

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER 2007 AMENDMENTS TO THE PHASE 3
CALIFORNIA REFORMULATED GASOLINE REGULATIONS

Public Hearing Date: June 14, 2007
Public Availability Date: June 26, 2008
Deadline for Public Comment: July 11, 2008

This notice announces a second supplemental period in which the public may comment on additional modifications being proposed to the “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model” (Predictive Model Procedures) and to correct drafting errors in the approved amendments to the California Phase 3 reformulated gasoline regulations (CaRFG3).¹

The Board’s Action

At the June 14, 2007, public hearing, the Air Resources Board (ARB/Board) approved amendments to the CaRFG3 regulations and the incorporated Predictive Model Procedures. These amendments and new sections to the CaRFG3 regulations included an update to the Predictive Model to mitigate emissions associated with permeation from on-road motor vehicles associated with ethanol use in CaRFG3. The updated Predictive Model must be used for gasoline blends produced starting December 31, 2009. Additional changes to the Predictive Model included providing flexibility in setting the oxygen content in the Predictive Model, incorporating new data that reflect the current motor vehicle fleet, and accounting for new vehicles’ response to changes in fuel properties. The Board approved the staff’s proposed alternative emissions reduction plan (AERP), which could be used before December 31, 2011. Staff’s proposal to provide additional flexibility beginning December 31, 2009 to the producers and importers that produce gasoline to address the expected ongoing difficulties in meeting the very low sulfur content requirements was also approved.

In addition, the approved amendments also included a requirement that all non-oxygenated blends of gasoline be certified based on a flat limit of 6.90 pounds per

¹ The affected sections include sections 2261, 2262, 2262.3, 2262.4, 2262.5, 2262.9, 2263, 2263.7, 2264.2, 2265 (and the incorporated “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model”), 2266, 2266.5 (and the incorporated “Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending”), 2270, 2271, and 2273, and proposed new sections 2260(a)(0.5), (0.7), (7.5), (8.5), (10.5), (10.7), (19.7), (23.5), and (23.7), 2262.3(d), 2264.2(a)(3), (b)(5), and (d), 2265(c)(4), 2265.1, 2265.5, and 2266(b)(3), (4), and (5) of Title 13, California Code of Regulations (CCR).

square inch (psi) Reid Vapor Pressure (RVP), whereas for oxygenated blends using the evaporative emissions element of the Predictive Model, a flat limit of 7.00 psi RVP is required. Also, the sulfur content cap limit in gasoline was lowered from 30 parts per million by weight (ppmw) to 20 ppmw (21 ppmw for CARBOB). The other approved amendments to the CaRFG3 regulations improved consistency, flexibility, and enforceability, including amendments to section 2262.9 and section 2266.5 that changed the maximum allowed denaturant content in denatured ethanol (consistent with the current standards of the American Society of Testing and Materials) and updated the test method for oxygenate content in gasoline.

First 15-day Comment Period

At the hearing, the staff presented and the Board approved, several additional modifications to the regulations proposed in the Initial Statement of Reasons (Staff Report). Staff developed the modifications in response to comments received since the Staff Report was published. At the hearing, after considering the staff's proposal and the public's comments and testimony, the Board adopted Resolution 07-21. Appended to the Resolution were the initially noticed regulatory text (as Attachment A) and the staff's suggested modifications to that text for which the staff had not yet developed specific regulatory language (as Attachment B), both of which were made available at the hearing. Attached to this notice as Attachment 1 is Resolution 07-21 and its Attachment B. The Board also directed staff to incorporate the approved modifications into the proposed regulatory text, with such other conforming modifications as may be appropriate, and to make the modified text available for a supplemental period of at least 15 days.

The modifications included allowing third parties to develop AERPs, extending the sulfur compliance date for the sulfur cap limits, allowing early compliance with the CaRFG Phase 3 amendments before December 31, 2009, and aligning the Predictive Model Procedures to be consistent with the modifications to the originally proposed amendments. The modifications were made available to the public for a 15-day comment period (March 7, 2008-March 24, 2008) and several comments were received. Staff responded to those comments in the Final Statement of Reasons that was submitted to the State of California Office of Administrative Law (OAL) as part of the submittal for final regulatory action approval. The final rulemaking package was submitted to OAL on April 25, 2008.

OAL Action

OAL disapproved the regulatory action regarding the 2007 amendments to the CaRFG3 regulations. OAL's main basis for the disapproval centered around Table 12 of the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model." Table 12 contains the means and standard deviations of the fuel properties in the model. OAL determined that the changes to the table in response to a comment as part of the first 15 day package were substantive, and that the table was not released for public comment after

it had been updated. This was the main basis for the disapproval. The other issues in OAL's disapproval consisted of approximately 11 comments that OAL did not believe were properly addressed and the accounting for references in the "Staff Report: Initial Statement of Reasons."

Modifications in response to OAL's disapproval of the regulatory action, as well as corrected drafting errors in the regulatory text are now being made available for a second 15-day comment period and are summarized below.

Modified Text Being Made Available

By this notice, the modified text is being made available for public comment before resubmittal to OAL for final regulatory action approval. The modifications are discussed below and set forth in the documents appended to this notice as Attachments 2 and 3. The second 15 day changes are shown in shaded underline to indicate additions and ~~shaded strikeout~~ to indicate deletions.

There are three attachments to this notice: Board Resolution 07-21 (Attachment 1), the modified text (Attachment 2), and modifications to the Predictive Model Procedures (Attachment 3). These documents may be downloaded from ARB's Internet website at the following address: <http://www.arb.ca.gov/regact/2007/carfg07/carfg07.htm>. Copies of these documents may be obtained from the Board's Public Information Office, first floor Visitors and Environmental Services Center, 1001 I Street, Sacramento, California, 95814. They may also be obtained from Mr. Adrian Cayabyab at (916) 327-1515, or by email at acayabya@arb.ca.gov. Please provide your name, company name, if any, and postal mail or email address.

Summary of Proposed Modifications

The following summarizes the proposed substantive modifications to the regulations and the rationale for making them.

Amendments to the Predictive Model Procedures

1. Table 1. The following language was added to footnote #1: "The Reid vapor pressure (RVP) standards apply only during the warmer weather months identified in section 2262.4."
2. Table 9. The relative reactivity values for Diurnal/Resting HC, Hot Soak HC, and Running Loss HC were rounded off from three digits beyond the decimal point to just two digits. The relative reactivity value for CO was rounded off from four digits beyond the decimal point to just three digits.
3. Table 12. Every mean and standard deviation figure for every fuel property listed in the table was updated.
4. On page 12, reference to VMT was deleted.
5. On pages 22-23, the Vehicle Miles Traveled Weighting Factors (VMTWF) for each Tech class was changed to Toxics Weighting Factors (TWF) for the

respective Tech class.

6. On page 23, VMT weighting factors was changed to toxics weighting factors.

Corrections to drafting errors, including typographical errors, paragraph numbering, and paragraph references, in the approved 2007 CaRFG3 amendments are also included.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board's Resolution directed the Executive Officer to adopt amendments to sections 2261, 2262, 2262.3, 2262.4, 2262.5, 2262.9, 2263, 2263.7, 2264.2, 2265 (and the incorporated "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model"), 2266, 2266.5 (and the incorporated "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending"), 2270, 2271, and 2273, and to add new sections 2260(a)(0.5), (0.7), (7.5), (8.5), (10.5), (10.7), (19.7), (23.5), and (23.7), 2262.3(d), 2264.2(a)(3), (b)(5), and (d), 2265(c)(4), 2265.1, 2265.5, and 2266(b)(3), (4), and (5) of Title 13, CCR, after making the modified regulatory language available to the public for a supplemental written comment period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications to the regulation as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if determined that this is warranted.

Written comments on the modifications approved by the Board must be submitted by postal mail, electronic mail, or facsimile as follows:

Postal mail: Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submissions must be transmitted to the Clerk of the Board at (916) 322-3928.

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to the ARB in one of the three forms described above and received by the ARB by 5:00 p.m. on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

Attachments (3)