

**PRELIMINARY DRAFT PROPOSED REGULATORY AMENDMENTS AND
INTERIM GUIDANCE ON CaRFG3 DISTRIBUTION ISSUES**

1. Adding transmix to CARBOB.

Section 2266.5(h)(2)(A), title 13, California Code of Regulations – part of the Phase 3 California reformulated gasoline (CaRFG3) regulations – provides that notwithstanding the conditional prohibition of blending nonoxygenated blendstocks into downstream gasoline, “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.” No such provision currently authorizes blending of transmix into downstream CARBOB notwithstanding the section 2266.5(f) restrictions on blending CARBOB with other products. The ARB staff plans later this year to propose an amendment that would allow the blending of transmix into downstream CARBOB under the same conditions as those that apply to the blending of transmix into downstream gasoline.

Staff expects to propose the following language as a new section 2266.5(f)(2)(B):

Section 2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

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(f) *Restrictions on blending CARBOB with other products.*

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(2)(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 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.

As an interim policy pending completion of the rulemaking, the staff would be prepared to enter into temporary protocols consistent with the proposal. Interested parties may contact the ARB’s Enforcement Division to obtain copies of any previously agreed-to protocols covering blending transmix into downstream gasoline.

2. Adding California Gasoline to CARBOB

The ARB staff expects to propose the following amendments in the Fall 2004 CaRFG3 follow-up rulemaking.

Add as a new section 2266.5(f)(1)(E):

Section 2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

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(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:

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(E) Limited amounts of California gasoline. A person may add California gasoline 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 gasoline 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. 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 or, if not, based on sampling and testing of the gasoline for denatured ethanol

content in accordance with methods specified in section 2263, [iv] calculating weight percent oxygen from volume percent denatured ethanol based on the following formula:

$$\text{(wt. \% oxygen)} \approx 218.8 / \{ [620 / (\text{vol. \% deEtOH})] + 0.40 \},$$

and [v] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

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.

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And add as a new section 2266.5(f)(2)(C):

(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). The executive officer may only enter into such a protocol 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 California gasoline 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.

As an interim policy pending completion of the rulemaking, the staff would be prepared to permit any affected party to use these mechanisms on a temporary basis if the party agrees in writing to be bound to the stated conditions.

3. Substitute for Requirement for Documentation Accompanying the Transfer of Denatured Ethanol

Section 2262.9(c)(2) provides as follows:

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

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

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- (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
 - (B) 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.

The ARB staff has concluded that compliance with the requirement in (c)(2)(B) is often impracticable because of the prevalence of commingling denatured ethanol from difference sources, and the commingling of neat ethanol before it reaches a California production facility that adds the denaturant.

Staff plans to propose an amendment to change the requirements as follows:

- (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.

As an interim policy pending completion of the rulemaking planned for this Fall, the staff is prepared accept compliance with the draft changes as an alternative for any person who first notifies the Executive Officer in writing of his or her election to comply with the alternative and to be bound by its terms.