5(a), a producer or an importer that produces gasoline that has elected to be subject to a test-certified alternative gasoline formulation pursuant to section 2266 shall offset its emissions associated with permeation by complying with sections 2265.5(b)-(i).

(b) Prohibited activities regarding test-certified alternative gasoline formulations.

(1) No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has been reported pursuant to section (c) as a test-certified alternative gasoline formulation, if it fails to conform with any of the alternative specifications identified in the certification order for the formulation, as determined in accordance with the test methods identified in the certification order.

(2) A producer or importer who has reported a final blend of gasoline as a test-certified alternative gasoline formulation shall not be subject to section 2262.3(b) or (c), section 2262.4(b), and section 2262.5(c).

(3) A producer or importer may not elect to sell or supply from its production or import facility a final blend of California gasoline as a test-certified alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to section 2264(c).

(4) A producer or importer that produces gasoline may not elect to sell or supply from its production facility or import facility a final blend of California gasoline as a test-certified alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets at the same production facility or import facility pursuant to section 2265.1(c) or 2265.5.

(5) An importer that does not produce gasoline shall not sell, offer for sale, supply, or offer for supply California gasoline if the gasoline creates emissions associated with permeation.

(c) Notification regarding sales and supplies of a test-certified alternative gasoline formulation. A producer or importer intending to sell or supply a final blend of California gasoline from its production facility or import facility as a test-certified alternative gasoline formulation shall notify the executive officer in accordance with this section (c). The notification shall identify the final blend and the identification name of the test-certified alternative gasoline formulation. The notification shall be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be a specific test-certified alternative gasoline formulation may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol

would provide at least as much notice to the executive officer as notification pursuant to the express terms of this section (c).

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsection (b)(2) and amendment of Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

3. Amendment of section heading and section filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

4. Amendment of subsection (a) and new subsections (b)(3)-(5) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2266**, **13** CA ADC § **2266**

13 CA ADC § **2266**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

(a) Application of the California gasoline standards to CARBOB.

(1) Applicability of standards and requirements to CARBOB. All of the standards and requirements in sections 2261, 2262, 2262.3, 2262.4, 2262.5(a), (b), (c) and (e), 2262.6, 2264, 2264.2, 2265, 2266, 2267, 2268, 2270, 2271 and 2272 pertaining to California gasoline or transactions involving California gasoline also apply to CARBOB or transactions involving CARBOB. Whenever the term "California gasoline" is used in the sections identified in the preceding sentence, the term means "California gasoline or CARBOB." Whenever the term "gasoline" is used in section 2265(b)(1), the term means "California gasoline or CARBOB."

(2) Determining whether a final blend of CARBOB complies with the standards for California gasoline.

(A) General.

1. Applicability. This section (a)(2) governs the determination of whether a final blend of CARBOB complies with the standards for California gasoline that apply when the gasoline is sold or supplied from the production or import facility at which it was produced or imported. Section (a)(6) governs the determination of whether downstream CARBOB that has already been supplied from its production or import facility complies with the applicable cap limits for California gasoline.

2. Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

3. If the producer or importer has not complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of the producer's or importer's compliance with the limits for sulfur, benzene, aromatic hydrocarbons, olefins, T50, T90, and oxygen required by sections 2262.3, 2262.5, 2265 and 2266 shall be determined without using the CARBOB Model or adding oxygenate to the gasoline, and compliance with the flat limits for Reid vapor pressure and oxygenates required by sections 2262.4, 2262.6, 2265 and 2266 shall be determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

(B) Determining whether a final blend of CARBOB complies with the standards for California gasoline by use of the CARBOB Model.

1. A producer or importer may elect to have the CARBOB model used in determining whether a final blend designated as CARBOB complies with the standards applicable to California gasoline, by providing the notice in section (b)(1)(C). In this case, the CARBOB limits for the final blend shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, which is incorporated by reference herein. The CARBOB's compliance with the assigned CARBOB limit for a property shall constitute compliance with the corresponding finished gasoline limit - be it a section 2262 flat limit, PM flat limit, TC limit, or (if no designated alternative limit has been established) section 2262 or PM averaging

limit. In addition, where the producer or importer has elected to use the CARBOB model for a given final blend that is not being transferred from its production or import facility during the Reid vapor pressure control period for that facility set forth in section 2262.4(a), the final blend must have a Reid vapor pressure no lower than the value used in the T50 CARBOB model.

2. Notwithstanding section (a)(2)(B)1., where a final blend of CARBOB is sampled and analyzed by a state board inspector in accordance with section 2263 using the methodology in (a)(2)(C), the results may be used to establish a violation of applicable standards for California gasoline.

(C) Determining whether a final blend of CARBOB complies with the standards for California gasoline by oxygenate blending and testing. Except as otherwise provided in section (a)(2)(B), the properties of a final blend of CARBOB shall be determined for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265, and 2266 by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Where the producer or importer has in accordance with section (b)(1)(E) designated a range for oxygen from denatured ethanol of 1.8 wt.% to 2.2 wt.% (or a range that is within 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), denatured ethanol equal to 5.7 vol. % of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt.% to 2.9 wt.% (or is within 2.5 wt.% and 2.9% and includes 2.7 wt.%), denatured ethanol equal to 7.7 vol.% of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt.% to 3.7 wt.% (or is within 3.3 wt.% and 3.7 wt.% and includes 3.5 wt.%), denatured ethanol equal to 10.0 vol.% of the blended volume shall be added. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt.%, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

Vol.% Denatured Ethanol = 620P [(218.8Pwt.% oxygen) - 0.40]

Where the producer or importer has in accordance with section (b)(1)(E) designated a range of amounts of oxygen that is greater than 0.4 wt.%, or an oxygenate other than denatured ethanol, the oxygenate shall be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(D) Characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.

1. Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is used. Except as provided in section (a)(2)(D)3., where a producer or importer has elected to use the CARBOB Model for a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the following default denatured ethanol specifications shall be specified for the CARBOB Model:

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Sulfur content:                10 parts per million
Benzene content:               0.06 volume percent
Olefin content:                0.5 volume percent
Aromatic hydrocarbon content:  1.7 volume percent
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2. Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is not used. Except as provided in section (a)(2)(D)3., where a producer or importer has not elected to use the

CARBOB Model, denatured ethanol used as the oxygenate must have the following properties in determining whether CARBOB complies with the standards applicable to California gasoline when it is supplied from the production facility or import facility on or after December 31, 2003:

Sulfur content:	3-10 parts per million
Benzene content:	0-0.06 volume percent
Olefin content:	0-0.5 volume percent
Aromatic hydrocarbon content:	0-1.7 volume percent

3. Producer- or importer-specified characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.

a. With respect to a final blend of CARBOB supplied from its production or import facility prior to December 31, 2003, the producer or importer must specify the properties of the oxygenate used in determining whether the final blend of CARBOB complies with the applicable California gasoline standards, by providing the notice in section (b)(1)(D). With respect to a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the producer or importer may elect to specify the properties of the oxygenate in accordance with the preceding sentence. Where the producer or importer has elected to use the CARBOB model in connection with the final blend, the maximum value for each property identified in the section (b)(1)(D) notification shall be used for the CARBOB Model. Where the producer or importer has not elected to use the CARBOB model in connection with the final blend, the oxygenate used in oxygenate blending and testing in accordance with section (a)(2)(C)1. must not exceed the maximum value for each property identified in the section (b)(1)(D) notification; that oxygenate's specifications for each property may be under the maximum value for each property identified in the section (b)(1)(D) notification by no more than the following:

Sulfur content:	5 parts per million
Benzene content:	0.06 volume percent
Olefin content:	0.1 volume percent
Aromatic hydrocarbon content:	1.0 volume percent

b. Maintaining oxygenate samples for use in compliance testing. A producer or importer who is specifying the properties of the oxygenate used in a final blend of CARBOB in accordance with the preceding section (a)(2)(D)3.a. must maintain at the production or import facility, while the final blend is at the facility, oxygenate meeting the required specifications in quantities that are sufficient to enable state board inspectors to use the oxygenate in compliance determinations.

(E) Protocol for determining whether a final blend of CARBOB complies with the standards for California gasoline. The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying a alternative method for determining whether a final blend of CARBOB complies with the standards for California gasoline, as long as the executive officer reasonably determines that application of the protocol is not less stringent or enforceable than

application of the express terms of section (a)(2)(A)-(D). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(3) Calculating the volume of a final blend of CARBOB. Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the volume of the final blend shall be calculated for all purposes under section 2264 by adding the minimum designated amount of the oxygenate having the smallest volume designated by the producer or importer. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the volume of the final blend for purposes of the refiner or producer's compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be calculated without adding the amount of oxygenate to the CARBOB.

(4) Specifications for a final blend of CARBOB when the CARBOB model is not being used. A producer or importer who has not elected to use the CARBOB model pursuant to section (a)(2)(B) with regard to a final blend of CARBOB may not sell, offer for sale, supply or offer for sale that final blend of CARBOB from its production facility or import facility where the sulfur, benzene, olefin or aromatic hydrocarbon content of the CARBOB, when multiplied by (1 minus the designated maximum volume percent, expressed as a decimal fraction, that the oxygenate will represent after it is added to the CARBOB), results in a sulfur, benzene, olefin or aromatic hydrocarbon content value exceeding the applicable limit for that property.

(5) Assignment of designated alternative limits for CARBOB and for the oxygenated California gasoline where the producer or importer has elected to use the CARBOB model.

(A) Applicability. This section (a)(5) applies where a producer or importer has elected to have the CARBOB model apply in connection with a final blend of CARBOB which is also subject to an averaging compliance option or a PM averaging compliance option for one or more properties.

(B) Assignment of CARBOB designated alternative limit. The producer or importer may assign a CARBOB designated alternative limit for the final blend of CARBOB by satisfying the notification requirements of section (a)(5)(D). In no case shall a CARBOB designated alternative limit be less than the sulfur, benzene, olefin or aromatic hydrocarbon content, or T90 or T50, of the final blend shown by the sample and test of the CARBOB conducted pursuant to section 2270. The CARBOB designated alternative limit shall be treated as the designated alternative limit under section 2262.3(c)(2), and a violation of section 2262.3(c)(2) will exist when the CARBOB exceeds the CARBOB designated alternative limit.

(C) Determining the designated alternative limit for the final blend after the CARBOB is oxygenated. Whenever a producer or importer has assigned a designated alternative limit for a final blend of CARBOB, the designated alternative limit for the final blend after the CARBOB is oxygenated shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, which is incorporated by reference herein. This will be the final blend's designated alternative limit for purposes of compliance with sections 2262.3(c)(3) and 2264(b) and (c).

(D) Notification. The producer or importer shall notify the executive officer of the CARBOB designated alternative limit, the designated alternative limit for the final blend after it is oxygenated, and all other information identified in section 2264(a)(2)(A), within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(6) Determining whether downstream CARBOB complies with the cap limits for California gasoline.

(A) Determining whether downstream CARBOB complies with the cap limits for California gasoline through the use of CARBOB cap limits derived from the CARBOB Model. Whenever downstream CARBOB designated for ethanol blending has already been supplied from its production or import facility, the CAR-

BOB's compliance with the cap limits for California gasoline may be determined by applying the CARBOB cap limits in the following table:

Property	CARBOB Cap Limits	
	CaRFG2	CaRFG3
Reid Vapor Pressure[1] (pounds per square inch)	5.78	5.99
Sulfur Content (parts per million by weight)	89	66[2] 32[2] 21[2]
Benzene Content (percent by volume)	1.33	1.22
Aromatics Content (percent by volume)	33.1	38.7
Olefins Content (percent by volume)	11.1	11.1
T50 (degrees Fahrenheit)	232[3] 237[3]	232[3] 237[3]
T90 (degrees Fahrenheit)	335	335

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[1] The Reid vapor pressure standards apply only during the warmer weather months identified in section 2262.4.

[2] The CaRFG Phase 3 CARBOB cap limits for sulfur are phased in starting December 31, 2003, December 31, 2005, and December 31, 2011, in accordance with section 2261(b)(1)(A).

[3] The first number applies to CARBOB that is subject to the Reid vapor pressure standard pursuant to section 2262.4, and the second number applies to CARBOB that is not subject to the Reid vapor pressure standard.

(B) Determining whether downstream CARBOB complies with the cap limits for California gasoline by oxygenate blending and testing. Whenever downstream CARBOB designated for oxygenate blending has already been supplied from its production or import facility, the CARBOB's compliance with the cap limits for California gasoline may be determined by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Denatured ethanol used as the oxygenate must have the properties set forth in section (a)(2)(D)2. Where the designated range for oxygen from denatured ethanol is 1.8 wt.% and 2.2 wt.% (or is within 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), denatured ethanol equal to 5.7 vol.% of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt.% and 2.9 wt.% (or is within 2.5 wt.% and 2.9 wt.% and includes 2.7 wt.%), denatured ethanol equal to 7.7 vol.% of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt.% to 3.7 wt.% (or is within 3.3 wt.% and 3.7 wt.% and includes 3/5 wt.%), denatured ethanol equal to 10.0 vol.% of the blended volume shall be ad-

ded. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt.%, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

Vol.% Denatured Ethanol = 620P [(218.8Pwt.% oxygen) - 0.40]

Where the designated a range of amounts of oxygen is greater than 0.4 wt.%, or an oxygenate other than denatured ethanol is designated, the oxygenate shall be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(C) Protocols. A person may enter into a protocol with the executive officer for the purpose of identifying more stringent specifications for the denatured ethanol used pursuant to section (a)(6)(B), or different CARBOB cap limits under section (a)(6)(A), if the executive officer reasonably determines that the specifications or cap limits are reasonably premised on the person's program to assure that the denatured ethanol added to the CARBOB by oxygenate blenders will meet the more stringent specifications.

(b) Notification to ARB regarding the supply of CARBOB from the facility at which it was produced or imported.

(1) A producer or importer supplying a final blend of CARBOB from the facility at which the producer or importer produced or imported the CARBOB must notify the executive officer of the information set forth below, along with any information required under section 2265(a)(2) (for a PM alternative gasoline formulation), section 2265.1 (for a PM emissions offsetting formulation, applicable only to producers and importers that produce gasoline), section 2265.5 (for an alternative emission reduction plan, applicable only to producers and importers that produce gasoline), or 2266(c) (for a test-certified alternative gasoline formulation). The notification must be received by the executive officer before the start of physical transfer of the final blend of CARBOB from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(A) The identity and location of the final blend;

(B) The designation of the final blend as CARBOB;

(C) If the producer or importer is electing to use the CARBOB model to determine whether the final blend complies with the standards applicable to California gasoline when it is supplied from the production facility or import facility, a statement of that election and

1. Each of the CARBOB limits that will apply to the final blend for properties not subject to the averaging compliance option or the PM averaging compliance option; and

2. For any property subject to the averaging compliance option or the PM averaging compliance option, the averaging or PM averaging limit for the CARBOB (the CARBOB is subject to this limit only if no designated alternative limit is assigned to the CARBOB pursuant to section 2266.5(a)(5)(B));

(D) If the producer or importer is specifying, pursuant to section (a)(2)(D)3., the properties of the oxygenate to be added downstream by the oxygenate blender, a statement of that election, the type of oxygenate, and the oxygenate's specifications for the following properties:

Maximum sulfur content (nearest part per million by weight)

Maximum benzene content (nearest hundredth of a percent by volume)

Maximum olefin content (nearest tenth of a percent by volume)

Maximum aromatic hydrocarbon content (nearest tenth of a percent by volume)

(E) The designation of each oxygenate type or types and amount or range of amounts to be added to the CARBOB, and the applicable flat limit, PM alternative

specification, designated emissions offsetting limit, or TC alternative specification for oxygen. The amount or range of amounts of oxygenate to be added shall be expressed as a volume percent of the gasoline after the oxygenate is added, in the nearest tenth of a percent. For any final blend of CARBOB except one that is subject to PM alternative specifications, designated emissions offsetting limits, alternative emission reduction plan, or TC alternative specifications, the amount of oxygenate to be added must be such that the resulting California gasoline will have a minimum oxygen content no lower than 1.8 percent by weight and a maximum oxygen content no greater than 2.2 percent by weight. For a final blend of CARBOB that is subject to PM alternative specifications or designated emissions offsetting limits, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content PM alternative specification or designated emissions offsetting limits for the final blend. For a final blend of CARBOB that is subject to TC alternative specifications, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content alternative specification for the final blend.

(2)Applicability of notification to subsequent final blends. The notification a producer or importer provides pursuant to section (b)(1)(B), (C), (D) and (E) for a final blend of CARBOB shall apply to all subsequent final blends of CARBOB or California gasoline supplied by the producer or importer from the same production or import facility until the producer or importer designates a final blend at that facility as either (i) California gasoline rather than CARBOB, or (ii) CARBOB subject to a new notification made pursuant to section (b)(1).

(3) Allowance of late notifications. If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (b)(1) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (b)(3) have been met, timely notification shall be deemed to have occurred.

(4) Protocols. The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying how the requirements in section (b)(1) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (b)(1). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(c) [Reserved]

(d) Documentation required when CARBOB is transferred.

(1) Required Documentation. On each occasion when any person transfers custody or title of CARBOB, the transferor shall provide the transferee a document that prominently:

(A) States that the CARBOB does not comply with the standards for California gasoline without the addition of oxygenate,

(B) Identifies the applicable flat limit, PM alternative specification, designated emissions offsetting limit, or TC alternative specification for oxygen, and

(C) Identifies, consistent with the notification made pursuant to section (b), the oxygenate type or types and amount or range of amounts that must be added to the CARBOB to make it comply with the standards for California gasoline. Where the producer or importer of the CARBOB has elected to specify the properties of the oxygenate pursuant to section (b)(1)(D), the document must also prominently identify the maximum permitted sulfur, benzene, olefin and aromatic hydrocarbon contents - not to exceed the maximum levels in the section (b)(1)(D) notification - of the oxygenate to be added to the CARBOB.

(2) Compliance by pipeline operator. A pipeline operator may comply with this requirement by the use of standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB is identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB.

(e) Restrictions on transferring CARBOB.

(1) Required agreement by transferee. No person may transfer ownership or custody of CARBOB to any other person unless the transferee has agreed in writing with the transferor that either:

(A) The transferee is a registered oxygenate blender and will add oxygenate of the type(s) and amount (or within the range of amounts) designated in accordance with section (b) before the CARBOB is transferred from a final distribution facility, or

(B) The transferee will take all reasonably prudent steps necessary to assure that the CARBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in accordance with section (b) to the CARBOB before the CARBOB is transfered from a final distribution facility.

(2) Prohibited sales of CARBOB from a final distribution facility . No person may sell or supply CARBOB from a final distribition facility where the type and amount or range of amounts of oxygenate designated in accordance with section (b) has not been added to the CARBOB.

(f) Restrictions on blending CARBOB with other products.

(1) Basic prohibition. No person may combine any CARBOB that has been supplied from the facility at which it was produced or imported with any other CARBOB, gasoline, blendstock or oxygenate, except:

(A) The specified oxygenate.

1. The CARBOB may be blended with oxygenate of the type and amount (or within the range of amounts) specified by the producer or importer at the time the CARBOB was supplied from the production or import facility.

2. Where ethanol is the specified oxygenate and specifications for the ethanol are identified in the product transfer document for the CARBOB pursuant to section 2266.5(d)(1)(C), only ethanol meeting those specifications may be combined with the CARBOB.

3. Where ethanol is the specified oxygenate and specifications for the ethanol are not identified, only ethanol meeting the standards in section 2262.9(a) may be combined with the CARBOB.

(B) Identically-specified CARBOB. The CARBOB may be blended with other CARBOB for which the same oxygenate type, and the same amount (or range of amounts) of oxygen, was specified by the producer or importer at the time the CARBOB was supplied from the production or import facility. However, where specifications for the denatured ethanol to be added to the CARBOB have been established pursuant to section 2266.5(a)(2)(D)3, it may only be blended with other CARBOB for which the same denatured ethanol specifications have been set.

(C) CARBOB specified for different oxygen level. Where a person is changing from an initial to a new type of CARBOB stored in a storage tank at a terminal or bulk plant, and the conditions below are met; in this case, the CARBOB in the tank after the new type of CARBOB is added will be treated as that new type of CARBOB.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the different types of CARBOB;

2. The initial and new CARBOBs are designated for blending with different amounts (or ranges of amounts) of oxygen, and the change in oxygen content will not exceed 1.1 weight percent of the oxygenated gasoline blend;

3. The volume of the new CARBOB that is added to

the tank is at least four times as large as the volume of the initial CARBOB in the tank, and

4. The sulfur content of the new CARBOB added to the tank is no more than 12 parts per million.

(D) California gasoline not subject to RVP standard. Where a person is changing from California gasoline to CARBOB as the product stored in a storage tank at a terminal or bulk plant and the conditions below are met; in this case the product in the tank, pipe or manifold after the new product is added will be treated as the new type of product.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the California gasoline and CARBOB and

2. The resulting blend of product in the tank is supplied from the terminal or bulk plant during a time that it is not subject to the standards for Reid vapor pressure under section 2262.4.

(E) Limited amounts of California gasoline containing ethanol. A person may add California gasoline containing ethanol to CARBOB at a terminal or bulk plant if all of the following conditions are met, in which case the resulting mixture will continue to be treated as CARBOB.

1. The gasoline is added to the CARBOB for one of the following operational reasons:

a. The gasoline resulted from oxygenating CARBOB at the terminal or bulk plant during calibration of oxygenate blending equipment; or

b. The gasoline resulted from the unintentional over- or under-oxygenation of CARBOB during the loading of a cargo tank truck at the terminal or bulk plant; or

c. The gasoline was pumped out of a gasoline storage tank at a motor vehicle fueling facility for legitimate operational reasons.

2. The non-oxygenate portion of the gasoline complies with the applicable cap limits for CARBOB in section 2266.5(a)(6).

3. The resulting mixture of CARBOB has an oxygen content not exceeding 0.1 percent by weight.

a. The oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the volume of the denatured ethanol in the gasoline being added based on direct calibrated meter readings of the denatured ethanol if available, [iv] calculating weight percent oxygen of the gasoline being added from volume percent denatured ethanol based on the following formula:

(wt.% oxygen)9 218.8/([620/(vol.% deEtOH)] + 0.40), and [v] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

b. If the meter readings described in section 2266.5(f)(1)(E)3.a.[iii] are not available, the oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the oxygen content of the gasoline in weight percent based on sampling and testing of the gasoline for denatured ethanol content in accordance with methods specified in section 2263, and [iv] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

c. In making the determination described in section 2266.5(f)(1)(E)3.a. or b., the oxygen content of the mixture shall be calculated based on the following formula:

(wt.% oxygen)9 [(volume CARBOB)*(wt.% oxygen in CARBOB) + (volume gasoline)* (wt.% oxygen in gasoline] / [(volume CARBOB) + (volume gasoline)].

4. Prior to the mixing, the operator of the terminal or bulk plant notifies the executive officer of the following:

a. The identity and location of the facility at which

the mixing will take place;

b. The operational reason for adding the gasoline into the CARBOB;

c. The projected percentage oxygen content of the mixture.

5. The terminal or bulk plant operator maintains for two years records documenting the information identified in section 2266.5(f)(1)(E)4, and makes them available to the executive officer upon request.

(2) Protocols.

(A) Protocols covering the changeover in service of a storage tank. Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully combine CARBOB with California gasoline or other CARBOB during a changeover in service of a storage tank for a legitimate operational business reason. The executive officer may only enter into such a protocol if he or she reasonably determines that commingling of the two products will be minimized as much as is reasonably practical. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) Protocols for blending transmix into CARBOB. Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into CARBOB which has been supplied from its production or import facility. The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the CARBOB gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(C) Protocols In Other Situations. Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully add California gasoline or other CARBOB to CARBOB in a storage tank at a terminal or bulk plant in situations other than those identified in sections 2266.5(f)(1)(C), (D), or (E), or (f)(2)(A) or (B). The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the activity are not practical and the blending will not significantly affect the properties of the CARBOB into which the gasoline or CARBOB is added. The protocol shall include any of the conditions in section 2266.5(f)(1)(E) that the executive officer determines are necessary and appropriate. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(g) Requirements for oxygenate blenders.

(1) Registration and Certification.

(A) Registration. Any oxygen blender must register with the executive officer by March 1, 1996, or at least 20 days before blending oxygenates with CARBOB, whichever occurs later. Thereafter, an oxygenate blender must register with the executive officer annually by January 1. The registration must be addressed to he attention of the Chief, Compliance Division, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

(B) Required contents of registration. The registration must include the following:

1. The oxygen blender's contact name, telephone number, principal place of business which shall be a physical address and not a post office box, and any other place of business at which company records are maintained.

2. For each of the oxygen blender's oxygenate blending facilities, the facility name, physical location, contact name, and telephone number.

(C) Issuance of certificate. The executive officer shall provide each complying oxygen blender with a certificate of registration compliance no later than June 30. The certification shall be effective from no later than July 1, through June 30 of the following year. The certification shall constitute the oxygen blender's certification pursu-

ant to Health and Safety Code section 43026.

(D) Submittal of updated information. Any oxygen blender must submit updated registration information to the executive officer at the address identified in section (g)(1)(A) within 30 days of any occasion when the registration information previously supplied becomes incomplete or inaccurate.

(2) Requirement to add oxygenate to CARBOB. Whenever an oxygenate blender receives CARBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CARBOB, the oxygenate blender must add to the CARBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CARBOB. If the documentation identifies the permitted maximum sulfur, benzene, olefin and aromatic hydrocarbon contents of the oxygenate, the oxygenate blender must add an oxygenate that does not exceed the maximum permitted levels.

(3) Additional requirements for terminal blending. Any oxygenate blender who makes a final blend of California reformulated gasoline by blending any oxygenate with any CARBOB in any gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bulk purchaser-consumer facilities, shall, for each such final blend, determine the oxygen content and volume of the final blend prior to its leaving the oxygen blending facility, by collecting and analyzing a representative sample of gasoline taken from the final blend, using methodology set forth in section 2263.

(h) Downstream blending of California gasoline with nonoxygenate blendstocks.

(1) Basic prohibition. No person may combine California gasoline which has been supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person can affirmatively demonstrate that (1) the blendstock that is added to the California gasoline meets all of the California gasoline standards without regard to the properties of the gasoline to which the blendstock is added, and (2) the person meets with regard to the blendstock all requirements in this subarticle applicable to producers of California gasoline.

(2) Exceptions.

(A) Protocols. Notwithstanding section (h)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into California gasoline which has been supplied from its production or import facility. The executive officer may only enter into such a protocol if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the California gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) Blending to meet a cap limit. Notwithstanding, section (h)(1) or 2262.5(d), a person may add nonoxygenate or oxygenated blendstock to California gasoline that does not comply with one or more of the applicable cap limits contained in section 2262, where the person obtains the prior approval of the executive officer based on a demonstration that adding the blendstock is a reasonable means of bringing the gasoline into compliance with the cap limits.

(i) Restrictions during the RVP season on blending gasoline containing ethanol with California gasoline not containing ethanol.

(1) Basic prohibition.Within each air basin during the Reid vapor pressure cap limit periods specified in section 2262.4(a)(2), no person may combine California gasoline produced using ethanol with California gasoline produced without using ethanol, unless the person can affirmatively demonstrate that: (A) the resulting blend complies with the cap limit for Reid vapor pressure set forth in section 2262, or (B) the person has taken reasonably prudent precautions to assure that the gasoline is not subject to the Reid vapor pressure cap limit either because of sections 2261(d) or (f) or 2262.4(c)(1) or (c)(3), or because the gasoline is no longer California gasoline.

(2) Exception.Section 2266.5(i)(1) does not apply to combining California gasolines that are in a motor vehicle's fuel tank.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43021 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

2. Editorial correction of subsection (a)(1) (Register 2000, No. 31).

3. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

4. Amendment filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Goverment Code section 11343.4 (Register 2002, No. 52).

6. Amendment of subsection (h)(2) and redesignation and amendment of former subsections (h)(2)-(3) to subsections (h)(2)(A)-(B) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

7. Amendment filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

8. Amendment of table footnotes 1 and 3 filed 9-9-2005 as an emergency; operative 9-9-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-2006 or emergency language will be repealed by operation of law on the following day.

9. Reinstatement of section as it existed prior to 9-9-2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting footnotes 1 and 3 of the subsection (a)(6)(A) table identified less stringent limits for RVP during the 2005 Hurricane Katrina RVP relaxation period identified in section 2262.4.

10. Editorial amendment of History 9 (Register 2006, No. 42).

11. Amendment of subsections (a)(2)(B)1., (a)(2)(C), (a)(5)(C), (a)(6)(A), (b)(1), (b)(1)(E) and (d)(1)(B) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2266.5, 13** CA ADC § **2266.5**

13 CA ADC § **2266.5**
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s 2267. Exemptions for Gasoline Used in Test Programs.

The executive officer shall consider and grant test program exemptions from the requirements of this subarticle in accordance with section 2259.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018, 43101 and 43831, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of section heading, section and Note filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).

3. Amendment of Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

13 CA ADC s **2267**
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s 2268. Liability of Persons Who Commit Violations Involving Gasoline That Has Not Yet Been Sold or Supplied to a Motor Vehicle.

(a) For the purposes of this subarticle, each sale of California gasoline at retail, and each dispensing of California gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of any applicable section of this subarticle.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

13 CA ADC s **2268**
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s 2269. Submittal of Compliance Plans.

(a) Each producer shall, by September 1, 2000, submit to the executive officer a plan showing the producer's schedule for achieving compliance with the CaRFG Phase 3 standards set forth in this subarticle. Each producer shall, by September 1, 2001, September 1, 2002, and September 1, 2003 submit an update of the plan. Each compliance plan and update shall include the projected sequence and dates of all key events pertaining to planning, financing, and construction of necessary refinery modifications.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013.1, 43016, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

3. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Goverment Code section 11343.4 (Register 2002, No. 52).

13 CA ADC s **2269**
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This database is current through 12/26/08, Register 2008, No. 52

§ 2270. Testing and Recordkeeping.

(a)(1) The requirements of this section (a) shall apply to each producer and importer that has elected to be subject to an averaging limit in section 2262, or to a PM averaging limit, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to sulfur content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for sulfur, or to a PM averaging limit for sulfur, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to benzene content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for benzene, or to a PM averaging limit for benzene, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to olefin content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for olefin content, or to a PM averaging limit for olefin content, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The reference to T90 shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for T90, or to a PM averaging limit for T90, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to T50 shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for T50, or to a PM averaging limit for T50, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to aromatic hydrocarbon content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for aromatic hydrocarbon content, or to a PM averaging limit for aromatic hydrocarbon content, or to a producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d). The references to oxygen content and RVP shall apply to each producer or importer that produces gasoline that has elected to be subject to the PM emissions offsetting compliance option pursuant to section 2264.2(d).

(2) Each producer shall sample and test for the sulfur, aromatic hydrocarbon, olefin, oxygen, and benzene content, RVP (during the RVP regulatory control periods in section 2262.4(b)(2)), T50 and T90 in each final blend of California gasoline which the producer has produced, by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodologies specified in section 2263. If a producer blends gasoline components directly to pipelines, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested for the sulfur, aromatic hydrocarbon, olefin, oxygen, and benzene content, RVP (during the RVP regulatory control periods in section 2262.4(b)(2)), T50 and T90 by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, identity of blend sampled, container or other vessel sampled, final blend volume, sulfur, aromatic hydrocarbon olefin, oxygen, and benzene content, RVP, T50 and T90. All gasoline produced by the producer and not tested as California gasoline by the producer

as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin, oxygen, and benzene content, RVP (during the RVP regulatory control periods in section 2262.4(b)(2)), T50 and T90 exceeding the applicable averaging limit standards specified in section 2262, or exceeding the comparable PM averaging limits if applicable, or exceeding the designated emissions offsetting limits, unless the importer demonstrates that the gasoline meets those standards and limits.

(3) Each importer shall sample and test for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 in each final blend of California gasoline which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, by collecting and analyzing a representative sample of the gasoline, using the methodologies specified in section 2263. The importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the final blend, sulfur content, aromatic hydrocarbon, olefin and benzene content, T50 and T90. All gasoline imported by the importer and not tested as California gasoline by the importer as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 exceeding the applicable averaging limits standards specified in section 2262, or exceeding the comparable PM averaging limit(s) if applicable, or exceeding the designated emissions offsetting limits, unless the importer demonstrates that the gasoline meets those standards and limit(s).

(4) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this section within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of California gasoline in accordance with the requirements of this section, the final blend of gasoline shall be presumed to have been sold by the producer or importer in violation of the applicable averaging limit standards in section 2262, or the PM averaging limit(s), or exceeding the designated emissions offsetting limits, to which the producer or importer has elected to be subject.

(5) The executive officer may enter into a protocol with any producer or importer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of sections (a)(2) or (a)(3). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the averaging limit standards in section 2262, the averaging limit compliance requirements in section 2262.3(c), the PM averaging limit(s), the PM emissions offsetting compliance option requirements in section 2265.1, and the alternative emission reduction plan requirements in section 2265.5. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(b)(1) For each final blend which is sold or supplied by a producer or importer from the party's production facility or import facility, and which contains volumes of gasoline that party has produced and imported and volumes that the party neither produced nor imported, the producer or importer shall establish, maintain and retain adequately organized records containing the following information:

(A) The volume of gasoline in the final blend that was not produced or imported by the producer or importer, the identity of the person(s) from whom such gasoline was acquired, the date(s) on which it was acquired, and the invoice representing the acquisition(s).

(B) The sulfur, benzene, aromatic hydrocarbon, olefin and benzene content, T50 and T90 of the volume of gasoline in the final blend that was not produced or imported by the producer or importer, determined either by (A) sampling and testing, by the producer or importer, of the acquired gasoline represented in the final blend, or (B) written results of sampling and test of the gasoline supplied by the person(s) from whom the gasoline was acquired.

(2) A producer or importer subject to this section (b) shall establish such records by the time the final blend triggering the requirements is sold or supplied from the production or import facility, and shall retain such records for two years from such date. During the period of required retention, the producer or importer shall make any of the records available to the executive officer upon request.

(c) In the event a producer or importer sells, offers for sale, or supplies, in California, gasoline which the producer claims is not California gasoline, such gasoline shall be presumed to exceed the standards that would be applicable pursuant to this subarticle if it was California gasoline. The producer or importer shall maintain, for two years from the date of any sale or supply of such gasoline, records demonstrating that the gasoline was not California gasoline, or that it complied with all of the standards of this subarticle 2, when it was sold or supplied by the producer.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (a)(1)-(5) and new subsection (c) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

3. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

4. Amendment of subsection (a)(3) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

5. Amendment of subsection (a)(1) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

6. Amendment of subsections (a)(1)-(5) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2270, 13** CA ADC § **2270**

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13 CA ADC § **2270**

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§ 2271. Variances.

(a) Applications for variances. Any person who cannot comply with the standards or compliance requirements set forth in sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265.1, or 2265.5 because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. Except for emergency variances as provided in section (h), the application shall be accompanied by a fee of $6700.00 to cover the costs of processing the variance. If the applicant withdraws the application before the variance hearing is held, $4100.00 of the fee shall be refunded. The application shall set forth:

(1) The applicable section(s) from which the variance is sought;

(2) The specific grounds upon which the variance is sought;

(3) The proposed date(s) by which compliance with the provisions of the applicable section(s) will be achieved; and

(4) A compliance plan reasonably detailing the method by which compliance will be achieved. That proposed compliance plan shall include increments of progress (i.e., specific events and dates) that describe periodic, measurable steps toward compliance during the proposed term of the variance.

(b)(1) Notices and public hearings for variances. Upon receipt of an application for a variance containing the information required in section (a), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements of the applicable section(s) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(2) Treatment of confidential information. Information submitted to the executive officer by a variance applicant may be claimed as confidential. Information claimed as confidential shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations (CCR), sections 91000 to 91022 except that: (A) at the time the information is submitted, the submitter must provide accompanying documentation in support of the claim of confidentiality, including the documentation identified in section 91022(c), and (B) for the purposes of this section 2271, the time period specified in section 91022(e)(2) is 10 days instead of 21 days. The executive officer may consider such confidential information in reaching a decision to grant or deny a variance.

(c) Public participation in the variance process. At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to submit written and oral testimony at the hearing and their testimony shall be considered.

(d) Necessary findings for granting variances. The decision to grant or deny a variance shall be based solely upon substantial evidence in the record of the variance proceeding. No variance shall be granted unless the executive officer makes all of the following findings:

(1) That, because of reasons beyond the reasonable con-

trol of the applicant, requiring compliance with the applicable section(s) would result in an extraordinary economic hardship;

(2) That the public interest in mitigating the extraordinary hardship by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance; and

(3) That the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(e) Factors to be considered in making the necessary findings for granting variances.

In making the findings specified in section (d), the factors set forth below shall be considered. It is the responsibility of the applicant to provide the information necessary to adequately evaluate these factors.

(1) Regarding the finding specified in section (d)(1):

(A) To demonstrate that noncompliance is "beyond the reasonable control of the applicant," the applicant must demonstrate that reasonably diligent and timely efforts to achieve compliance have been made. Where a variance is sought from initial compliance with the CaRFG Phase 3 requirements, the applicant shall show that timely capital expenditures and efforts to obtain the permits for necessary refinery modifications have been made, and that the applicant has been reasonably diligent in attempting to follow the periodic compliance plans required by section 2269, "Submittal of Compliance Plans." Where a variance is sought due to a breakdown, the applicant shall demonstrate that the breakdown could not have been prevented or mitigated by the application of standard industrial practices. "Standard industrial practices" means elements of design, methods of operation, and levels of oversight and maintenance that are regarded as generally accepted practice in the applicant's type of business.

(B) To demonstrate that requiring compliance would result in an "extraordinary economic hardship," the applicant must make a substantial showing that no alternative to a variance would eliminate or mitigate the need for a variance. Potential alternatives that the applicant shall address include the following: 1. obtaining complying gasoline from outside sources, or obtaining blending materials that would allow production of complying gasoline, 2. using the applicable California Predictive Model (as specified in Title 13, CCR, section 2265) to maximize the production of complying gasoline, or to minimize the degree of noncompliance, through the use of a PM alternative gasoline formulation, 3. electing to use the PM emissions offsetting compliance option, and 4. applying for an alternative emission reduction plan. The applicant shall compare the economics of operations without a variance, for the period over which the variance is proposed, with the economics of operations after the variance compliance plan has been implemented (e.g., the economic hardship during the term of the variance shall be measured against the eventual cost of long-term compliance.) The operations may include facets of the applicant's business other than gasoline operations, if those facets are directly affected by the ability to conduct the gasoline business. An applicant may also address any supply shortages that could result from the failure to grant a variance and the economic affects of such shortages on the persons who do, or could, receive gasoline from the applicant.

(2) Regarding the finding specified in section (d)(2):

(A) The executive officer shall consider the potential effects of issuing or denying the variance on the applicant's customers, the producers of complying fuel, the general public, and upon air quality. The executive officer shall also consider whether granting the variance will place the applicant at a cost advantage over other persons, including those persons who produce complying gasoline.

(B) To evaluate the potential effect upon air quality, the excess emissions from granting the variance shall be estimated as follows:

1. Exhaust emissions: The fractional change in emissions from using the variance gasoline shall be estimated with the California Predictive Model (model). In-

puts to the model shall be the limits to be placed on the regulated properties of the variance gasoline by the variance conditions and the limits set forth in section 2262 that correspond in form (flat or averaging) to the variance limits. For each air basin in which the variance gasoline will be sold, the estimate of excess exhaust emissions shall be the fractional change in emissions (output by the model), times the estimated fraction of gasoline use in the air basin represented by the variance gasoline, times the inventory of exhaust emissions from gasoline-powered vehicles in the air basin.

2. Evaporative hydrocarbon emissions: Excess evaporative emissions shall be estimated for a limit greater than 7.0 pounds per square inch (psi) on the Reid vapor pressure (RVP) of variance gasoline. This estimate shall apply only for the period when RVP is limited to 7.0 psi. The true vapor pressure corresponding to the RVP limit for variance gasoline shall be divided by the true vapor pressure corresponding to RVP at 7.0 pounds per square inch. For each air basin in which the variance gasoline will be sold, the estimate of excess evaporative emissions shall be that ratio, minus 1.0, times the estimated fraction of gasoline use in the air basin represented by the variance gasoline, times the inventory of emissions due to the evaporation of gasoline from all sources in the air basin.

(3) Regarding the finding specified in section (d)(3):

The applicant shall demonstrate why the proposed compliance plan is the most expeditious way to achieve compliance, and the applicant shall demonstrate sufficient control over the implementation of the plan to make the plan practical. In the case of a proposed variance that would begin on December 31, 2003, the compliance plan shall identify and provide a date for each key step that remains to be accomplished for attaining compliance. As applicable, these steps shall include financing, engineering plans, ordering and contracts, receipt of major equipment, commencement and completion of construction, and testing.

(f) Conditions and fees in variance orders. In imposing fees and conditions in variance orders, the executive officer shall take into account the potential for such fees and conditions to place the applicant at a cost advantage over other persons, including those persons who produce complying gasoline.

(1) Conditions.

(A) Any variance order shall specify a final compliance date by which the requirements of the applicable section(s) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code. Such conditions may include, but are not limited to, reporting requirements, limitations on the gasoline specifications, and the elements of the variance compliance plan as proposed by the applicant, with any modifications made by the executive officer.

(B) Any variance order granting a variance from 2262.4 shall impose a substitute gasoline Reid vapor pressure limit as stringent as feasible under the circumstances, in no case to exceed 9.0 pounds per square inch. For areas where, and in seasons when, federal regulations require a lesser maximum Reid vapor pressure limit, a variance order shall not impose a Reid vapor pressure limit that is less stringent than the federal limit.

(C) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(D) The variance order shall limit the amount of variance gasoline sold or supplied from the applicant's production or import facility during each 30- day period of the variance, or during such other time period as the executive officer may specify. In determining the limit on the amount of variance gasoline, the Executive Officer shall consider available data on the applicant's production of complying gasoline. The limit shall not exceed the applicant's capacity to produce complying gasoline.

(E) The variance order shall specify that once a quantity of variance gasoline has been sold or supplied by the applicant in accordance with the variance, subsequent transactions involving that variance gasoline by another producer, distributor, retailer, end user, or other person shall also be exempt from the applicable requirements.

(2) Fees. A fee of $0.15 shall be levied on the applicant for each gallon of gasoline sold or released for sale under variance during the term of the variance. The fee shall be paid by the applicant periodically, in advance of the sale or release of variance gasoline in each period. The executive director shall specify the payment schedule in the variance order.

(g) Duration of variances.

(1) A variance shall be granted only for the minimum period necessary for the applicant to attain compliance with the applicable regulations. Except for a variance related to a physical catastrophe, no variance shall have a duration of more than 120 days; however, a variance may be extended for up to 90 additional days if the applicant demonstrates that the requirements of sections (d) and (e) are met. In order to receive an extension of a variance, the applicant must submit an application as specified in section (a), and a hearing must be held as specified in sections (b) and (c).

(2) Variances related to a physical catastrophe. Notwithstanding the provisions of section (g)(1), a refiner may be granted a variance with a duration of more than 120 days, or a variance extension of more than 90 days, if the applicant demonstrates that the additional time is necessary due to a physical catastrophe, and the requirements of sections (d) and (e) are met. In order to receive a variance or variance extension, the applicant must submit an application as specified in section (a) and a hearing must be held as specified in sections (b) and (c). As used in this section, "physical catastrophe" means a sudden unforseen emergency beyond the reasonable control of the refiner, causing the severe reduction or total loss of one or more critical refinery units that materially impact the refiner's ability to produce complying gasoline. "Physical catastrophe" does not include events which are not physical in nature such as design errors or omissions, financial or economic burdens, or any reduction in production that is not the direct result of qualifying physical damage.

(h) Emergency variances.

(1) The executive officer may, after holding a hearing without complying with the provisions of sections (b) and (c), issue an emergency variance to a person from the requirements of the applicable section(s) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. The applicant for an emergency variance shall pay a fee of $2500.00. Section (f) shall apply to emergency variances, except that a variance order is not required to specify a final compliance date by which the requirements of the applicable sections(s) will be achieved.

(2) No emergency variance may have a duration of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of the applicable section(s) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in section (d) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to section (h), and shall provide advance telephone notice to any such person as soon as practicable, considering the nature of the emergency.

(i) Situations in which variances shall cease to be effective. A variance shall cease to be effective upon fail-

ure of the party to whom the variance was granted substantially to comply with any condition of the variance.

(j) Modification and revocation of variances. Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements the applicable section(s) after holding a hearing in accordance with the provisions of sections (b) and (c).

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43013.2, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 40000, 41511, 43000, 43013, 43013.1, 43013.2, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Change without regulatory effect amending subsections (a), (a)(3)-(a)(4) and (d)(1)-(d)(3) filed 8-5-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 32).

3. Amendment of section and Note filed 2-15-96 as an emergency; operative 2-15-96 (Register 96, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-14-96 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 2-15-96 order transmitted to OAL 4-4-96 and filed 5-16-96 (Register 96, No. 20).

5. Amendment of section and Note filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

6. Amendment of subsection (e)(3) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

7. Amendment of subsections (a) and (e)(1)(B) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

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This database is current through 12/26/2003, Register 2003, No. 52.

s 2272. CaRFG Phase 3 Standards for Qualifying Small Refiners.

(a)CaRFG Phase 3 standards for qualifying small refiners.In place of the CaRFG Phase 3 standards set forth in section 2262, a qualifying small refiner may elect to have a final blend of California gasoline supplied from the small refiner's refinery subject to the "small refiner CaRFG Phase 3 standards," which are identical to the CaRFG Phase 3 standards in section 2262 except that: (i) the flat limit for benzene content is 1.00 percent by volume (vol.%) instead of 0.80 vol.%, (ii) the flat limit for .aromatics content is 35.0 vol.% instead of 25.0 vol.%, (iii) the flat limit for T50 is 220 ° F. instead of 213 ° F, and (iv) the flat limit for T90 is 312 ° F. instead of 305 ° F. This election may only be made if the small refiner has been issued a currently effective certification pursuant to section (b) and the gasoline qualifies for treatment under section (c).

(b)Certification of small refiners.

(1) A small refiner wishing to produce gasoline subject to this section shall submit to the executive officer an application for certification on the Air Resources Board's ARB/SSD/CPB Form 00-3-1, for each of the small refiner's California refineries. The application shall be executed by a responsible corporate officer under penalty of perjury.

(2) The small refiner's application shall set forth: [A] the crude oil capacity of the refinery since January 1, 1978; [B] the crude oil capacities of all the refineries in California and the United States which are owned or controlled by, or under common ownership or control with, the small refiner since September 1, 1988; [C] data demonstrating that the refinery has the capacity to produce liquid fuels by distilling petroleum; and [D] a demonstration that the small refiner's California refinery was used in 1998 and 1999 to produce and supply California gasoline meeting the CaRFG Phase 2 standards.

(3) Within 30 days of receipt of the application, the executive officer shall grant or deny it in writing. The executive officer shall grant the application if he or she determines that: [A] the application contains all of the information identified in sections (b)(1) and (2) above, and [B] the applicant meets the definition of small refiner. Any denial of an application shall include a statement of the reasons for denial.

(c)Criteria for qualifying gasoline.Gasoline shall only be subject to treatment under this section if the small refiner demonstrates all of the following:

(1) The gasoline was produced by the small refiner at the small refiner's California refinery.

(2) The gasoline was supplied from the small refiner's California refinery in a calendar quarter in which 25 percent or more of the gasoline that was produced by the small refiner and that was supplied from the refinery in the calendar quarter was refined at the small refinery from crude oil. The volume of oxygenates in the gasoline shall not be counted in making this calculation. The period from December 31, 2003 through March 31, 2004 shall be treated as a calendar quarter under this section (c)(2).

(3) For the period December 31, 2003, through December 31, 2004, and for each subsequent calendar year, the gasoline was supplied from the small refiner's California refinery before the full qualifying volume of gasoline produced by the small refiner had been supplied from the refinery during that period or year. In calculating the volume of gasoline supplied from the refinery, the volume of oxygenates in the gasoline shall not be counted. Gasoline that is designated by the small refiner as subject to all of the CaRFG Phase 3 standards in section 2262, and is reported to the executive officer pursuant to a protocol entered into by the small refiner and the executive officer, shall not be counted against the qualifying volume.

(4) At the time the gasoline was supplied from the small

refiner's refinery, the small refiner met the definition of a small refiner.

(5) The excess emissions of hydrocarbons, oxides of nitrogen, and potency-weighted toxics are offset pursuant to section 2282, title 13, California Code of Regulations. The excess emissions from gasoline subject to the small refiner CaRFG Phase 3 standards are: 0.0206 pounds of exhaust hydrocarbons per barrel, 0.0322 pounds of oxides of nitrogen per barrel, and the potency-weighted toxic emissions equivalent of 0.0105 pounds of benzene per barrel.

(d)Compliance with applicable federal RFG requirements.Any small refiner subject to this section shall comply with all applicable requirements of the federal reformulated gasoline regulations in 40 CFR Part 80 Subpart D, commencing with s 80.40.

(e)Additional reporting requirements for small refiners.

(1) In addition to the requirements of section 2270, each small refiner who qualifies for treatment under this section shall submit to the executive officer reports containing the information set forth below for each of the small refiner's California refineries, starting on the date on which a qualifying small refiner supplies from its refinery gasoline subject to the small refiner CaRFG Phase 3 standards. The reports shall be executed in California under penalty of perjury, and must be received within the time indicated below. December 31, 2003 through January 31, 2004 shall be treated as a month.

(A) The quantity of all gasoline, produced by the small refiner, that is supplied from the small refinery in each month, within 15 days after the end of the month, the quantity of all such gasoline that is California gasoline subject to the small refiner CaRFG3 standards, and the quantity of all such gasoline that is California gasoline not subject to the small refiner CaRFG3 standards;

(B) The identity and volume of each oxygenate contained in the gasoline described in section (e)(1)(A) above, within 15 days after the end of the month;

(C) For each calendar quarter, a statement whether 25 percent or more of the gasoline that was produced by the small refinery and that was supplied from the refinery in the calendar quarter was refined at the small refinery from crude oil, within 15 days after the close of such quarter;

(D) The date, if any, on which the small refiner completes transfer from its small refinery in the period December 31, 2003 through December 31, 2004, and in each subsequent calendar year, of the small refiner's qualifying volume of gasoline produced by the small refiner, calculated as described in section (c)(3), within 5 days after such date;

(E) Within 10 days after project completion, any refinery addition or modification which would affect the qualification of the refiner as a small refiner pursuant to the definition in section 2260(a)(22); and

(F) Any change of ownership of the small refiner or the small refiner's refinery, within 10 days after such change of ownership.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 40000, 41511, 43016, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v.Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (c)(2)-(3) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

3. Amendment of section heading, section and Notefiled 8-3-2000; operative 9-2-

2000 (Register 2000, No. 31).

4. Amendment of subsection (c)(5) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Goverment Code section 11343.4 (Register 2002, No. 52).

6. Amendment of subsection (e)(1)(B) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

13 CA ADC s **2272**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996

This database is current through 12/26/08, Register 2008, No. 52

§ 2273. Labeling of Equipment Dispensing Gasoline Containing MTBE.

(a) MTBE labeling requirement.All devices dispensing gasoline containing methyl tertiary butyl ether (MTBE) at filling stations, garages or other outlets where petroleum products are sold or offered for retail shall be marked with a conspicuous label at all times the product is offered for retail sale.

(1) The label shall state that the gasoline being dispensed "Contains MTBE. The State of California has determined that the use of this chemical presents a significant risk to the environment."

(2) The label shall be contrasting in color to the gasoline dispensing equipment and have capitalized lettering using not less than one-eighth inch high letters, except that "MTBE" shall have lettering using not less than five-eighth inch high letters with a stroke of not less than one-eighth in width and "Contains" shall have lettering using not less than one-quarter inch high letters.

(3) The label shall be placed on the gasoline dispensing equipment's vertical surface, on each side with gallonage and price meters.

(4) The label shall be conspicuous and legible to a customer when viewed from the driver's position inside the car.

(5) The label shall be capable of withstanding extremes of weather conditions for at least one year and shall be resistant to gasoline, oil, grease, solvents, detergents, and water. Damaged labels that are not legible shall be replaced.

(b) Residual levels of MTBE.

(1) The labeling requirements in section 2273(a) do not apply to equipment dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 0.6 percent by volume, as determined by American Society of Testing and Materials (ASTM) Test Method D 4815-04, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) The labeling requirements in section 2273(a) do not apply where the equipment is dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 3.0 percent by volume, as determined by a test method identified in section 2273(b)(1), and the operator of the retail outlet demonstrates that the conditions in either section 2273(b)(2)(A), (B), (C) or (D) have occurred.

(A) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE as specified in the following table.

The percent of the total gasoline storage tank capacity that is emptied prior to refilling	The consecutive number of times the gasoline storage tank must be drained and refilled
90%	2

80%	3
70%	3
60%	4
50%	6
40%	8
30%	11
20%	19
10%	60

(B) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE according to the following equation.

$$N = -(0.222) + \log C_O)/\log (V_L/V_T)$$

Where:

N = The number of times the gasoline storage tank must be drained and refilled. If the resultant number is not an integer, it shall be rounded up to the nearest integer.

C_O = The initial concentration, in volume percent, of MTBE in the gasoline storage tank.

V_L = The volume of gasoline (in gallons) left in the gasoline storage tank after each draining.

V_T = 95% of the capacity (in gallons) of the gasoline storage tank.

(C) The following equation has been applied to consecutive drainings and fillings of the gasoline in the storage tank, and the equation shows an MTBE content of less than 0.6 percent by volume. The initial MTBE concentration (CO) of the gasoline in the storage tank when the equation is first applied shall be deemed to be 15 volume percent unless the MTBE content is determined in accordance with a testing methodology identified in section 2273(b)(1). For purposes of the equation, [i] the MTBE concentration of gasoline containing less than 0.6 volume percent MTBE shall be deemed to be zero, and [ii] the MTBE concentration of gasoline delivered with an invoice or other documentation stating that the gasoline contains MTBE shall be deemed to be 15 volume percent or, if the concentration of MTBE is stated on the documentation, that stated concentration. The executive officer shall make available upon request a computer program that may be used in applying the equation.

$$C = C_O(V_L(V_L+V_D)) + C_D(V_D/(V_L+V_D))$$

Where:

C = The final concentration, in volume percent, of MTBE in the gasoline storage tank after the fuel delivery.

C_O = The initial concentration, in volume percent, of MTBE in the gasoline storage tank before the fuel delivery.

C_D = The concentration, in volume percent, of MTBE in the fuel being delivered to the gasoline storage tank.

V_L = The volume of gasoline (in gallons) left in the gasoline storage tank prior to fuel delivery.

V_D = The volume of gasoline (in gallons) delivered to the gasoline storage tank.

(D) The gasoline has been consecutively drained and refilled in accordance with an alternative protocol which the executive officer has previously found in writing provides assurances of MTBE removal equivalent to the conditions in section 2273(b)(2)(A), (B), and (C).

(c) Responsibility for compliance. The operator of the retail gasoline outlet shall be responsible for compliance with the labeling requirements in section 2273(a).

(d) Deliveries of gasoline to retail outlets.

(1) Any person delivering gasoline to a retail gasoline outlet from December 16, 1999 through December 30, 2003 shall provide to the outlet operator or responsible employee, at the time of delivery of the fuel, an invoice, bill of lading, shipping paper, or other documentation which states whether the gasoline does or does not contain 0.6 percent by volume or more MTBE, and which may identify the volumetric amount of MTBE in the gasoline. For purposes of determining compliance with this section 2273(d), the volumetric MTBE content of gasoline shall be determined by ASTM Test Method D 4815-04, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) No person shall deliver gasoline containing 0.6 percent by volume or more MTBE to a storage tank at a retail gasoline outlet unless at the time of the delivery either:

(A) All pumps dispensing gasoline from the storage tank are labeled as containing MTBE, or

(B) The party delivering the gasoline, or on whose behalf the delivery is being made, can demonstrate that it has received and is maintaining a nonsuperceded written notification from the operator of the retail gasoline outlet that all of the outlet's gasoline dispensing equipment, or all of the outlet's dispensing equipment dispensing gasoline of the grade being delivered, is labeled as containing MTBE.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-99; operative 12-16-99 (Register 99, No. 47).

2. Amendment of subsections (b)(1) and (d)(1) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

3. Amendment of subsections (a)(1) and (d)(1) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

4. Amendment of subsections (b)(1) and (d)(1) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

13 CCR § **2273, 13** CA ADC § **2273**

13 CA ADC § **2273**
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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 1. STANDARDS FOR GASOLINE
SUBARTICLE 2. STANDARDS FOR GASOLINE SOLD BEGINNING MARCH 1, 1996
This database is current through 12/26/2003, Register 2003, No. 52.

s 2273.5. Documentation Provided with Delivery of Gasoline to Retail Outlets.

Any person delivering gasoline to a retail gasoline outlet shall provide to the outlet operator or responsible employee, at the time of delivery of the fuel, an invoice, bill of lading, shipping paper, or other documentation which states whether the gasoline does or does not contain ethanol, and which may identify the volumetric amount of ethanol in the gasoline. If neither the outlet operator nor a responsible employee is at the outlet at the time of delivery, the documentation may be left at a reasonably secure location at the outlet.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

13 CA ADC s **2273.**5
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 2. STANDARDS FOR DIESEL FUEL

This database is current through 12/26/08, Register 2008, No. 52

§ 2281. Sulfur Content of Diesel Fuel.

(a) Regulatory Standard.

(1)500 parts per million sulfur standard.On or after October 1, 1993, no person shall sell, offer for sale, or supply any vehicular diesel fuel which has a sulfur content exceeding 500 parts per million by weight. Once the 15 parts per million sulfur content standard becomes applicable to an activity in accordance with the phase-in schedule in subsection (a)(3), the 500 parts per million sulfur content standard shall no longer apply to that activity.

(2)15 parts per million sulfur standard. Starting June 2006 in accordance with the phase-in schedule in subsection (a)(3), no person shall sell, offer for sale, supply or offer for supply any vehicular diesel fuel having a sulfur content exceeding 15 parts per million by weight.

(3)2006 phase-in schedule.The 15 parts per million sulfur standard in section (a)(2) shall apply in place of the 500 parts per million sulfur standard in section (a)(1):

(A) Starting June 1, 2006 to all sales, supplies or offers of vehicular diesel fuel from the production facility or import facility at which it was produced or imported.

(B) Starting July 15, 2006 to all sales, supplies, or offers of vehicular diesel fuel except for transactions directly involving:

1. The fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. The delivery of vehicular diesel fuel from a bulk plant to a retail outlet or purchaser-consumer facility.

(C) Starting September 1, 2006 to all sales, supplies, offers or movements of vehicular diesel, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(4)Phase-in of 2006 standard at low-throughput facilities.The 15 parts per million sulfur standard in section (a)(2) shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the diesel fuel demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by diesel fuel delivered to the retail outlet or bulk purchaser-consumer facility prior to July 15, 2006, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to September 1, 2006.

(5)Applicability of standards to California nonvehicular diesel fuel.

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2281 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2281

as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2281 starting January 1, 2006, and make all California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2281 starting January 1, 2007.

(6) Subsections (a)(1) and (2) shall not apply to a sale, offer for sale, or supply of diesel fuel to a refiner where the refiner further processes the diesel fuel at the refiner's refinery, prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(b) Definitions.

For the purposes of this section:

(0.2) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains diesel fuel in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(0.5) "Bulk plant" means an intermediate diesel fuel distribution facility where delivery of diesel fuel to and from the facility is solely by truck.

(0.8) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(1) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons - organic compounds consisting exclusively of the elements carbon and hydrogen - that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(2) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(3) "Further process" means to perform any activity on diesel fuel, including distillation, desulfurization, or blending, for the purpose of bringing the diesel fuel into compliance with the standard in subsection (a)(1).

(3.5) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(4) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(5) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel.

(6) "Producer" means any person who produces vehicular diesel fuel in California.

(7) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(8) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(9) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 50,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 50,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(10) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(11) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(12) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

(c) Test Method.

(1)Test Method for 500 ppm sulfur standard.The sulfur content of diesel fuel limitation of 500 parts per million specified in subsection (a)(1) shall be determined by ASTM Test Method D 2622-94, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2)Test Method for 15 ppm sulfur standard.The sulfur content of diesel fuel limitation of 15 parts per million specified in subsection (a)(2) shall be determined by ASTM Test Method D 5453-93, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(d)Presumed Sulfur Content of Diesel Fuel Represented As Being for Nonvehicular Use.

(1) All diesel fuel which has been identified or represented as a fuel which may not be dispensed into motor vehicles in California, and which would otherwise be subject to the 500 parts per million by weight sulfur content standard in subsection (a)(1), shall be deemed to have a sulfur content exceeding 500 parts per million by weight, as determined by a test method identified in subsection (c)(1), unless the fuel is tested in accordance with a method identified in subsection (c)(1) and is shown to have a sulfur content of 500 parts per million by weight or less.

(2) All diesel fuel which has been identified or represented as a fuel which may not be dispensed into motor vehicles in California, and which would otherwise be subject to the 15 parts per million by weight sulfur content standard in subsection (a)(2), shall be deemed to have a sulfur content exceeding 15 parts per million by weight, as determined by a test method identified in subsection (c)(2), unless the fuel is tested in accordance with a method identified in subsection (c)(2) and is shown to have a sulfur content of 15 parts per million by weight or less.

(e) Variances.

(1) Any person who cannot comply with the requirements set forth in subsection (a)(1) or (a)(2) as applicable because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a)(1) or (a)(2) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (e)(1), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements in subsection (a)(1) or (a)(2) as applicable is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for

inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsection (a)(1) or (a)(2) as applicable would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify a final compliance date by which the requirements in subsection (a)(1) or (a)(2) as applicable will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the sulfur content of diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may providethat, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance from the requirements set forth in subsection (a)(1) or (a)(2) as applicable based on a plan for compliance which includes the installation of major additional equipment shall be issued to a producer where installation of the equipment was not included in a compliance plan or first update submitted pursuant to subsection (f). No such variance shall have a duration of more than three years.

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (e)(2) and (e)(3), issue an emergency variance to a person from the requirements of subsections (a)(1) or (a)(2) as applicable upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of subsection (e)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a)(1) or (a)(2) as applicable within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (e)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this paragraph (e)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive

officer may review and for good cause modify or revoke a variance from the requirements of subsection (a)(1) or (a)(2) as applicable after holding a hearing in accordance with the provisions of subsections (e)(2) and (e)(3).

(g) Submittal of Compliance Plan.Each producer shall, by September 1, 2004, submit to the executive officer a plan showing the producer's schedule for achieving compliance with subsection (a)(2). Each producer shall, by July 1, 2005, submit an update of the plan.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101 of the Health and Safety Code ; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 39667, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering former section 2255 to section 2281 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

2. New subsections (h)-(h)(5) filed 10-21-93 as an emergency; operative 10-21-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-94 or emergency language will be repealed by operation of law on the following day.

3. Repeal of subsections (h)(1)-(h)(5) by operation of Government Code section 11346.1(f) (Register 94, No. 18).

4. Amendment of subsection (c) filed 7-25-97; operative 8-24-97 (Register 97, No. 30).

5. Amendment filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

6. New subsection (a)(5)(A) designator and new subsection (a)(5)(B) filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

13 CCR § **2281, 13** CA ADC § **2281**

13 CA ADC § **2281**
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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 2. STANDARDS FOR DIESEL FUEL

This database is current through 12/26/08, Register 2008, No. 52

§ 2282. Aromatic Hydrocarbon Content of Diesel Fuel.

(a) Regulatory Standard.

(1) On or after October 1, 1993, except as otherwise provided in this subsection (a), no person shall sell, offer for sale, or supply any vehicular diesel fuel unless:

(A) The aromatic hydrocarbon content does not exceed 10 percent by volume; or

(B) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d), and:

1. The aromatic hydrocarbon content does not exceed the designated alternative aromatic hydrocarbon limit, and

2. Where the designated alternative aromatic hydrocarbon limit exceeds 10 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d); or

(C) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsection (g)(6); or

(D) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (h)(2), and meets all of the designated equivalent limits set forth in subsection (h)(1); or

(E) The vehicular diesel fuel is exempt under subsection (e) and:

1. The aromatic hydrocarbon content does not exceed 20 percent by volume; or

2. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d) and

a. The aromatic hydrocarbon content does not exceed the designated alternative limit, and

b. Where the designated alternative limit exceeds 20 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d), treating all references in subsection (d) to 10 percent by volume as references to 20 percent by volume; or

3. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsections (g)(6) and (g)(8).

(2)Applicability of standards to California nonvehicular diesel fuel.

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2282 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2282 as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2282 starting January 1, 2006, and make all California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2282 starting January 1, 2007.

(3) Subsection (a)(1) shall not apply to a sale, offer for sale, or supply of vehicular diesel fuel to a refiner where the refiner further processes the diesel fuel at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(b) Definitions.

For the purposes of this section:

(0.5) "Aromatic hydrocarbon" has the same meaning as "total aromatic hydrocarbons."

(0.7) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(1) "Chemical composition" means the name and percentage by weight of each compound in an additive and the name and percentage by weight of each element in an additive.

(2) "Designated alternative limit" means an alternative aromatic hydrocarbon limit, expressed in percent aromatic hydrocarbon content by volume, which is assigned by a producer or importer to a final blend of vehicular diesel fuel pursuant to subsection (d).

(3) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons - organic compounds consisting exclusively of the elements carbon and hydrogen - that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(4) "Exempt volume" means:

(A) Except as otherwise provided in subsection (b)(4)(B), 65 percent of the average of the three highest annual production volumes of distillate fuel reported for a small refiner's California refinery in the period 1983 to 1987, inclusive, to the California Energy Commission (CEC) as required by the Petroleum Industry Information Reporting Act of 1980 (Public Resources Code Sections 25350 et seq.); provided that for any small refiner that reported no distillate fuel production for two or more years in the 1983-1987 period and that has installed hydrotreating processes which allow the production of diesel fuel with a sulfur content of 500 parts per million or less, exempt volume may be calculated as 65 percent of the average annual production volumes of distillate fuel reported for the small refiner's California refinery for 1989 and 1990.

(B) In the case of a small refiner who, in an application or amended application submitted pursuant to subsection (e)(2), notifies the executive officer of its election to be subject to this subsection (b)(4)(B), a volume determined in accordance with the following four steps:

1. First, the barrel per calendar day "operable crude oil capacity" of the small refiner's refinery for 1991 and 1992 is identified, based on data which are reported to the Executive Officer from the CEC and are derived from "Monthly Refining Reports" (EIA 810, Revised 1/89) submitted to the CEC no later than June 20, 1994. If the CEC is unable to derive such data from the "Monthly Refining Reports" for a particular small refiner, the executive officer shall determine the small refiner's operable crude oil capacity for 1991 and 1992 based on other publicly available and generally recognized sources.

2. Second, this operable crude oil capacity is multiplied by 0.9011, representing the overall refinery utilization rate (crude oil run divided by operable crude oil capacity) in the California refining industry for 1991 and

1992, as derived from reports of crude oil run and operable capacity in the "Quarterly Oil Reports" issued by the CEC.

3. Third, the resulting crude throughput volume is multiplied by the average of the refinery's two highest ratios of distillate produced to crude oil distilled in the period 1988 through 1992, based on distillate production data recorded by the CEC from MO-7 reporting forms (Revised 11-87) submitted to the CEC no later than June 30, 1994 and from crude oil run data derived by the CEC from "Monthly Refining Reports" submitted to the CEC no later than June 30, 1994, and is further multiplied by 365 to identify an annualized value.

4. Fourth, the resulting annual volume of distillate production is multiplied by a fraction determined in accordance with this subsection (b)(4)(B)4., which represents the average proportion of small refiners' distillate production that has been sold as diesel fuel for use in motor vehicles in California from 1988 through 1992. The fraction shall be based on the activities of all small refiners who during October 1, 1993 through June 30, 1994 lawfully produced and supplied vehicular diesel fuel. With respect to each such small refiner, the executive officer shall calculate a single fraction representing the average of the refiner's two highest annual ratios of [a] diesel fuel produced by the small refiner and sold for use in California motor vehicles to [b] distillate produced, over the period 1988 through 1992. In calculating these ratios, distillate production shall be based on distillate production data recorded by the CEC from MO-7 reporting forms (Revised 11-87) submitted to the CEC no later than June 30, 1994, and the volume of diesel fuel produced by the small refiner and sold for use in California motor vehicles shall be derived from sales data certified by authorized representatives of the small refiners and such other information from the small refiners deemed necessary by the executive officer. The executive officer shall then combine the single fractions for each such small refiner. The annual distillate production volume identified pursuant to subsection (b)(4)(B)3. shall be multiplied by the fraction that represents the average of the single fractions for each small refiner.

(5) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(6) "Final blend" means a distinct quantity of diesel fuel which is introduced into commerce in California without further alteration which would tend to affect the fuel's aromatic hydrocarbon content.

(7) "Formulation" means the composition of a diesel fuel represented by a test fuel submitted pursuant to subsection (g).

(8) "Further process" means to perform any activity on diesel fuel, including distillation, treating with hydrogen, or blending, for the purpose of bringing the diesel fuel into compliance with the standards in subsection (a)(1).

(9) "Hydrodearomatization process" means a type of hydrotreating process in which hydrogen is used in the presence of heat, pressure, and catalysts to saturate aromatic hydrocarbons in order to produce low-aromatic hydrocarbon content diesel fuel.

(10) "Importer" means any person who first accepts delivery in California of vehicular diesel fuel.

(11) "Import facility" means the facility at which imported diesel fuel is first received in California, including, in the case of diesel fuel imported by cargo tank and delivered directly to a facility for dispensing diesel fuel into motor vehicles, the cargo tank in which the diesel fuel is imported.

(12) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(13) "Motor vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(14) "Polycyclic aromatic" (also referred to as "polynuclear aromatic hydrocarbons" or "PAH") means an organic compound containing two or more aromatic rings.

(15)(A) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel. When a person blends volumes of blendstocks which are not diesel fuel

with volumes of diesel fuel acquired from another person, and the resulting blend is diesel fuel, the person conduction such blending has produced only the portion of the blend which was not previously diesel fuel. When a person blends diesel fuel with other volumes of diesel fuel, without the addition of blendstocks which are not diesel fuel, the person does not produce diesel fuel.

(B) Subsection (b)(15)(A) notwithstanding, for the purposes of subsection (e) only, a small refiner who blends volumes of blendstocks which are not diesel fuel, or volumes of diesel fuel having an aromatic hydrocarbon content exceeding 20 percent by volume, with diesel fuel acquired from another person, in order to make diesel fuel having an aromatic hydrocarbon content not exceeding 20 percent by volume, shall be deemed to have produced the entire volume of the resulting blend and the person who initially converted non-diesel compounds into the acquired iesel fuel has also produced the volume of acquired diesel fuel.

(16) "Producer" means any person who produces vehicular diesel fuel in California.

(17) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(18) "Refinery" means a facility that produces liquid fuels by distilling petroleum. A small refiner's refinery includes all bulk storage and bulk distribution facilities jointly owned or leased with the facility that produces liquid fuels by distilling petroleum.

(19) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(20) "Straight-run California diesel fuel" means diesel fuel produced from crude oil which is commercially available in California by distillation, without the use of cracking or other chemical conversion processes.

(21) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(22) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(23) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

(c) Test Method. Compliance with the aromatic hydrocarbon content limitations specified in this section 2282 shall be determined by ASTM Test Method D 5186-96, which is incorporated herein by reference. The following correlation equation shall be used to convert the SFC results in mass percent to volume percent.

Correlation Equation: Aromatic Hydrocarbons expressed in % by volume = 0.916x (Aromatic Hydrocarbons expressed in % by weight) + 1.33

(d) Designated Alternative Limit Designated Alternative Aromatic Hydrocarbon Limit.

(1) A producer or importer may assign a designated alternative limit in accordance with this subsection (d) to a final blend of vehicular diesel fuel produced or imported by the producer or importer. In no case may the designated alternative limit be less than the aromatic hydrocarbon content of the final blend shown by the sample and test conducted pursuant to subsection (f).

(2) The producer or importer shall notify the executive officer of the volume (in gallons) and the designated alternative limit of the final blend. This notification shall be received by the executive officer before the start of physical transfer of the diesel fuel from the production or import facility, and in no case less than 12 hours before the producer either completes physical transfer or comingles the final blend.

(3) Within 90 days before or after the start of physical transfer of any final blend of vehicular diesel fuel to which a producer or importer has assigned a designated alternative limit exceeding 10 percent, the producer or importer shall complete physical transfer from the production or import facility of vehicular diesel fuel in sufficient quantity and with a designated alternative limit sufficiently below the limit specified in subsection (a)(1)(A) to offset the volume of aromatic hydrocarbons in the diesel fuel reported in excess of the limit.

(4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in subsection (d)(2), then the producer or importer shall notify the executive officer of the required data as soon as reasonably possible and shall provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this subsection (d)(4) are met, timely notification shall be deemed to have occurred.

(5) The executive officer may enter into a protocol with any individual producer or importer for the purposes of specifying how the requirements in subsections (d)(2) and (3) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of subsections (d)(2) and (3). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(6) No person shall sell, offer for sale, or supply vehicular diesel fuel, in a final blend to which a producer or importer has assigned a designated alternative limit exceeding 10 percent aromatics content, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to subsection (d)(2) or (5).

(7) No person shall sell, offer for sale or supply vehicular diesel fuel, in a final blend to which a producer or importer has assigned a designated alternative limit less than 10 percent aromatics content, where the total volume of the final blend sold, offered for sale, or supplied is less than the volume reported to the executive officer pursuant to subsection (d)(2) or (5).

(8) Whenever the final blend of a producer includes volumes of diesel fuel the producer has produced and volumes it has no produced, the producer's designated alternative limit shall apply only to the volume of diesel fuel the producer has produced. In such a case, the producer shall report to the ARB in accordance with subsection (d)(2) both the volume of diesel fuel produced and the total volume of the final blend.

(e) Small Refiner Diesel Fuel.

(1) The provisions of subsection (a)(1)(A), (B), and (C) shall not apply to the diesel fuel that is produced by a small refiner at the small refiner's California refinery and that is first consecutively supplied from the refinery as vehicular diesel fuel in each calendar year, up to the small refiner's exempt volume (up to one quarter of the small refiner's exempt volume for the period from October 1, 1993-December 31, 1993). Diesel fuel which is designated by the small refiner as not exempt under this section (e), and which is reported to the executive officer pursuant to a protocol entered into between the small refiner and the executive officer, shall not be counted against the exempt volume and shall not be ex-

empt under this subsection (e). This exemption shall not apply to any diesel fuel supplied from a small refiner's refinery in any calendar quarter in which less than 25 percent of the diesel fuel supplied from the refinery was produced from the distillation of crude oil at the refinery. The foregoing notwithstanding in the case of any small refiner that pursuant to subsection (a)(4) has not been subject to subsection (a)(1) until October 1, 1994, all vehicular diesel fuel produced by the small refiner at the small refiner's California refinery and supplied from the refinery from October 1, 1994 through December 31, 1994, shall be exempt from the provisions of subsection (a)(1)(A), (B) and (C), up to the quarterly volume limits imposed by the executive officer in connection with issuance of suspension orders pursuant to section 2281(g). These quarterly volume limits are as follows: Kern Oil & Refining, 714,100 barrels; Paramount Petroleum, 1,064,700 barrels; and Powerine Oil Company, 1,419,600 barrels.

(2) To qualify for an exemption under this subsection (e), a refiner shall submit to the executive officer an application for exemption executed in California under penalty of perjury, on the Air Resources Board's ARB/SSD/CPB Form 89-9-1, for each of the small refiner's California refineries. The application shall specify the crude oil capacity of the refinery at all times since January 1, 1978, the crude oil capacities of all the refineries in California and the United States which are owned or controlled by, or under common ownership or control with, the small refiner since September 1, 1988, data demonstrating that the refinery has the capacity to produce liquid fuels by distilling petroleum, and copies of the reports made to the California Energy Commission as required by the Petroleum Industry Reporting Act of 1980 (Public Resources Code sections 25350 et seq.) showing the annual production volumes of distillate fuel at the small refiner's California refinery for 1983 through 1987. Within 90 days of receipt of the application, the executive officer shall grant or deny the exemption in writing. The exemption shall be granted if the executive officer determines that the applicant has demonstrated that s/he meets the provisions of subsection (b)(19), and shall identify the small refiner's exempt volume. The exemption shall immediately cease to apply at any time the refiner ceases to meet the definition of small refiner in subsection (b)(19).

(3) In addition to the requirements of subsection (f) below, each small refiner who is covered by an exemption shall submit to the executive officer reports containing the information set forth below for each of the small refiner's California refineries. The reports shall be executed in California under penalty of perjury, and must be received within the time indicated below:

(A) The quantity, ASTM grade, aromatic hydrocarbon content, and batch identification of all diesel fuel, produced by the small refiner, that is supplied from the small refinery in each month as vehicular diesel fuel, within 15 days after the end of the month;

(B) For each calendar quarter, a statement whether 25 percent or more of the diesel fuel transferred from the small refiner's refinery was produced by the distillation of crude oil at the small refiner's refinery, within 15 days after the close of such quarter;

(C) The date, if any, on which the small refiner completes transfer from its small refinery in a calendar year of the maximum amount of vehicular diesel fuel which is exempt from subsection (a)(1)(A) and (B) pursuant to subsection (e), within 5 days after such date;

(D) Within 10 days after project completion, any refinery addition or modification which would affect the qualification of the refiner as a small refiner pursuant to subsection (b)(19); and

(E) Any change of ownership of the small refiner or small refiner's refinery, within 10 days after such change of ownership.

(4) Whenever a small refiner fails to provide records identified in subsection (e)(3)(A) or (B) in accordance with the requirements of those subsections, the vehicular diesel fuel supplied by the small refiner from the small refiner's refinery in the time period of the required records shall be presumed to have been sold or supplied by the small refiner in violation of section (a)(1)(A).

(5) Offsetting Excess Emissions From Gasoline Subject

to the Small Refiner CaRFG Phase 3 Standards.

(A) Annual elections. No later than December 22 of each calendar year starting with 2002, a small refiner who is also a qualifying small refiner as defined in the CaRFG regulations (section 2260(a)(28.5)) may by notification to the executive officer make the following elections:

1. Whether the small refiner elects to produce gasoline subject to the small refiner CaRFG Phase 3 standards in section 2272(a) in the coming year;

2. If electing to produce small refiner CaRFG Phase 3, whether the refiner elects the option of accepting a reduced exempt volume in the coming year to offset the excess emissions;

3. If electing to produce small refiner CaRFG Phase 3 but not to accept a reduced exempt volume, the refiner must elect for the coming year either (i) to produce offset small refiner diesel fuel with an exempt volume determined in accordance with section (b)(4), or (ii) to produce cleaner offset small refiner diesel fuel with an exempt volume expanded by 25 percent and restrictions on sales of high-aromatics California nonvehicular diesel fuel.

(B) Effect of election.

1. Election not to produce small refiner CaRFG Phase 3. If a small refiner does not elect to produce gasoline subject to the small refiner CaRFG Phase 3 standards for a particular year, no gasoline sold or supplied from the small refiner's refinery in that year will qualify for the small refiner CaRFG Phase 3 standards in section 2272(a).

2. Election to accept a reduced exempt volume for small refiner diesel fuel. If a small refiner elects to accept a reduced exempt volume under section (f)(5)(A), the executive officer shall assign a substitute exempt volume for the year that is reduced sufficiently to offset the excess emissions of hydrocarbons, oxides of nitrogen, and potency-weighted toxics that would result from production of the small refiner's full qualifying volume of gasoline subject to the CaRFG Phase 3 standards. In the case of Kern Oil and Refining Co., its reduced exempt volume of small refiner diesel fuel would be 825,995 barrels per year (equal to 2263 bpd; 828,258 barrels per year in leap years) in place of 2,337,825 barrels per year (equal to 6405 bpd; 2,344,230 in leap years).

3. Election to retain the preexisting exempt volume and produce offset small refiner diesel fuel. If the small refiner elects to be subject to the exempt volume determined in accordance with section (b)(4), the executive officer shall adjust the aromatics and cetane number of the standards applicable to the small refiner sufficient to offset the potential increased emissions identified pursuant to section 2272(c)(5). In the case of Kern Oil and Refining Co., its exempt volume for the year would be 2,337,825 barrels per year (equal to 6405 bpd; 2,344,230 barrels per year in leap years). Any small refiner diesel fuel it sells or supplies as a certified alternative formulation equivalent to a 20 percent aromatics reference fuel must have an aromatic hydrocarbon content that is 2 percentage points lower, and a cetane number that is 0.5 higher, than is specified for the alternative formulation. Any small refiner diesel fuel it sells or supplies which is not designated as a certified alternative formulation must have an aromatic hydrocarbon content not exceeding 18 percent, or be subject to the designated alternative limit provisions in subsection (d) with all designated alternative limits above 18 percent by volume fully offset in accordance with subsection (d).

4. Election of expanded exempt volume with requirement for cleaner offset small refiner diesel fuel. If the small refiner elects to produce offset small refiner diesel fuel with an expanded exempt volume, its exempt volume for the year will be 125 percent of its exempt volume determined in accordance with section (b)(4). The executive officer shall adjust the aromatics and cetane number of the standards applicable to the potential volume of small refiner sufficient to offset the potential increased emissions identified pursuant to section 2272(c)(5). The small refiner will be prohibited during the year from selling or supplying diesel fuel that it has produced and is intended for nonvehicular applications in California unless the fuel meets the U.S. EPA's

standards for diesel fuel for use in motor vehicles in 40 CFR sec. 80.29 as it existed July 1, 2000. In the case of Kern Oil and Refining Co., its exempt volume for the year would be 2,922,190 barrels per year (equivalent to 8006 bpd; 2,930,196 in leap years). Any small refiner diesel fuel it sells or supplies in the year as a certified alternative formulation equivalent to a 20 percent aromatics reference fuel must have an aromatic hydrocarbon content that is 3.5 percentage points lower, and a cetane number that is 0.5 higher, and an additive content that is 0.02 percentage points higher, than is specified for the alternative formulation. Any small refiner diesel fuel it sells or supplies which is not designated as a certified alternative formulation shall have an aromatic hydrocarbon content not exceeding 14 percent.

5. Additional requirement to sell or supply ultra-low sulfur diesel fuel. In addition to the requirements in section (f)(5)(B)1. through (f)(5)(B)4., a small refiner that elects to produce gasoline subject to the CaRFG Phase 3 standards for a year must sell or supply in that year up to 100 bpd of diesel fuel having a sulfur content not exceeding 30 ppm and an aromatic hydrocarbon content not exceeding 20 percent, to the extent there are buyers wishing to acquire that diesel fuel on commercially reasonable terms.

(C) Early opt-in to produce small refiner CaRFG Phase 3. To the extent that the sale or supply of gasoline subject to the CaRFG Phase 3 standards before December 31, 2002 is permitted by section 2261(b)(3), a qualifying small refiner may elect to have to option of producing gasoline subject to the small refiner CaRFG Phase 3 standards for a full year or the remainder of a year prior to December 31, 2002. In that case, section (e)(5)(B)2.-5. would apply on a pro rata basis to the portion of the year on and after the effective date of the election, and the preexisting requirements would apply on a pro rata basis to the portion of the year prior to the effective date of the election.

(f) Testing and Recordkeeping.

(1) Each producer shall sample and test for aromatic hydrocarbon content each final blend of vehicular diesel fuel which the producer has produced, in accordance with an applicable test method identified in subsection (c). If a producer blends diesel fuel components directly to pipelines, tankships, railway tankcars, or trucks and trailers, the loading(s) shall be sampled and tested for aromatic hydrocarbon content by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, final blend volume, and the aromatic hydrocarbon content. In the event a producer sells, offers for sale, or supplies diesel fuel which the producer claims is not vehicular diesel fuel and which has an aromatic hydrocarbon content exceeding the standard set forth in subsection (a)(1), such producer shall maintain, for two years from the date of any sale or supply of the fuel, records demonstrating that the diesel fuel was not vehicular diesel fuel when it was sold or supplied by the producer. All diesel fuel produced by the producer and not tested as vehicular diesel fuel by the producer pursuant to this subsection shall be deemed to have an aromatic hydrocarbon content exceeding 10 percent, unless the producer demonstrates that the diesel fuel meets the requirements of subsection (a)(1).

(2) Each importer shall sample and test for aromatic hydrocarbon content each shipment of vehicular diesel fuel which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, in accordance with an applicable test method identified in subsection (c). The importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the shipment, and the aromatic hydrocarbon content. All diesel fuel imported by the importer and not tested as vehicular diesel fuel by the importer pursuant to this subsection shall be deemed to have an aromatic hydrocarbon content exceeding 10 percent, unless the importer demonstrates that the diesel fuel meets the requirements of subsection (a)(1).

(3) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this subsection (d)

within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of vehicular diesel fuel in accordance with the requirements of this subsection, the final blend of diesel fuel shall be presumed to have been sold by the producer in violation of subsection (a)(1).

(4) The executive officer may perform any sampling and testing deemed necessary to determine compliance by any person with the requirements of subsection (a) and may require that special samples be drawn and tested at any time.

(5) The executive officer may enter into a protocol with any producer, importer, or person who sells, offers for sale, or transfers diesel fuel to a producer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of subsections (f)(1), (f)(2), or (e)(3). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the provisions of subsection (a). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(g) Certified Diesel Fuel Formulations Resulting in Equivalent Emissions Reductions.

(1) The executive officer, upon application of any producer or importer, may certify diesel fuel formulations in accordance with this subsection (g). The applicant shall initially submit a proposed test protocol to the executive officer. The proposed test protocol shall include: (A) the identify of the entity proposed to conduct the tests described in subsection (g)(4); (B) test procedures consistent with the requirements of this subsection (g); (C) test data showing that the candidate fuel meets the specifications for No. 2-D diesel fuel set forth in ASTM D975- 81 (which is incorporated herein by reference), and identifying the characteristics of the candidate fuel set forth in subsection (g)(2); (D) test data showing that the fuel to be used as the reference fuel satisfies the specifications identified in subsection (g)(3); (E) reasonably adequate quality assurance and quality control procedures; and (F) notification of any outlier identification and exclusion procedure that will be used, and a demonstration that any such procedure meets generally accepted statistical principles.

Within 20 days of receipt of a proposed test protocol, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the proposed test protocol complete or that specified additional information is still required to make it complete. Within 20 days after the proposed test protocol is deemed complete, the executive officer shall either approve the test protocol as consistent with this subsection (g) or advise the applicant in writing of the changes necessary to make the test protocol consistent with this subsection (g). Any notification of approval of the test protocol shall include the name, telephone number, and address of the executive officer's designee to receive notifications pursuant to subsection (g)(4)(C)(ii). The tests shall not be conducted until the protocol is approved by the executive officer.

Upon completion of the tests, the applicant may submit an application for certification to the executive officer. The application shall include the approved test protocol, all of the test data, a copy of the complete test log prepared in accordance with subsection (g)(4)(C)(ii), a demonstration that the candidate fuel meets the requirements for certification set forth in this subsection (g), and such other information as the executive officer may reasonably require.

Within 20 days of receipt of an application, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the application complete

or that specified additional information is still required to make it complete. Within 30 days after the application is deemed complete, the executive officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(2)The candidate fuel.

(A)1. The applicant shall supply the candidate fuel to be used in the comparative testing pursuant to subsection (g)(4).

2. The candidate fuel shall meet the specifications for No. 2-D diesel fuel set forth in ASTM D975-81, which is incorporated herein by reference, and shall also meet the requirements in subsections (g)(2)(A)3. and 4.

3.a. Except as otherwise provided in subsection (g)(2)(A)3.b., the candidate fuel shall meet the following specifications, which are identical to the comparable specifications for the reference fuel identified in subsection (g)(3):

Property	ASTM Test Method	Candidate Fuel Specifications
Gravity, API	D287-82	33-39
Viscosity at 40 ^{0}C	D455-83	2.0-4.1
Flash point, ^{O}F	D93-80	130
Distillation, ^{O}F		
IBP	D86-96	340-420
10% REC.		400-490
50% REC.		470-560
90% REC.		550-610
EP		580-660

b. The candidate fuel's value for one or more of the properties listed in the subsection (g)(2)(A)3.a. table may be outside the specification in the table if the applicant is specifying the property and candidate fuel's value pursuant to subsection (g)(2)(C).

4.a. Except for a property to which subsection (g)(2)(A)3.b applies, the gravity, viscosity, flash point and distillation values of the candidate fuel may not differ from the corresponding values of the reference fuel used in the engine emissions testing by more than one-half of the permitted range for the property. For example, if the API gravity of the reference fuel is 33, then the API gravity of the candidate fuel may not exceed 36.

b. The candidate fuel's value for one or more of the properties listed in the subsection (g)(2)(A)3.a. table may differ from the corresponding value of the reference fuel used in the engine emissions testing by more than one-half of the permitted range for the property if the applicant is specifying the property and candidate fuel's value pursuant to subsection (g)(2)(C).

(B) The following characteristics of the candidate fuel shall be determined as the average of three tests conducted in accordance with the referenced test method (the ASTM methods are incorporated herein by reference):

1.a. For formulations certified prior to August 14, 2004, sulfur content (not to exceed 500 ppm) by ASTM D2622-94;

b. For formulations certified on or after August 14, 2004, sulfur content (not to exceed 15 ppm) by ASTM

D5453-93;

2. Total aromatic hydrocarbon content, by ASTM D5186-96;

3. Polycyclic aromatic hydrocarbon content, by ASTM D5186-96;

4. Nitrogen content, by ASTM D4629-96;

5. Cetane number, by ASTM D613-84;

6. Identity and concentration of each additive, by a test method specified by the applicant and determined by the executive officer to adequately determine the presence and concentration of the additive.

(C) The applicant may also specify any other parameters for the candidate fuel in addition to those listed in subsection (g)(2)(B), along with the test method for determining the parameters. The applicant shall provide the chemical composition of each additive in the candidate fuel, except that if the chemical composition of an additive is not known to either the applicant or to the manufacturer of the additive (if other), the applicant may provide a full disclosure of the chemical process of manufacture of the additive in lieu of its chemical composition.

(3)The reference fuel.

(A) The reference fuel used in the comparative testing described in subsection (g)(4) shall be produced from straight-run California diesel fuel by a hydrodearomatization process and shall have the characteristics set forth below under "General Reference Fuel Specifications" (the listed ASTM methods are incorporated herein by reference):

Reference Fuel Specifications

Property	ASTM Test Method	General Reference Fuel Specifications	Small Refiner Reference Fuel Specifications
Sulfur Content	D2622-94 [FN1]	500 ppm max. [FN1]	500 ppm max. [FN1]
	D5453-93 [FN2]	15 ppm max. [FN2]	15 ppm max. [FN2]
Aromatic Hydrocarbon Content, Vol. W4B	D5186-96	10% max.	20% max.
Polycyclic Aromatic Hydrocarbon Content, WT. W4B	D5186-96	1.4% max.	4% max.
Nitrogen Content	D4629-96	10 ppm max.	90 ppm max.
Natural Cetane Number	D613-84	48 minimum	47 minimum
Gravity, API	D287-82	33-39	33-39
Viscosity at 40	D445-83	2.0-4.1	2.0-4.1
Flash point,	D93-80	130	130
Distillation,	D86-96		
IBP		340-420	340-420
10 % REC		400-490	400-490
50 % REC		470-560	470-560
90 % REC		550-610	550-610
EP		580-660	580-660

[FN1] This test method and sulfur content maximum applies to all reference fuels used for formulations certified prior to August 14, 2004.

[FN2] This test method and sulfur content maximum applies to all reference fuels used for formulations certified on or after August 1, 2004.

(B) Where the candidate fuel's value for one or more properties is outside the specification in the table in subsection (g)(2)(A)3.a as permitted by subsection (g)(2)(A)3.b., the reference fuel's value for that property may not be on the opposite side of the mid-point of the range shown in the table.

(4)(A) Exhaust emission tests using the candidate fuel and the reference fuel shall be conducted in accordance with the "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel-Powered Engines and Vehicles," as incorporated by reference in Title 13, California Code of Regulations, Section 1956.8(b). The tests shall be performed using a Detroit Diesel Corporation Series-60 engine, or, if the executive officer determines that the Series-60 is no longer representative of the post-1990 model year heavy-duty diesel engine fleet, another engine found by the executive office to be representative of such engines. A determination by the executive officer that an engine is no longer representative shall not affect the certification of a diesel fuel formulation based on prior tests using that engine pursuant to a protocol approved by the executive officer.

(B) The comparative testing shall be conducted by a party or parties that are mutually agreed upon by the executive officer and the applicant. The applicant shall be responsible for all costs of the comparative testing.

(C)1. The applicant shall use one of the following test sequences:

a. If both cold start and hot start exhaust emission tests are conducted, a minimum of five exhaust emission tests shall be performed on the engine with each fuel, using either of the following sequences, where "R" is the reference fuel and "C" is the candidate fuel: RC RC RC RC RC and (continuing in the same order), or RC CR RC CR RC (and continuing in the same order).

The engine mapping procedures and a conditioning transient cycle shall be conducted with the reference fuel before each cold start procedure using the reference fuel. The reference cycle used for the candidate shall be the same cycle as that used for the fuel preceding it.

b. If only hot start exhaust emission tests are conducted, one of the following test sequences shall be used throughout the testing, where "R" is the reference fuel and "C" is the candidate fuel:

Alternative 1: RC CR RC CR (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 2: RR CC RR CC (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 3: RRR CCC RRR CCC (continuing in the same order for a given calendar day; a minimum of twenty-one individual exhaust emission tests must be completed with each fuel)

For all alternatives, an equal number of tests shall be conducted using the reference fuel and the candidate fuel on any given calendar day. At the beginning of each calendar day, the sequence of testing shall begin with the fuel that was tested at the end of the preceding day. The engine mapping procedures and a conditioning transient cycle shall be conducted after every fuel change and/or at the beginning of each day. The reference cycle generated from the reference fuel for the first test shall be used for all subsequent tests. For alternatives 2 and 3, each paired or triplicate series of individual tests shall be averaged to obtain a single value which would be used in the calculations conducted pursuant to

section (g)(5)(C).

2. The applicant shall submit a test schedule to the executive officer at least one week prior to commencement of the tests. The test schedule shall identify the days on which the tests will be conducted, and shall provide for conducting the test consecutively without substantial interruptions other than those resulting from the normal hours of operations at the test facility. The executive officer shall be permitted to observe any tests. The party conducting the testing shall maintain a test log which identifies all tests conducted, all engine mapping procedures, all physical modifications to or operational tests of the engine, all recalibrations or other changes to the test instruments, and all interruptions between tests and the reason for each such interruption. The party conducting the tests or the applicant shall notify the executive officer by telephone and in writing of any unscheduled interruption resulting in a test delay of 48 hours or more, and of the reason for such delay. Prior to restarting the test, the applicant or person conducting the tests shall provide the executive officer with a revised schedule for the remaining tests. All tests conducted in accordance with the test schedule, other than any tests rejected in accordance with an outlier identification and exclusion procedure included in the approved test protocol, shall be included in the comparison of emissions pursuant to subsection (g)(5).

(D) In each test of a fuel, exhaust emissions of oxides of nitrogen (NOx) and particulate matter (PM) shall be measured. In addition, for each test the soluble organic fraction (SOF) of the particle matter in the exhaust emissions shall be determined in accordance with the Air Resources Board's "Test Method for Soluble Organic Fraction (SOF) Extraction" dated April 1989, which is incorporated herein by reference.

(5) The average emissions during testing with the candidate fuel shall be compared to the average emissions during testing with the reference fuel , applying one-sided Student's t statistics as set forth in Snedecar and Cochran, Statistical Methods (7th ed.), page 91, Iowa State University Press, 1980, which is incorporated herein by reference. The executive officer shall issue a certification pursuant to this paragraph only if he or she makes all of the determinations set forth in subsections (g)(5)(A) and (B) below, after applying the criteria in subsection (g)(5)(C).

(A) The average individual emissions of NOx, PM, and SOF, respectively, during testing with the candidate fuel do not exceed the average individual emissions of NOx, PM, and SOF, respectively, during testing with the reference fuel.

(B) Use of any additive identified pursuant to subsection (g)(2)(B)6. in heavy-duty engines will not increase emissions of noxious or toxic substances which would not be emitted by such engines operating without the additive.

(C) In order for the determinations in subsection (g)(5)(A) to be made, for each referenced pollutant the candidate fuel shall satisfy the following relationship:

$$\bar{X}_c < \bar{X}_R + \delta - S_p\sqrt{\frac{2}{n}} \cdot t\,(a,\ 2n-2)$$

Where:

$\bar{X}_c$ = Average emissions during testing with the candidate fuel

$\bar{X}_R$ = Average emissions during testing with the reference fuel

δ = tolerance level equal to 1 percent of $\bar{X}_R$ for NOx, 2 percent of $\bar{X}_R$ for PM, and 6 percent of $\bar{X}_R$ for SOF.

S_p = Pooled standard deviation

$t\,(a, 2n-2)$ = The one–sided upper percentage point of t distribution with $a = 0.15$ and $2n-2$ degrees of freedom

n = Number of tests of candidate and reference fuel

Where:

X_c = Average emissions during testing with the candidate fuel

X_R = Average emissions during testing with the reference fuel

d = tolerance level equal to 1 percent of

X_R for NOx, 2 percent of

X_R for PM, and 1 percent of

X_R for SOF. S_p = Pooled standard deviation t (a, 2n-2) = The one-sided upper percentage point of t distribution with a = 0.15 and 2n-2 degrees of freedom n = Number of tests of candidate and reference fuel

(6) If the executive officer finds that a candidate fuel has been properly tested in accordance with this subsection (g), and makes the determinations specified in subsection (g)(5), then he or she shall issue an Executive Order certifying the diesel fuel formulation represented by the candidate fuel. The Executive order shall identify all of the characteristics of the candidate fuel determined pursuant to subsection (g)(2). The Executive Order shall provide that the certified diesel fuel formulation has the following specifications: (1) a sulfur content, total aromatic hydrocarbon content, polycyclic aromatic hydrocarbon content, and nitrogen content not exceeding that of the candidate fuel, (2) a cetane number not less than that of the test fuel, (3) any additional fuel specification required under subsection (g)(2)(A)3.b, and (4) presence of all additives that were contained in the candidate fuel, in a concentration not less than in the test fuel, except for an additive demonstrated by the applicant to have the sole effect of increasing cetane number. All such characteristics shall be determined in accordance with the test methods identified in subsection (g)(2). The Executive Order shall assign an identification name to the specific certified diesel fuel formulation.

(7) In order for a producer or importer of a final blend to comply with subsection (a) through the sale, offer for sale or supply of a certified diesel fuel formulation, the producer or importer shall notify the executive officer in accordance with this subsection (g)(7). The notification shall identify the final blend and the identification name of the certified diesel fuel formulation. The notification shall be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be a specific certified formulation may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol would provide at least as much notice to the executive officer as notification pursuant to the express terms of this subsection (g)(7).

(8) A small refiner may apply for certification of a diesel fuel formulation to be sold pursuant to subsection (a)(1)(C). All of the provisions of this subsection (g) shall apply to certification of such a diesel fuel formulation, except the reference fuel in the comparative testing

described in subsection (g)(4) shall have the characteristics set forth under "Small Refiner Reference Fuel Specifications" in the table in subsection (g)(3).

(9) (A) If the executive officer determines that a commercially available diesel fuel blend meets all of the specifications of a certified diesel fuel formulation set forth in an Executive Order issued pursuant to subsection (g)(6), but does not meet the criteria in subsection (g)(5) when tested in accordance with subsection (g)(4), the executive officer shall modify the certification order as is necessary to assure that diesel fuel blends sold commercially pursuant to the certification will meet the criteria set forth in subsection (g)(5). The modifications to the order may include additional specifications or conditions, or a producer of the commercially available diesel fuel blend found not to meet the criteria.

(B) The executive officer shall not modify a prior certification order without the consent of the applicant and of the producer of the commercially available diesel fuel blend found not to meet the criteria, unless the applicant and producer are first afforded an opportunity for a hearing in accordance with Title 17, California Code of Regulations, Part III, Chapter 1, Subchapter 1, Article 4 (commencing with Section 60040). If the executive officer determines that a producer would be unable to comply with this regulation as a direct result of an order modification pursuant to this subsection, the executive officer may delay the effective date of such modification for such period of time as is necessary to permit the producer to come into compliance in the exercise of all reasonable diligence.

(10) Any diesel fuel formulation certified in accordance with this subsection (g) as it existed before the amendments effective 12/26/91 shall no longer be considered certified after 12/26/91 unless the executive officer determines that the test data submitted with the application demonstrates that the diesel fuel formulation satisfies the criteria for certification in subsection (g) as amended effective 12/26/91.

(h) Designated Equivalent Limits.

(1)Designated equivalent limits.The designated equivalent limits under this section 2282 are set forth in the following table. Compliance with the limits for the properties shall be determined by the specified ASTM methods, which are incorporated herein by reference.

Property	*Equivalent Limit*	*Test Method*
Aromatic Hydrocarbon Content (% by wt.)	≤21.0	ASTM D5186-96
PAH Content (% by wt.)	≤3.5	ASTM D5186-96
API Gravity	≥36.9	ASTM D287-82
Cetane Number	≥53	ASTM D613-84
Nitrogen Content (ppmw)	≤500	ASTM D4629-96
Sulfur Content (ppmw)	≤160 before 6/1/06 ≤15 starting 6/1/06	ASTM D2262-94 before 6/1/06 ASTM D5453-93 starting 6/1/06

Property	Equivalent Limit	Test Method
Aromatic Hydrocarbon Content (% by wt.)	<=21.0	ASTM D5186-96
PAH Content (% by wt.)	<=3.5	ASTM D5186-96
API Gravity	<=36.9	ASTM D287-82
Cetane Number	<=53	ASTM D613-84
Nitrogen Content (ppmw)	<=500	ASTM D4629-96
Sulfur Content (ppmw)	<= 160 before 6/1/06 <= 15 starting 6/1/06	ASTM D2262-94 before 6/1/06 ASTM D5453-93 starting 6/1/06

(2)Notification requirements.In order for a producer or importer of a final blend to comply with subsection (a) through the sale, offer for sale or supply of diesel fuel subject to all of the designated equivalent limits in subsection (h)(1), the producer or importer shall notify the executive officer in accordance with this subsection (h)(2). The notification shall identify the final blend subject to the designated equivalent limits and must be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be subject to the designated equivalent limits may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol would provide at least as much notice to the executive officer as notification pursuant to the express terms of this subsection (h)(2).

(i) Variances.

(1) Any person who cannot comply with the requirements set forth in subsection (a)(1) because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a)(1) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (i)(1), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements in subsection (a)(1) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsection (a)(1) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify a final compliance date by which the requirements in subsection (a)(1) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the aromatic hydrocarbon content of diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any con-

struction, alteration, repair, or other work required by the terms of conditions of the variance.

Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) [Reserved]

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (i)(2) and (i)(3), issue an emergency variance to a person from the requirements of subsections (a)(1) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of subsection (i)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a)(1) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (i)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this subsection (i)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a)(1) after holding a hearing in accordance with the provisions of subsections (i)(2) and (i)(3).

(j) Whenever this section provides for the use of a specified test method, another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results with the specified method.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering former section 2256 to section 2282 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

2. Amendment of subsections (a)(4), (c)(2), (g)(1)-(6), and (j)(1)-(2) and

adoption of subsections (g)(5)(D) and (g)(10) filed 11-25-91; operative 12-26-91 (Register 92, No. 13).

3. New subsections (l)-(l)(3) filed 10-21-93 as an emergency; operative 10-21-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-94 or emergency language will be repealed by operation of law on the following day.

4. Repeal of subsections (l)(1)-(l)(3) by operation of Government Code section 11346.1(f) (Register 94, No. 18).

5. Amendment of subsection (e)(1) filed 9-29-94; operative 9-29-94 (Register 94, No. 39).

6. Amendment filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).

7. Editorial correction of subsection (g)(4)(C)(i)2. (Register 95, No. 43).

8. New subsection (b)(0.5), amendment of subsections (b)(14) and (c)(1), repealer of subsection (c)(2), amendment of subsections (g)(2)(A)-(D) and (g)(3) filed 7-25-97; operative 8-24-97 (Register 97, No. 30).

9. Amendment of subsections (b)(19)(A)-(B) and new subsections (e)(5)-(e)(5)(C) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

10. Amendment filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

11. New subsection (a)(2)(A) designator, new subsection (a)(2)(B) and amendment of Note filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

13 CCR § **2282, 13** CA ADC § **2282**

13 CA ADC § **2282**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 2. STANDARDS FOR DIESEL FUEL

This database is current through 12/26/08, Register 2008, No. 52

§ 2284. Lubricity of Diesel Fuel.

(a) Regulatory Standard.

(1)Standard starting in 2005

(A)Basic standard. Starting in January 1, 2005 in accordance with the phase-in schedule in section (a)(2), no person shall sell, offer for sale, supply, or offer for supply any vehicular diesel fuel unless at the time of the transaction the diesel fuel meets a minimum lubricity level of a maximum wear scar diameter of 520 microns based on American Society for Testing and Materials (ASTM) test method D6079-02, Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High Frequency Reciprocating Rig (HFRR), which is incorporated herein by reference.

(B)Sunset. The standard in section 2284(a)(1)(A) does not apply at any time that California diesel fuel must meet a minimum lubricity level of a maximum wear scar diameter of 520 microns based on ASTM test method D6079, Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High Frequency Reciprocating Rig (HFRR), pursuant to section 4143, title 4, California Code of Regulations.

(2)2005 phase-in schedule. The lubricity standard in section (a)(1) shall apply:

(A) Starting January 1, 2005 to all sales, supplies, or offers of vehicular diesel fuel from the production facility or import facility at which it was produced or imported.

(B) Starting February 15, 2005 to all sales, supplies, or offers of vehicular diesel fuel except for transactions directly involving:

1. The fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. The delivery of vehicular diesel fuel from a bulk plant to a retail outlet or purchaser-consumer facility.

(C) Starting April 1, 2005 to all sales, supplies, offers or movements of vehicular diesel, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchase-consumer facility.

(3)Standard starting in 2006. [Reserved]

(4)2006 phase-in schedule. [Reserved]

(5)Exception for upstream activities. Subsection (a)(1) shall not apply to transactions where the person selling, supplying, or offering the motor vehicle diesel fuel demonstrates that: (i) the diesel fuel has not yet been sold, offered, or supplied from the final distribution facility, (ii) the diesel fuel is identified as fuel to which a lubricity additive must be added before the diesel fuel is supplied from the final distribution facility; and either (iii) the person has taken reasonably prudent precautions to assure that he or she will bring the diesel fuel into satisfaction with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility, or (iv) at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the diesel fuel stating that he or she will take reasonably prudent precautions to assure that the diesel fuel will be brought into compliance with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility.

(6)Correction of diesel fuel downstream of the final distribution facility.Subsection (a)(1) shall not apply to the sale, supply, or offer of vehicular diesel fuel from a final distribution facility where the person selling, supplying, or offering the diesel fuel demonstrates that the diesel fuel will be corrected to comply with subsection (a)(1) as applicable prior to the sale of diesel fuel from

the retail outlet. If such corrective action is taken, the producer, importer, or distributor of the diesel fuel must notify the Enforcement Division of the Air Resources Board by telephone or in writing within 2 business days of the correction. The person must also maintain records to document each occurrence for at least one year, and make the records available to the Executive Officer or his/her designee within 20 days of a written request. This subsection (a)(6) exception does not apply to vehicular diesel fuel found by an enforcement inspector to be in noncompliance, unless the person selling, supplying, or offering the diesel fuel affirmatively demonstrates that he or she would have corrected the diesel fuel independent of the inspection.

(7)Applicability of standards to California nonvehicular diesel fuel.

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2284 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2284 as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2284 starting January 1, 2006, and make all California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2284 starting January 1, 2007.

(b) Definitions. For the purposes of this section:

(1) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains diesel fuel in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(2) "Bulk plant" means an intermediate diesel fuel distribution facility where delivery of diesel fuel to and from the facility is solely by truck.

(3) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(4) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(5) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(6) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(7) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(8) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel.

(9) "Producer" means any person who produces vehicular diesel fuel in California.

(10) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(11) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(12) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation

system.

(13) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; andWestern Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

2. Amendment of subsections (a)(1)(A) and (a)(2)(A)-(C) and new subsection (a)(2.5) filed 12-16-2004 as an emergency; operative 1-1-2005 (Register 2004, No. 51). A Certificate of Compliance must be transmitted to OAL by 5-2-2005 or emergency language will be repealed by operation of law on the following day.

3. New subsection (a)(7)(A) designator and new subsection (a)(7)(B) filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

4. Reinstatement of section as it existed prior to 12-16-2004 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 7). The repealed emergency language affecting subsections (a)(1) and (a)(2)(A)-(C) delayed starting dates for the lubricity standard of subsection (a)(1) for some vehicular diesel fuels until May 1, 2005.

13 CCR § **2284**, **13** CA ADC § **2284**

13 CA ADC § **2284**
END OF DOCUMENT

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 13. MOTOR VEHICLES
DIVISION 3. AIR RESOURCES BOARD
CHAPTER 5. STANDARDS FOR MOTOR VEHICLE FUELS
ARTICLE 2. STANDARDS FOR DIESEL FUEL

This database is current through 12/26/08, Register 2008, No. 52

§ 2285. Exemption from Diesel Fuel Requirements for Military-Specification Fuels Used in Qualifying Military Vehicles.

(a) Exemption for military-specification fuel used in qualifying military vehicles. The vehicular diesel fuel standards in sections 2281, 2282, and 2284 do not apply to military specification fuel that is sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in:

(1) Vehicles for which the U.S. Environmental Protection Agency has granted a national security exemption under 40 CFR § 85.1708 from motor vehicle emissions standards under 40 CFR Part 86, or which are exempted from regulation under 40 CFR § 85.1703(a)(3) because of features ordinarily associated with military combat or tactical vehicles such as armor and/or weaponry, or military tactical vehicles that are exempt from the California motor vehicle emission standards pursuant to section 1905, title 13, California Code of Regulations; or

(2) Tactical military motor vehicles that are not subject to a national security exemption from motor vehicle emission standards but for national security purposes (for purposes of readiness for deployment overseas) need to be fueled with the same fuel as motor vehicles for which EPA has granted a national security exemption, provided that such fuel is:

(A) Used only in vehicles identified in section (a)(1) or this section (a)(2);

(B) Segregated from non-exempt vehicle diesel fuel at all points in the distribution system; and

(C) Dispensed from a fuel pump stand or tank that is prominently labeled as containing fuel that is not lawful for use in diesel vehicles other than excluded military vehicles, or from a fueling truck. Any such fuel pump stand or tank may also be labeled with the appropriate designation of the fuel, such as "JP-8."

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

13 CCR § **2285, 13** CA ADC § **2285**

13 CA ADC § **2285**
END OF DOCUMENT

Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 40000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

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Article 4. Sampling and Test Procedures

2296. Motor Fuel Sampling Procedures

(a) **Scope.** This method covers procedures for obtaining representative samples of motor fuel and blending components used to make motor fuel.

(b) **Summary of Method.** It is necessary that the samples be truly representative of the product in question. The precautions required to ensure the representative character of the samples are numerous and depend upon the tank, carrier, container or line from which the sample is being obtained, the type and cleanliness of the sample container, and the sampling procedure that is to be used. A summary of the sampling procedures and their application is presented in Table 1. Each procedure is suitable for sampling a material under definite storage, transportation, or container conditions. The basic principle of each procedure is to obtain a sample in such manner and from such locations in the tank or other container that the sample will be truly representative of the product.

(c) **Description of Terms.**

(1) "Average sample" is one that consists of proportionate parts from all sections of the container.

(2) "All-levels sample" is one obtained by submerging a stoppered beaker or bottle to a point as near as possible to the draw-off level, then opening the sampler and raising it at a rate such that it is about 3/4 full (maximum 85 percent) as it emerges from the liquid. An all-levels sample is not necessarily an average sample because the tank volume may not be proportional to the depth and because the operator may not be able to raise

the sampler at the variable rate required for proportionate filling. The rate of filling is proportional to the square root of the depth of immersion.

(3) "Running sample" is one obtained by lowering an unstoppered beaker or bottle from the top of the liquid to the level of the bottom of the outlet connection or swing line, and returning it to the top of the liquid at a uniform rate of speed such that the beaker or bottle is about 3/4 full when withdrawn from the liquid.

(4) "Spot sample" is one obtained at some specific location in the tank by means of a thief bottle, or beaker.

(5) "Top sample" is a spot sample obtained 6 inches (150mm) below the top surface of the liquid (Figure 1).

(6) "Upper sample" is a spot sample taken at the mid-point of the upper third of the tank contents (Figure 1).

(7) "Middle sample" is a spot obtained from the middle of the tank contents (Figure 1).

(8) "Lower sample" is a spot sample obtained at the level of the fixed tank outlet or the swing line outlet (Figure 1).

(9) "Clearance sample" is a spot sample taken 4 inches (100 mm) below the level of the tank outlet (Figure 1).

(10) "Bottom sample" is one located from the material on the bottom surface of the tank, container, or line at its lowest point.

(11) "Drain sample" is one obtained from the draw-off or discharge valve. Occasionally, a drain sample may be the same as the bottom sample, as in the case of a tank car.

(12) "Continuous sample" is one obtained from a pipeline in such manner as to give a representative average of a moving stream.

(13) "Mixed sample" is one obtained after mixing or vigorously stirring the contents of the original container, and then pouring out or drawing off the quantity desired.

(14) "Nozzle sample" is one obtained from a service station pump nozzle which dispenses motor fuel from an underground storage tank.

(15) "Motor fuel" shall mean, for the purpose of this sampling procedure, gasoline (including gasoline containing oxygenates), diesel fuel, or any blending components that are used to make such fuel.

(d) **Sample Containers.**

(1) Sample containers may be clear or brown glass bottles, or cans. The clear glass bottle is advantageous because it may be examined visually for cleanliness, and also allows visual inspection of the sample for free water or solid impurities. The brown glass bottle affords some protection from light. The only cans permissible are those with the seams soldered on the exterior surface with a flux of rosin in a suitable solvent. Such a flux is easily removed with gasoline, whereas many others are very difficult to remove.

(2) "Container closure." Cork or glass stoppers, or screw caps of plastic or metal, may be used for glass bottles; screw caps only shall be used for cans to provide a vapor-tight closure seal. Corks must be of good quality, clean and free from holes and loose bits of cork. Never use rubber stoppers. Contact of the sample with the cork may be prevented by wrapping tin or aluminum foil around the cork before forcing it into the bottle. Glass stoppers must be a perfect fit. Screw caps must be protected by a disk faced with tin or aluminum foil, or other material that will not affect petroleum or petroleum products.

(3) "Cleaning procedure." All sample containers must be absolutely clean and free of water, dirt, lint, washing compounds, naphtha, or other solvents, soldering fluxes or acids, corrosion, rust, and oil. Before using a container, rinse it with Stoddard solvent or other naphtha of similar volatility. (It may be necessary to use sludge solvents to remove all traces of sediment and sludge from containers previously used.) Then wash the container with strong soap solution, rinse it thoroughly with tap water, and finally with distilled water. Dry, either by passing a current of clean, warm air through the container or by placing it in a hot dust-free cabinet at 104 degrees Fahrenheit (40 degrees centigrade) or higher. When dry, stopper or cap the container immediately.

(e) **Sampling Apparatus.** The sampling apparatus is described in detail under each of the specific sampling procedures. Clean, dry, and free all sampling apparatus from any substance that might contaminate the material, using the procedure described in (d)(3).

(f) **Time and Place of Sampling.** When loading or discharging product, take samples from both shipping and receiving tanks, and from the pipeline if required.

(1) "Ship or barge tanks." Sample each product after the vessel is loaded or just before unloading.

(2) "Tank cars." Sample the product after the car is loaded or just before unloading.

NOTE: When taking samples from tanks suspected of containing flammable atmospheres, precautions should be taken to guard against ignitions due to static electricity. Metal or conductive objects, such as gage tapes, sample containers, and thermometers, should not be lowered into or suspended in a compartment or tank which is being filled or immediately after cessation of pumping. A waiting period of approximately one minute will generally permit a substantial relaxation of the electrostatic charge; under certain conditions a longer period may be deemed advisable.

(g) **Obtaining Samples.**

(1) Directions for sampling cannot be made explicit enough to cover all cases. Extreme care and good judgement are necessary to ensure samples that represent the general character and average condition of the material. Clean hands are important. Clean gloves may be worn but only when absolutely necessary, such as in cold weather, or when handling materials at high temperature, or for reasons of safety. Select wiping cloths so that lint is not introduced, contaminating samples.

(2) As many petroleum vapors are toxic and flammable, avoid breathing them or igniting them from an open flame or a spark produced by static.

(3) When sampling relatively volatile products (more than 2 pounds (0.14 kgf/cm^2) RVP), the sampling apparatus shall be rinsed and allowed to drain before drawing the sample. If the sample is to be transferred to another container, this container shall also be rinsed with some of the volatile product and then drained. When the actual sample is emptied into this container, the sampling apparatus should be upended into the opening of the sample container and remain in this position until the contents have been transferred so that no unsaturated air will be entrained in the transfer of the sample.

(h) **Handling Samples.**

(1) "Volatile samples." It is necessary to protect all volatile samples of product from evaporation. Transfer the product from the sampling apparatus to the sample container immediately. Keep the container closed except when the material is being transferred. When samples of more than 16 pounds (1.12 kgf/cm^2) RVP, are being obtained, be sure to use containers strong enough to meet local safety regulations. After delivery to the laboratory, volatile samples should be cooled before the container is opened.

(2) "Container outage." Never completely fill a sample container, but allow adequate room for expansion, taking into consideration the temperature of the liquid at the time of filling, and the probable maximum temperature to which the filled container may be subjected.

(i) **Shipping Samples.** To prevent loss of liquid and vapors during shipment, and to protect against moisture and dust, cover the stoppers of glass bottles with plastic caps that have been swelled in water, wiped dry, placed over the tops of the stoppered bottles, and allowed to shrink tightly in place. The caps of metal containers must be screwed down tightly and checked for leakage. Postal and express office regulations applying to the shipment of flammable liquids must be observed.

(j) **Labeling Sample Containers.**

(1) Label the container immediately after a sample is obtained. Use water-proof and oilproof ink or pencil hard enough to dent the tag, since soft pencil and ordinary ink markings are subject to obliteration from moisture, oil smearing, and handling. Include the following information:

(A) Date and time (the period elapsed during continuous sampling),

(B) Name of the sample,

(C) Name or number and owner of the vessel, car, or container,

(D) Brand and grade of material, and

(E) Reference symbol or identification number.

(k) **Sampling Procedures.** The standard sampling procedures described in this method are summarized in Table 1. Alternative sampling procedures may be used if a mutually satisfactory agreement has been reached by the parties involved and such agreement was put in writing and signed by authorized officials.

(1) "Bottle or Beaker Sampling." The bottle or beaker sampling procedure is applicable for sampling liquids of 16 pounds (1.12 kgf/cm^2) RVP or less in tank cars, tank trucks, shore tanks, ship tanks, and barge tanks.

(A) "Apparatus." A suitable sampling bottle or beaker as shown in Figure 2 is required. Recommended diameter of opening in the bottle or beaker is 3/4 inch (19 mm).

(B) "Procedure."

1. "All-Levels Sample." Lower the weighted, stoppered bottle or beaker as near as possible to the draw-off level, pull out the stopper with a sharp jerk of the cord or chain and raise the bottle at a uniform rate so that it is about 3/4 full as it emerges from the liquid.

2. "Running Sample." Lower the unstoppered bottle or beaker as near as possible to the level of the bottom of the outlet connection or swing line and then raise the bottle or beaker to the top of the liquid at a uniform rate of speed such that it is about 3/4 full when withdrawn from the liquid.

3. "Upper, Middle, and Lower Samples." Lower the weighted, stoppered bottle to the proper depths (Figure 1) as follows:

Upper sample.....middle of upper third of the tank contents
Middle sample.....middle of the tank contents
Lower sample.....level of the fixed tank outlet or the swing-line outlet

Pull out the stopper with a jerk of the cord or chain and allow the bottle or beaker to fill completely at the selected level, as evidenced by the cessation of air bubbles. When full, raise the bottle or beaker, pour off a small amount, and stopper immediately.

4. "Top Sample." Obtain this sample in the same manner as specified in (k)(1)(B)3 but at 6 inches (150 mm) below the top surface of the tank contents (Figure 1).

5. "Handling." Stopper and label samples immediately after taking them, and deliver to the laboratory in the original sampling bottles.

(2) "Tap Sampling." The tap sampling procedure is applicable for sampling liquids of 26 pounds (1.83 kgf/cm^2) RVP or less in tanks which are equipped with suitable sampling taps or lines. This procedure is recommended for volatile stocks in tanks of the breather and balloon roof type, spheroids, etc. (Samples may be taken from the drain cocks of gage glasses, if the tank is not equipped with sampling taps.) When obtaining a sample for RVP or distillation analysis, use the assembly as shown in Figure 3. When obtaining a sample for other than RVP or distillation analysis, the assembly as shown in Figure 3 need not be used.

(A) "Apparatus."

1. "Tank taps." The tank should be equipped with at least three sampling taps placed equidistant throughout the tank height and extending at least three feet (one m) inside the tank shell. A standard 1/4 inch pipe with suitable valve is satisfactory.

2. "Tube." A delivery tube that will not contaminate the product being sampled and long enough to reach to the bottom of the sample container is required to allow submerged filling. When a cooling bath is used while tap sampling, a similar suitable tube should be used between the tank tap and the cooler inlet.

3. "Sample containers." Use clean, dry glass bottles of convenient size and strength to receive the samples. In some cases, metal containers may be used instead of glass bottles.

(B) "Procedure."

1. Before a sample is drawn, flush the tap (or gage glass drain cock) and line until they are purged completely. Connect the clean delivery tube to the tap. Draw upper, middle, or lower samples directly from the respective taps after the flushing operation. Stopper and label the sample container immediately after filling, and deliver it to the laboratory.

2. When a sample cooler is used during the tap sampling operation, flush the tap (or gage glass drain cock). Then, using a section of clean tubing, connect the tap to the cooler inlet. Flush the cooler thoroughly, after which connect the clean delivery tube to the cooler outlet and proceed with the sampling operation.

(3) "Continuous Sampling." The continuous sampling procedure is applicable for sampling liquids of 16 pounds (1.2 kgf/cm^2) RVP or less and semiliquids in pipelines, filling lines, and transfer lines. The continuous sampling may be done manually or by using automatic devices.

(A) "Apparatus."

1. "Sampling probe." The function of the sampling probe is to withdraw from the flow stream a portion that will be representative of the entire stream. The apparatus assembly for continuous sampling is shown in Figure 4. Probe designs that are commonly used are as follows:

a. A tube extending to the center of the line and beveled at a 45 degree angle facing upstream (Figure 4(a)).

b. A long-radius forged elbow or pipe bend extending to the center line of the pipe and facing upstream. The end of the probe should be reamed to give a sharp entrance edge (Figure 4(b)).

c. A closed-end tube with a round orifice spaced near the closed end which should be positioned in such a way that the orifice is in the center of the pipeline and is facing the stream as shown in Figure 4(c).

2. Since the fluid pumped may not in all cases be homogeneous, the position and size of the sampling probe should be such as to minimize stratification or dropping out of heavier particles within the tube or the displacement of the product within the tube as a result of variation in gravity of the flowing stream. The sampling probe should be located preferably in a vertical run of pipe and as near as practicable to the point where the product passes to the receiver. The probe should always be in a horizontal position.

a. The sampling lines should be as short as practicable and should be cleared before any samples are taken.

b. A suitable device for mixing the fluid flow to ensure a homogeneous mixture at all rates of flow and to eliminate stratification should be installed upstream of the sampling tap. Some effective devices for obtaining a homogeneous mixture are as follows: Reduction in pipe size; a series of baffles; orifice or perforated plate; and a combination of any of these methods.

c. The design or sizing of these devices is optional with the user, as long as the flow past the sampling point is homogeneous and stratification is eliminated.

3. To control the rate at which the sample is withdrawn, the probe or probes should be fitted with valves or plug cocks.

4. "Automatic sampling devices" that meet the standards set out in (3)(A)5. may be used in obtaining samples of gasoline. The quantity of sample collected must be of sufficient size for analysis, and its composition should be identical with the composition of the batch flowing in the line while the sample is being taken. An automatic sampler installation necessarily includes not only the automatic sampling device that extracts the samples from the line, but also a suitable probe, connecting lines, auxiliary equipment, and a container in which the sample is collected. Automatic samplers may be classified as follows:

a. "Continuous sampler, time cycle (nonproportional) types." A sampler designed and operated in such a manner that it transfers equal increments of liquid from the pipeline to the sample container at a uniform rate of one or more increments per minute is a continuous sampler.

b. "Continuous sampler, flow-responsive (proportional) type." A sampler that is designed and operated in such a manner that it will automatically adjust the quantity of sample in proportion to the rate of flow is a flow-responsive (proportional) sampler. Adjustment of the quantity of sample may be made either by varying the frequency of transferring equal increments of sample to the sample container, or by varying the volume of the increments while maintaining a constant frequency of transferring the increments to the sample container. The apparatus assembly for continuous sampling is shown in Figure 4.

c. "Intermittent sampler." A sampler that is designed and operated in such a manner that it transfers equal increments of liquid from a pipeline to the sample container at a uniform rate of less than one increment per minute is an intermittent sampler.

5. "Standards of installation." Automatic sampler installations should meet all safety requirements in the plant or area where used, and should comply with American National Standard Code for pressure Piping, and

other applicable codes (ANSI B31.1). The sampler should be so installed as to provide ample access space for inspection and maintenance.

a. Small lines connecting various elements of the installation should be so arranged that complete purging of the automatic sampler and of all lines can be accomplished effectively. All fluid remaining in the sampler and the lines from the preceding sampling cycles should be purged immediately before the start of any given sampling operation.

b. In those cases where the sampler design is such that complete purging of the sampling lines and the sampler is not possible, a small pump should be installed in order to circulate a continuous stream from the sampling tube past or through the sampler and back into the line. The automatic sampler should then withdraw the sample from the sidestream through the shortest possible connection.

c. Under certain conditions, there may be a tendency for water and heavy particles to drop out in the discharge line from the sampling device and appear in the sample container during some subsequent sampling period. To circumvent this possibility, the discharge pipe from the sampling device should be free of pockets or enlarged pipe areas, and preferably should be pitched downward to the sample container.

d. To ensure clean, free-flowing lines, piping should be designed for periodic cleaning.

6. "Field calibration." Composite samples obtained from the automatic sampler installation should be verified for quantity performance in a manner that meets with the approval of all parties concerned, at least once a month and more often if conditions warrant. In the case of time-cycle samplers, deviations in quantity of the sample taken should not exceed $\pm$ five percent for any given setting. In the case of flow-responsive samplers, the deviation in quantity of sample taken per 1,000 barrels of flowing stream should not exceed $\pm$ 5 percent. For the purpose of field-calibrating an installation, the composite sample obtained from the automatic sampler under test should be verified for quality by comparing on the basis of physical and chemical properties, with either a properly secured continuous nonautomatic sample or tank sample. The tank sample should be taken under the following conditions:

a. The batch pumped during the test interval should be diverted into a clean tank and a sample taken within one hour after cessation of pumping.

b. If the sampling of the delivery tank is to be delayed beyond one hour, then the tank selected must be equipped with an adequate mixing means. For valid comparison, the sampling of the delivery tank must be completed within eight hours after cessation of pumping, even though the tank is equipped with a motor-driven mixer.

c. When making a normal full-tank delivery from a tank, a properly secured sample may be used to check the results of the sampler if the parties mutually agree to this procedure.

7. "Receiver." The receiver must be a clean, dry container of convenient size to receive the sample. All connections from the sample probe to the sample container must be free of leaks. Two types of container may be used, depending upon service requirements.

a. "Atmospheric container." The atmospheric container shall be constructed in such a way that it retards evaporation loss and protects the sample from extraneous material such as rain, snow, dust, and trash. The construction should allow cleaning, interior inspection, and complete mixing of the sample prior to removal. The container should be provided with a suitable vent.

b. "Closed container." The closed container shall be constructed in such a manner that it prevents evaporation loss. The construction must allow cleaning, interior inspection and complete mixing of the sample prior to removal. The container should be equipped with a pressure-relief valve.

(B) "Procedure."

1. "Nonautomatic sample."

a. Adjust the valve or plug cock from the sampling probe so that a steady stream is drawn from the probe. Whenever possible, the rate of sample withdrawal should be such that the velocity of liquid flowing through the probe is approximately equal to the average linear velocity of the stream flowing through the pipeline. Measure and record the rate of sample withdrawal as gallons per hour. Divert the sample stream to the sampling container continuously or intermittently to provide a quantity of sample that will be of sufficient size for analysis.

2. "Automatic sampling." Purge the sampler and the sampling lines immediately before the start of a sampling operation. If the sample design is such that complete purging is not possible, circulate a continuous stream from the probe past or through the sampler and back into the line. Withdraw the sample from the side stream through the automatic sampler using the shortest possible connections. Adjust the sampler to deliver not less than 1 and not more than 40 gallons (151 liters) of sample during the desired sampling period. For time-cycle samplers, record the rate at which sample increments were taken per minute. For flow-responsive samplers, record the proportion of sample to total stream. Label the samples and deliver them to the laboratory in the containers in which they were collected.

(4) "Nozzle Sampling." The nozzle sampling procedure is applicable for sampling product from a service station underground storage tank.

(A) "Apparatus." Sample containers conforming with (d)(1) should be used. A spacer, as shown in Figure 6, shall be used, if appropriate. When obtaining a sample for RVP or distillation analysis, an ice water bath and nozzle extension, as shown in Figure 7, shall be used. When obtaining a sample for other than RVP or distillation analysis, neither the ice water bath nor the nozzle extension need to be used.

(B) "Procedure."

1. When obtaining a sample for RVP or distillation analysis, conduct the sampling in the following manner: Immediately after product has been delivered from pump and pump has been reset, deliver a small amount of product into the sample container, using spacer (Figure 6), if needed, on the pump nozzle (vapor recovery type). Rinse sample container and dump product into waste container. Insert nozzle extension (Figure 7) into sample container and insert pump nozzle into extension with slot over air bleed hole (if the extension is equipped with a slot). Replace sample container in chilling medium and fill slowly through nozzle extension to 70-80 percent full (Figure 8). Remove nozzle extension. Cap container at once. Check for leaks. Discard container and resample if leak occurs. If the container is leak tight, place container in a cold chest of ice water.

2. When obtaining a sample for other than RVP or distillation analysis, the following procedure may be used instead of the procedure in

(k)(4)(B)1: Immediately after product has been delivered from pump and pump has been reset, deliver a small amount of product into the sample container, using spacer (Figure 6), if needed, on the pump nozzle (vapor recovery type). Rinse sample container and dump product into waste container. Fill slowly with the nozzle to 70-80 percent full. Cap container at once. Check for leaks. Discard container and resample if leak occurs.

(1) **Special Precautions and Instructions for RVP Sampling.**

(1) "Precautions." Vapor pressures are extremely sensitive to evaporation losses and to slight changes in composition. When obtaining, storing, or handling samples, observe the necessary precautions to ensure samples representative of the product and satisfactory for RVP tests. Official samples should be taken by, or under the immediate supervision of a person of judgement, skill, and sampling experience. Never prepare composite samples for RVP testing. Make certain that containers which are to be shipped by common carrier conform to Interstate Commerce Commission, state, or local regulations. When flushing or purging lines or containers, observe the pertinent regulations and precautions against fire, explosion, and other hazards.

(2) "Sample containers." Use containers of not less than 1 quart (1 liter) nor more than 2 gallons (7.5 liters) capacity, of sufficient strength to withstand the pressures to which they may be subjected, and of a type that will permit replacement of the cap or stopper with suitable connections for transferring the sample to the gasoline chamber (if applicable) of the vapor pressure apparatus. Open-type containers have a single opening which permits sampling by immersion. Closed-type containers have two openings, one in each end (or the equivalent thereof), fitted with valves suitable for sampling by water displacement or by purging.

(3) "Transfer connections." The transfer connection for the open-type container consists of an air tube and a liquid delivery tube assembled in a cap or stopper. The air tube extends to the bottom of the container. One end of the liquid delivery tube is flush with the inside face of the cap or stopper and the tube is long enough to reach the bottom of the sample chamber while the sample is being transferred to the chamber. The transfer connection for the closed-type container consists of a single tube

with a connection suitable for attaching it to one of the openings of the sample container. The tube is long enough to reach the bottom of the sample chamber while the sample is being transferred.

(4) "Sampling open tanks." Use clean containers of the open type when sampling open tanks and tank cars. An all-level sample obtained by the bottle procedure, (k)(1) is recommended. Before taking the sample, flush the container by immersing it in the product to be sampled. Then obtain the sample immediately. Fill to 70-80 percent and close it promptly. Label the container and deliver it to the laboratory.

(5) "Sampling closed tanks." Containers of either the open or closed type may be used to obtain samples from closed or pressure tanks. If an open type container is used, follow the cooling bath procedure described in (1)(7) or (1) (10). If the closed type is used, obtain the sample using the water displacement procedure, (1)(8), or the purging procedure, (1)(9). The water displacement procedure is preferable because the flow of product involved in the purging procedure may be hazardous.

(6) "Cooling bath." A bath (Figure 5) of sufficient size to hold the sample container and a cooling coil of about 25 feet (8 m) of copper tubing (3/8 inch (9 mm) or less outside diameter) shall be required when using the procedure described in (1)(7). One end of the coil is provided with a connection for attaching it to the tank sampling tap or valve. The other end is fitted with a suitable valve (outlet) of good quality. A removable copper tube of 3/8 inch or less outside diameter and of sufficient length to reach the bottom of the sample container shall be connected to the open end of the outlet valve.

(7) "Cooling bath procedure." When using a cooling bath and a container of the open type, keep it at a temperature of 32 degrees to 40 degrees Fahrenheit (0 degrees to 4.5 degrees centigrade) during the sampling operation by using the cooling bath (Figure 5). Connect the coil to the tank sampling tap or valve and flush it with a sufficient amount of product to ensure complete purging. When obtaining a sample, throttle the outlet valve so that the pressure in the coil will be approximately the same as that in the tank. Fill the container once to wash and cool it, and discard the wash product. Then draw the sample immediately. Pour off

enough so that the container will be 70-80 percent full and close it promptly. Label the container and deliver it to the laboratory.

(8) "Water displacement procedure." Completely fill the closed-type container with water and close the valves. The water should be at least the same temperature or lower than that of the product to be sampled. While permitting a small amount of product to flow through the fittings, connect the top or inlet valve of the container to the tank sampling tap or valve. Then open all valves on the inlet side of the container. Open the bottom or outlet valve slightly to allow the water to be displaced slowly by the sample entering the container. Regulate the flow so that there is no appreciable change in pressure within the container. Close the outlet valve as soon as gasoline discharges from the outlet; then in succession close the inlet valve and the sampling valve on the tank. Disconnect the container and withdraw enough of the contents so that it will be 70-80 percent full. If the vapor pressure of the product is not high enough to force liquid from the container, open both the upper and lower valves slightly to remove the excess. Promptly seal and label the container, and deliver it to the laboratory.

(9) "Purging procedure." Connect the inlet valve of the closed-type container to the tank sampling tap or valve. Throttle the outlet valve of the container so that the pressure in it will be approximately equal to that in the container being sampled. Allow a volume of product equal to at least twice that of the container to flow through the sampling system. Then close all valves, the outlet valve first, the inlet valve of the container second, and the tank sampling valve last, and disconnect the container immediately. Withdraw enough of the contents so that the sample container will be 70-80 percent full. If the vapor pressure of the product is not high enough to force liquid from the container, open both the upper and lower valves slightly to remove the excess. Promptly seal and label the container and deliver it to the laboratory.

(10) "Nozzle sampling procedure." When using a container of the open type, keep it at a temperature of 32 to 40 degrees Fahrenheit (0 degrees to 4.5 degrees centigrade) when sampling by the nozzle sampling procedure. The container may be chilled by placing it into an ice chest containing ice (frozen water). The sampling is accomplished following the procedure in (k)(4).

Table 1
Summary of sampling procedures and applicability

Type of container	*Procedure*	*Paragraph*
Storage tanks, ship and barge tanks, tank cars, tank trucks	Bottle sampling	(k)(1)
Storage tanks with taps	Tap sampling	(k)(2)
Pipes and lines	Continuous line sampling	(k)(3)
Service station underground storage tanks	Nozzle sampling	(k)(4)

Figure 1. Sampling Depths

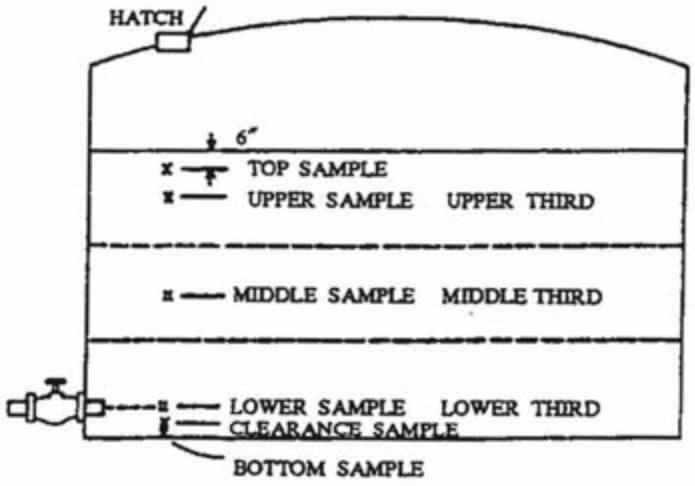
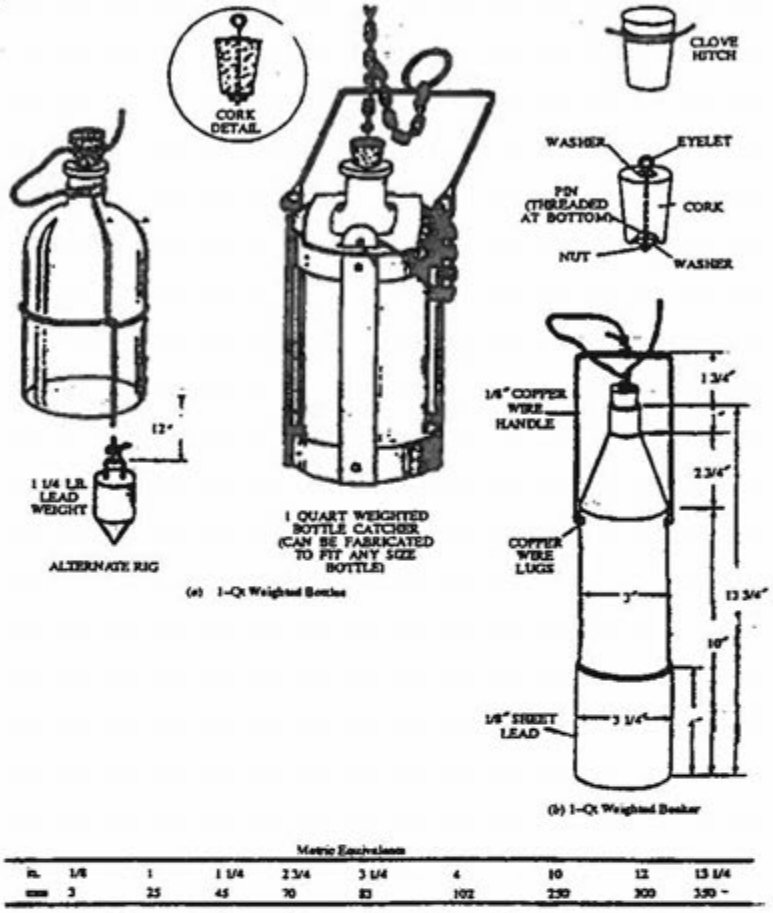


Figure 2. Assembly for Bottle Sampling



Metric Equivalents

in.	1/8	1	1 1/4	2 3/4	3 1/4	4	10	12	13 1/4
mm	3	25	45	70	83	102	250	300	350 ~

Figure 3. Assembly for Tap Sampling

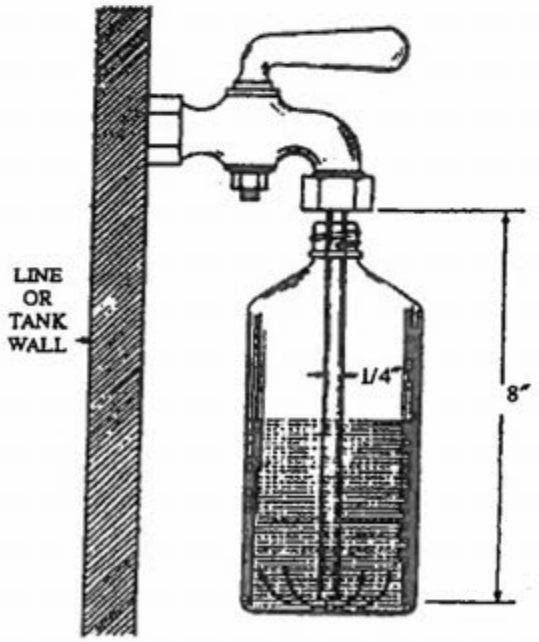


Figure 4. Probes for Continuous Sampling

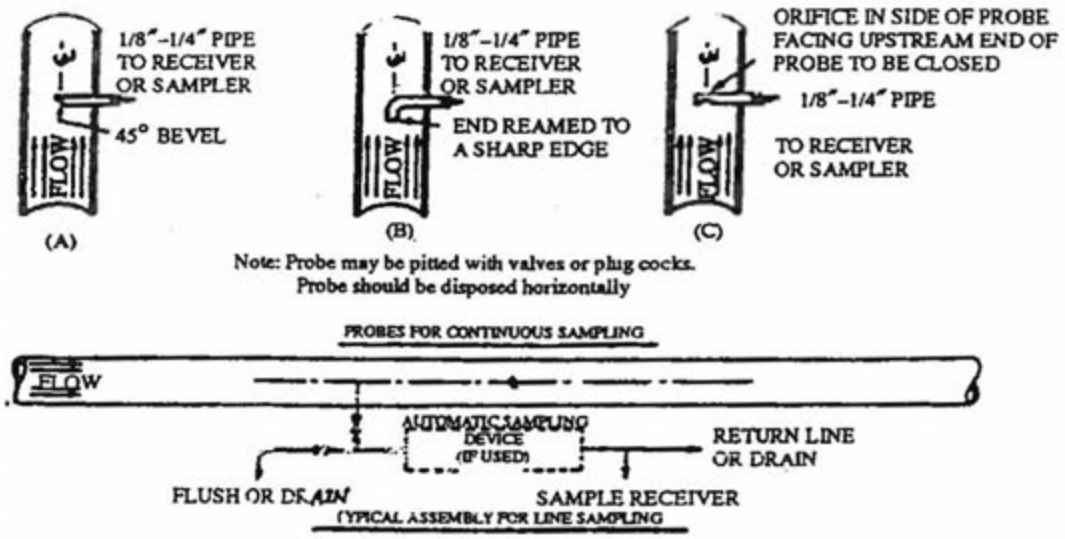


Figure 5. Cooling Bath

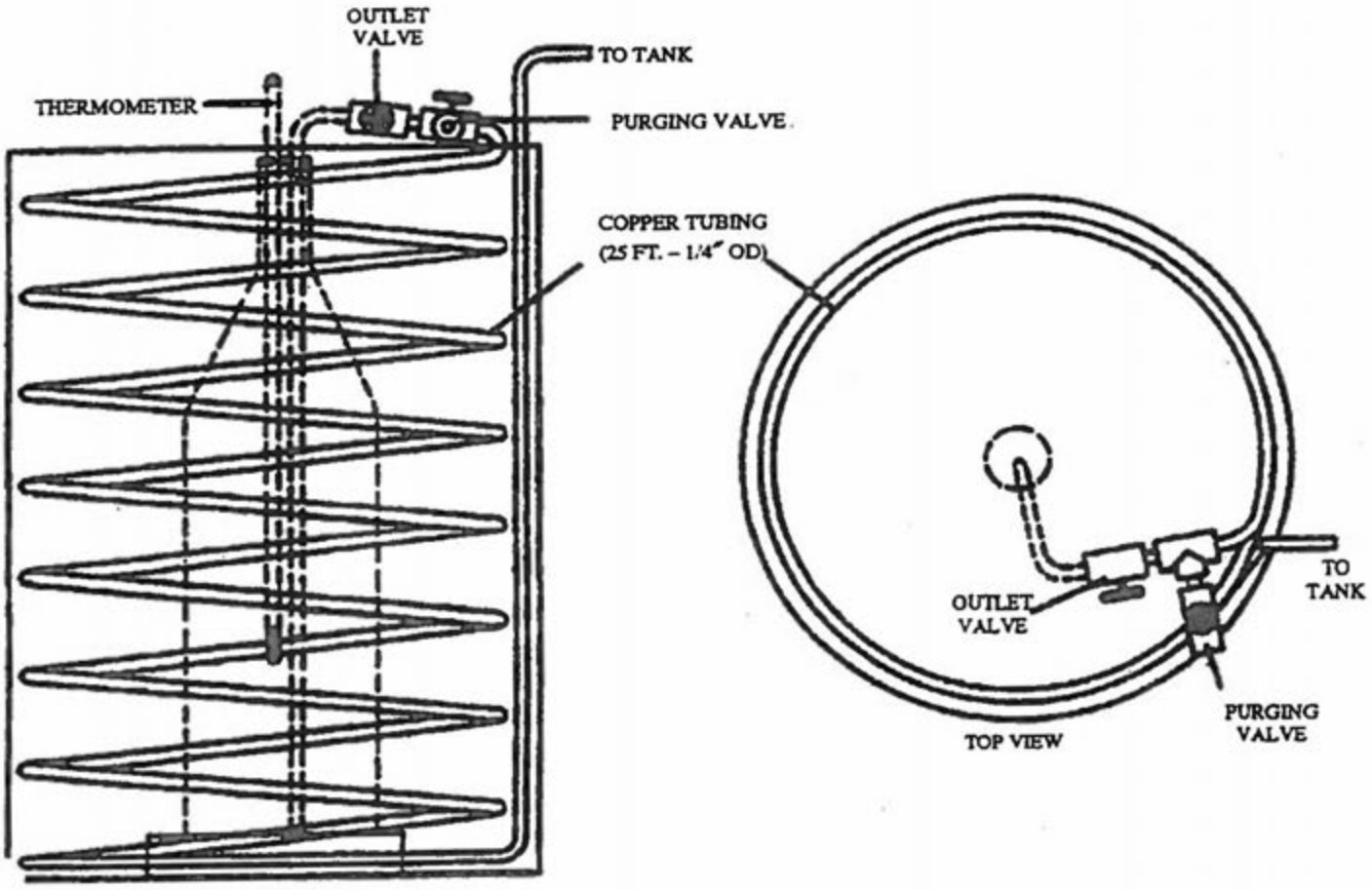
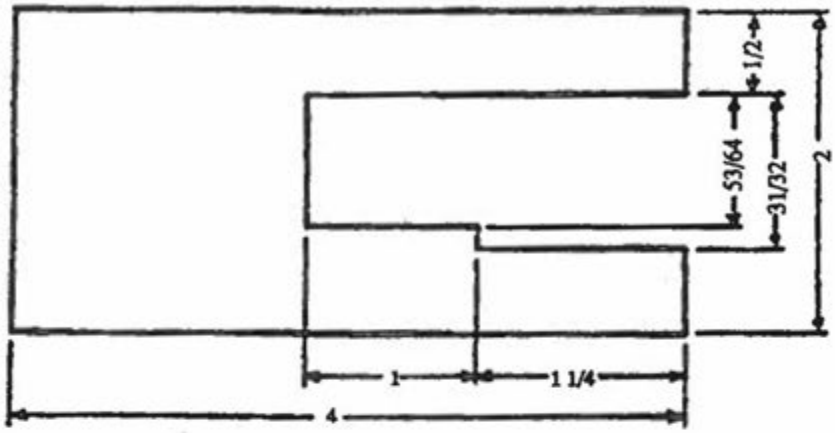
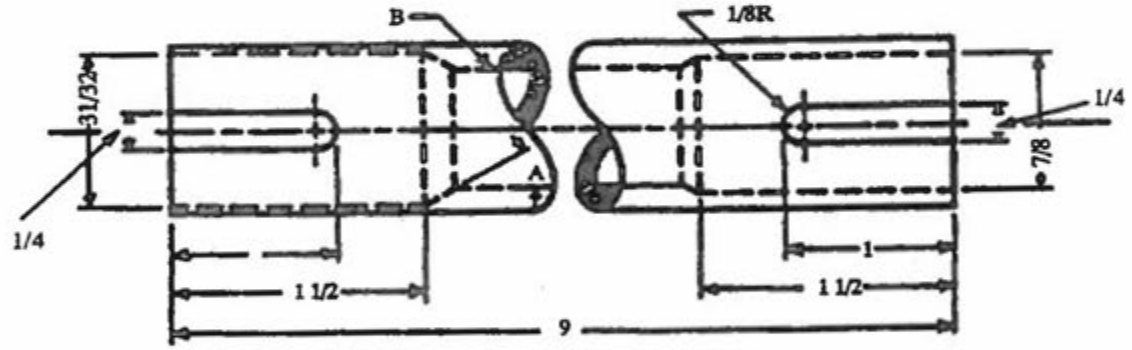


Figure 6. Spacer for Nozzle Sampling

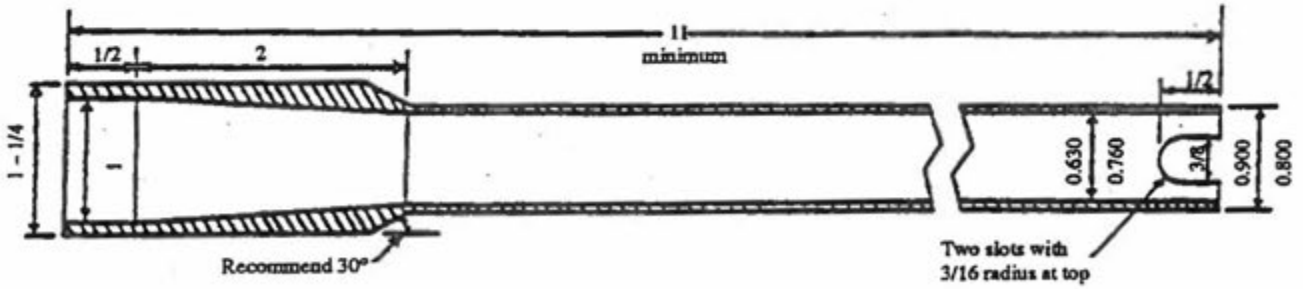


Make from 1/4 inch flat steel
All dimensions in inches
Break all edges and corners

Figure 7. Nozzle Extensions for Nozzle Sampling



Use 3/4 in. Schedule 80 Black Iron Pipe
All dimensions in inches
All tolerences + 1/128 inch
A – Recommend 30°
B – Inside diameter Schedule 80 Black Iron Pipe



All dimensions in inches (not to scale).
All decimal dimensions represent minimum and maximum.
Tolerance for all other dimensions is ±1/32".
Made of non-ferrous material, unaffected by gasoline.

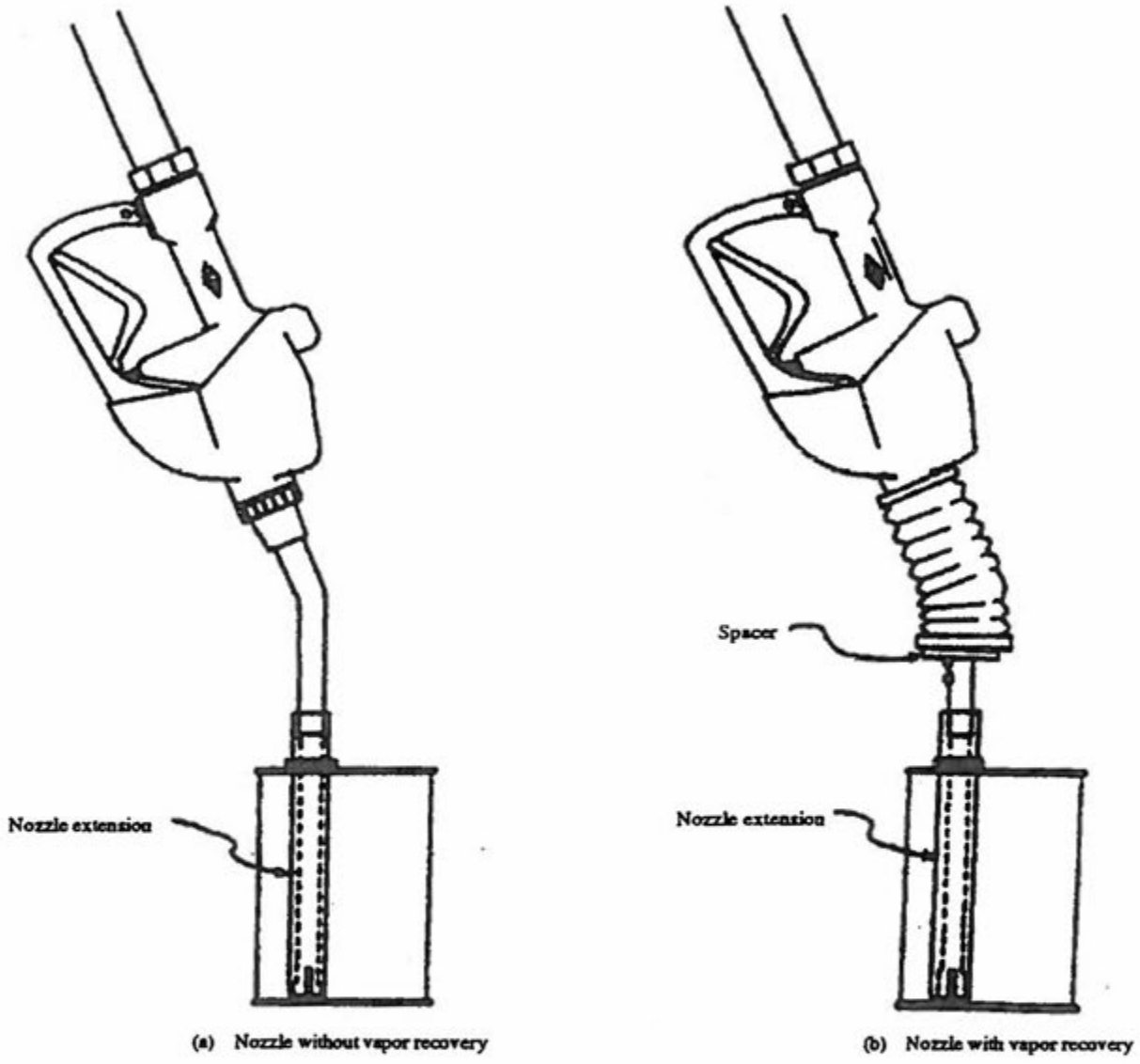


Figure 8. Assembly for Nozzle Sampling

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43830 of the Health and Safety Code. Reference: Sections 39000, 39001, 39002, 39003, 39500, 41511, 43000, 43013, 43018, 43101 and 43830, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

Section 2297 **Test Method for the Determination of the Reid Vapor Pressure Equivalent Using an Automated Vapor Pressure Test Instrument**

(a) Scope

(1.0) This test method covers the determination of the total pressure, exerted in vacuum, by air-containing, volatile, petroleum products. The test method is suitable for testing samples with boiling points above 0^{o} C (32^{o}F) that exert a vapor pressure between 7 and 130 kPa (1.0 and 19 psi) at 37.8^{o}C (100^{o}F) at a vapor-to-liquid ratio of 4:1. The test method is suitable for testing gasoline samples which contain oxygenates. No account is made of dissolved water in the sample. (Samples can also be tested at other vapor-to-liquid ratios, temperatures and pressures, but the Precision and Bias as described in paragraph (k) do not necessarily apply.)

(2.0) This test method covers the use of automated vapor pressure instruments that perform measurements on liquid specimen sizes in the range from 1 to 10 ml.

(3.0) Standard values are specified in SI units (International System of Units). The values given in parentheses are provided for information purposes only.

(4.0) This test method may involve hazardous materials, operations, and equipment. This test method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this test method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use. For specific hazard statements, see paragraph (g)(5.0).

(b) **Summary of Test Method**

(1.0) A known volume of chilled, air-saturated sample is introduced into a thermostatically controlled test chamber, the internal volume of which is five times that of the total test specimen introduced into the chamber. A vacuum is applied to the chamber in accordance with the manufacturer's instructions. After introduction into the test chamber the test specimen is allowed to reach thermal equilibrium at the test temperature, 37.8°C (100°F). The resulting rise in pressure in the chamber is measured using a pressure transducer sensor and indicator.

(2.0) Only the sum of the partial pressure of the sample and the partial pressure of the dissolved air (commonly known as the total pressure) are used in this test method. Note that some instruments may call this pressure measurement by another term. Also note that some instruments are capable of measuring the absolute pressure of the specimen as well.

(3.0) The measured total vapor pressure is converted to a Reid vapor pressure equivalent (RVPE) by use of a calibration equation (paragraph (i)(1.0)). This calculation converts the measured total pressure to the Reid vapor pressure (RVP) expected from the American Society of Testing and Materials (ASTM) Test Method D 323-58.

(c) **Apparatus**

(1.0) Vapor Pressure Apparatus - An appropriate instrument, designed for the intended use should be selected. The minimum performance level for the automated vapor pressure test instrument is that the instrument shall perform as well as, or better than, the precision criteria set forth in the ASTM D323-58, which is incorporated herein by reference. The ASTM D323-58 states a repeatability value of 0.2 psi and a reproducibility value of 0.3 psi. The instrument shall

provide accurate results which are comparable to the RVP measured by the ASTM 323-58. Typically, the type of apparatus suitable for use in this test method employs a small volume test chamber incorporating a transducer for pressure measurements and associated equipment for thermostatically controlling the chamber temperature and for evacuating the test chamber.

(1.1) The test chamber shall be designed to contain between 5 and 50 ml of liquid and vapor and be capable of maintaining a vapor-to-liquid ratio between 3.95 to 1.00 and 4.05 to 1.00.

(1.2) The pressure transducer shall have a minimum operational range from 0 to 177 kPa (0 to 25.6 psi) with a minimum resolution of 0.1 kPa (0.01 psi) and a minimum accuracy of $\pm$ 0.3 kPa ($\pm$ 0.05 psi). The pressure measurement system shall include associated electronics and readout devices to display the resulting pressure reading.

(1.3) The thermostatically controlled heater shall be used to maintain the test chamber at 37.8 $\pm$ 0.1°C (100 $\pm$ 0.2°F) for the duration of the test.

(1.4) A platinum resistance thermometer shall be used for measuring the temperature of the test chamber. The minimum temperature range of the measuring device shall be from ambient to 60°C (140°F) with a resolution of 0.1°C (0.2°F) and accuracy of 0.1°C (0.2°F).

(1.5) The vapor pressure apparatus shall have provisions for introduction of the test specimen into the test chamber and for the cleaning or purging of the chamber following the test.

(2.0) A vacuum pump (if required by the manufacturer's instructions) shall be capable of reducing the pressure in the test chamber to less than 0.01 kPa (0.001 psi) absolute.

(3.0) A syringe (optional, depending on sample introduction mechanism employed with each instrument) shall be gas-tight. The syringe shall be 1 to 20-ml capacity with a ± 1% or better precision. The capacity of the syringe should not exceed two times the volume of the test specimen being dispensed.

(4.0) Ice Water Bath or Refrigerator (Air Bath): for chilling the samples and syringe to temperatures between 0 and 1°C (32 to 34°F).

(5.0) Mercury Barometer (if required by the manufacturer's instructions): in the 0 to 120 kPa (0 to 17.4 psi) range.

(6.0) McLeod Vacuum Gage (if required by the manufacturer's instructions): to cover at least the range from 0 to 0.67 kPa (0 to 5mm Hg).

(d) Sampling

(1.0) Obtain a sample in accordance with of Title 13, California Code of Regulations, section 2261

(2.0) The extreme sensitivity of vapor pressure measurements to losses through evaporation and the resulting changes in composition is such as to require the utmost precaution and most meticulous care in the handling of samples.

(3.0) Protect samples from excessive high temperatures prior to testing. This can be accomplished by storage in an appropriate ice water bath or refrigerator.

(4.0) Do not test samples stored in leaky containers. Discard and obtain another sample if leaks are detected.

(e) **Preparation of Apparatus**

(1.0) Prepare the instrument for operation in accordance with the manufacturer's instructions.

(2.0) Clean and prepare the test chamber as required to avoid contamination of the test specimen.

(3.0) For instruments that require that the test chamber be evacuated prior to the introduction of the test specimen: Prior to specimen introduction, visually determine from the instrument display that the test chamber pressure is stable and does not exceed 0.1 kPa (0.01 psi). When the pressure is not stable or exceeds this value, check that the chamber is clean of volatile materials remaining in the chamber from a previous specimen or check the calibration of the transducer.

(4.0) If a syringe is used for introduction of the specimen, chill it to between 0 and 4.5°C (32 and 40°F) in an ice water bath or a refrigerator before drawing in the specimen. Avoid water contamination of the syringe reservoir by suitably sealing the outlet of the syringe during the cooling process.

(5.0) For instruments using a pre-heated test chamber: Prior to introduction of the test specimen check that the temperature of the test chamber is within the required range from 37.8 ± 0.1°C (100 ± 0.2°F).

(f) **Calibration**

(1.0) Pressure Transducer:

(1.1) Check the calibration of the pressure transducer on a monthly basis or when needed as indicated from the quality control checks

(paragraph (g)). The calibration of the pressure transducer is checked using two reference points, zero pressure (<0.1 kPa) and the ambient barometric pressure.

(1.2) Connect a McLeod gage to the vacuum source in line with the test chamber. Apply a vacuum to the test chamber. When the McLeod gage registers a pressure less than 0.1 kPa (0.8 mm Hg, or 0.01 psi), adjust the pressure transducer control to zero or to the actual reading on the McLeod gage as dictated by the instrument design and manufacturer's instructions.

(1.3) Open the test chamber to the atmosphere and observe the pressure transducer reading. If the pressure reading is not equal to the ambient barometric pressure, then adjust the pressure transducer span control until the appropriate reading is observed. Ensure that the instrument is set to display the total pressure and not a calculated or corrected value.

(1.4) Repeat steps (f)(1.2) and (f)(1.3) until the zero and barometric pressures read correctly without further adjustments.

(2.0) Thermometer - Check the calibration of the platinum resistance thermometer used to monitor the temperature of the test chamber at least every six months against a National Institute on Standards and Technology (NIST) traceable thermometer.

(g) Quality Control Checks

(1.0) Check the performance of the instrument each day it is in use by running a quality control sample consisting of a pure solvent of known vapor pressure similar to the vapor pressure of the samples to be tested. Treat the pure solvent quality control check sample in the same manner as a sample (paragraph (h)). Record the total vapor pressure (do not calculate a Reid vapor pressure equivalent) in a log

for the purpose of tracking the instrument's performance. If the total vapor pressure differs from the previous entry (for the same pure solvent) in the log by more than ± 1.0 kPa (0.15 psi), then check the instrument calibration (paragraph (f)). If the trend of the log shows variations of more than ± 1.0 kPa (0.15 psi) (for the same pure solvent), also check the instrument calibration.

(2.0) Some of the possible reference pure materials and their corresponding absolute vapor pressures[1] include:

cyclohexane	22.5 kPa	(3.27 psi)
cyclopentane	68.3 kPa	(9.92 psi)
2,2-dimethylbutane	67.9 kPa	(9.86 psi)
2,3-dimethylbutane	51.1 kPa	(7.41 psi)
2-methylpentane	46.7 kPa	(6.77 psi)
toluene	7.1 kPa	(1.03 psi)

(3.0) Purity of Reagents - Use chemicals of at least 99% purity for quality control checks. Unless otherwise indicated, it is intended that all reagents conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society where such specifications are available.[2] Lower purities can be used, provided it is first ascertained that the reagent is of sufficient purity to permit its use without lessening the accuracy of the determination.

(4.0) The chemicals in this section are suggested for use in quality control procedures; not for instrument calibration.

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1. The total pressure values cited were obtained from Phillips Petroleum Co., Bartlesville, OK, or the Table of Physical Constants, National Gas Producer Association.

2. "Reagent Chemicals, American Chemical Society Specifications," Am. Chemical Soc., Washington, DC. For suggestions on the testing of reagents not listed by the American Chemical Society, see "Reagent Chemicals and Standards," by Joseph Rosin, D. Van Nostrand Co, Inc., New York, NY and the "United State Pharmacopeia."

(5.0) **WARNING**--Cyclohexane, cyclopentane, 2,2-dimethylbutane, 3,2-dimethylbutane, 2-methylpentane, and toluene are extremely flammable. They are an aspiration hazard and are harmful if inhaled. They are also a skin irritant on repeated contact.

(h) **Procedure**

(1.0) Sample Temperature - Cool the sample container and contents in an ice water bath or refrigerator to the 0 to 1°C (32 to 34°F) range prior to opening the sample container. Allow sufficient time to reach this temperature.

(2.0) Verification of Sample Container Filling - After the sample reaches thermal equilibrium at 0 to 1°C, take the container from the ice water bath or refrigerator, wipe dry with an absorbent material, unseal and examine the ullage. With a suitable gage, determine that the liquid content in the container is between 70 to 80% of the volume of the container capacity.

(2.1) Discard the sample if the liquid content of the container is less than 70% of the volume of the container capacity.

(2.2) If the liquid content of the container is more than 80% of the volume of the container capacity, pour out enough sample to bring the liquid contents within the 70 to 80% volume range.

(3.0) Air Saturation of Sample in Sample Container

(3.1) After determining that the liquid content in the sample container is between 70 to 80% full, reseal the container and shake vigorously. Return the container to the ice water bath or refrigerator for a minimum of 2 minutes.

(4.0) Remove the sample from the ice water bath or refrigerator, dry the exterior of the container with absorbent material, uncap, insert a transfer tube or syringe (paragraph (e)(4.0)). Draw a bubble-free aliquot of sample into a gas tight syringe or transfer tube and deliver this test specimen to the test chamber as rapidly as possible. The total time between opening the chilled sample container and inserting/securing the syringe into the sealed test chamber shall not exceed 1 minute.

(5.0) The vapor pressure determination shall be performed on the first test specimen withdrawn from a sample container. Successive vapor pressure determinations can be made on the remaining test material in the same container if the container had been tightly sealed immediately after the previous vapor pressure determination.

(6.0) Follow the manufacturer's instructions for the introduction of the test specimen into the test chamber, and for the operation of the instrument to obtain a total vapor pressure result for the test specimen.

(7.0) Set the instrument to read the result in terms of total vapor pressure. If the instrument is capable of calculating a Reid vapor pressure equivalent value, ensure that only the parameters described in paragraph (i)(2.0) are used.

(8.0) Verification of Single Phase - After drawing a test specimen and introducing it into the instrument for analysis, check the remaining sample for phase separation. If the sample is contained in a glass container, this observation can be made prior to sample transfer. If the sample is contained in a non-transparent container, mix the sample thoroughly and immediately pour a portion of the remaining sample into a glass container and observe for evidence of phase separation. If the sample is not clear and bright or if a second phase is observed,

discretion shall be used to determine if the sample is truly representative.

(9.0) Record the total vapor pressure reading from the instrument to the nearest 0.1 kPa (0.01 psi). For instruments that do not automatically record or display a stable pressure value, manually record the pressure indicator reading every minute to the nearest 0.1 kPa; and, when three successive readings agree to within 0.1 kPa, record the result to the nearest 0.1 kPa (0.01 psi).

(i) **Calculation**

(1.0) Calibration Equation - Calculate the Reid vapor pressure equivalent (RVPE) using the following calibration equation. Ensure that the instrument reading used in this equation corresponds to the total pressure and has not been corrected by an automatically programmed correction factor.

Equation 1: $RVPE = aX - b$

where:

"RVPE" is the vapor pressure value (in psi) that would be expected from test method ASTM D323-58;

"a" is the correlative relationship of test data from the specific automated vapor pressure test instrument and test data from ASTM D323-58;

"X" is the total vapor pressure value (in psi) as determined by the specific automated vapor pressure test instrument;

"b" is the offset of the test data between the specific automated vapor pressure test instrument and the test data from ASTM D323-58.

The data used for determining the calibration equation for each instrument shall be obtained during an Air Resources Board vapor

pressure test program. The data shall consist of test results obtained from the analysis of identical samples by the automated instrument and by ASTM D323-58. Vapor pressure test programs may be conducted on a periodic basis as needed. The Air Resources Board conducted such a program and determined that the following automated vapor pressure test instruments meet the requirements of paragraph (c). The data from the test program were used to arrive at the calibration equations for these instruments. The calibration equations are as follows:

1. Grabner Instruments,
   Model: CCA-VP (laboratory Grabner) RVPE = (.965)X - .304

2. Grabner Instruments,
   Model: CCA-VPS (portable Grabner) RVPE = (.972)X - .715

3. Stanhope-Seta Limited,
   Model: Setavap RVPE = (.961)X - .577

(2.0) The calculation described in paragraph (i)(1.0), above, can be accomplished automatically by the instrument, if so equipped, and in such cases the user shall not apply any further corrections.

(j) Report

(1.0) Report the Reid vapor pressure equivalent to the nearest 0.1 kPa (0.01 psi).

(k) Precision and Bias

(1.0) Precision - The precision of this test method as determined by the statistical examination of interlaboratory test results is as follows:

(1.1) Repeatability - The difference between successive test results obtained by the same operator with the same apparatus under constant operating conditions on identical test material would, in the long run, in the correct operation of the test method exceed the following value only in one case in twenty. The repeatability values for the specific automated vapor pressure test instruments listed in paragraph (i)(1.0) were equal to or less than 0.2 psi. For the purposes of determining compliance with Sections 2251 and 2251.5, the repeatability value for this method shall be 0.20 psi.

(1.2) Reproducibility - The difference between two single and independent test results obtained by different operators working in different laboratories using the same make and model test instrument on identical test material would, in the long run, exceed the following value only in one case in twenty. The reproducibility values for the specific automated vapor pressure test instruments listed in paragraph (i)(1.0) were equal to or less than 0.3 psi. For the purposes of determining compliance with Sections 2251 and 2251.5, the reproducibility value for this method shall be 0.30 psi.

(2.0) Bias - A relative bias was observed between the total pressure obtained using this test method and the Reid vapor pressure obtained using ASTM Test Method D323-58. This bias is corrected by the use of the calibration equation in paragraph (i)(1.0) which calculates a Reid vapor pressure equivalent value from the observed total pressure.

FINAL REGULATION ORDER

AIRBORNE TOXIC CONTROL MEASURE FOR AUXILIARY DIESEL ENGINES OPERATED ON OCEAN-GOING VESSELS AT- BERTH IN A CALIFORNIA PORT

Adopt new section 2299.3, title 13, chapter 5.1, California Code of Regulations (CCR), to read as follows:

(Note: The entire text of section 2299.3 is new language.):

Section 2299.3. Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port.

(a) Any person who owns, operates, charters, rents, or leases any U.S. or foreign-flagged container vessel, passenger vessel, or refrigerated cargo vessel that visits a California port, as defined in section 93118.3(c), title 17, California Code of Regulations (CCR), must comply with section 93118.3 (subject to the exemptions therein), relating to the operation of auxiliary diesel engines on ocean-going vessels at-berth in a California port. In addition, this section also applies to any person who owns or operates a port or terminal located at a California port, as defined in section 93118.3(c)(6), where container, passenger, or refrigerated cargo vessels visit.

(b) This section shall not be construed as expanding or limiting either the application or requirements of section 93118.3, title 17, CCR, but is intended to alert affected persons of the requirements regarding the operation of auxiliary diesel engines on ocean-going vessels at-berth in a California port and other provisions in that section.

NOTE: Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666 and 41511, Health and Safety Code. Reference: Sections 39650, 39658, 39659, 39666, 41510, and 41511, Health and Safety Code.