

## PROPOSED REGULATION ORDER

### SECOND FOLLOW-UP AMENDMENTS TO THE CALIFORNIA PHASE 3 GASOLINE (CaRFG3) REGULATIONS, INCLUDING THE PROHIBITION OF MTBE AND OXYGENATES OTHER THAN ETHANOL IN CALIFORNIA GASOLINE STARTING DECEMBER 31, 2002

**Note:** The preexisting regulation text is set forth below in normal type. The proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. Subsection headings in italics and bold are to be italicized when printed in Barclays California Code of Regulations.

1. Add section 2260(a)(26.5), title 13, California Code of Regulations, to read as follows:

(26.5)“Produced with the use of” a particular oxygenate means manufactured in part by adding the oxygenate to the fuel blend, or by using a blendstock to which the oxygenate has been added. The following activities do not in and of themselves result in gasoline produced with the use of an oxygenate, where the final blend of gasoline does not exceed applicable oxygen or oxygenate limits:

(A) Use of a blendstock in which limited amounts of the oxygenate have been generated as an unavoidable byproduct in the production of the blendstock; and

(B) Incidental commingling of gasoline or gasoline blendstock with another product containing the oxygenate during transfer operations or changes in service of storage equipment.

2. Amend section 2261(a)(1), title 13, California Code of Regulations, to read as follows:

#### **Section 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.

\* \* \* \* \*

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).

3. Amend section 2262.4(b)(2), title 13, California Code of Regulations, to read as follows:

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

\* \* \* \* \*

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

(1) ***Reid vapor pressure standard for producers and imports.*** 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 is supplied from the production or import facility on or after March 1, 2003 and has been reported as a PM alternative gasoline formulation pursuant to section 2265(a).

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

(A) ***March 1 through October 31 (April 1 through October 31 in 2003):***

South Coast Air Basin and Ventura County  
San Diego Air Basin  
Mojave Desert Air Basin  
Salton Sea Air Basin

(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  
~~North Central 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)  
~~North Coast Air Basin~~

\* \* \* \* \*

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).

4. Amend section 2266.5, title 13, California Code of Regulations, to read as follows:

**Section 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.* [no changes]

(2) **Determining whether a final blend of CARBOB complies with the standards for California gasoline.**

(A) **General.** [No changes]

(B) **Determining whether a final blend of CARBOB complies with the standards for California gasoline by use of the CARBOB Model.** [No changes]

(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 denatured ethanol 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 denatured ethanol shall be added. In all other cases where the designated range for oxygen from denatured ethanol that is no greater than 0.4 wt.% and denatured ethanol as the oxygenate, 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:

$$\text{Vol.\% Denatured Ethanol} = \frac{59.86}{(21.88 / \text{wt.\% oxygen}) - 0.0604} \div [218.8 \div \text{wt.\% oxygen} - 0.40]$$

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.

[no changes to 2266.5(a)(2)(D) through (a)(5)]

(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.** [No change]

(B) **Determining whether downstream CARBOB complies with the cap limits for California gasoline by oxygenate blending and testing.** Whenever downstream CARBOB designated for ~~ethanol~~ 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 CARBOB has been designated for a range of amounts of oxygenate, or more than one oxygenate type, to be added, the minimum designated amount of the oxygenate having the smallest designated volume is to be added to the CARBOB when determining the properties and characteristics of the final blend. However,~~ Where the designated range for oxygen from denatured ethanol is 1.8 wt.% to 2.2 wt.% (or a range that is within between 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), 5.7 vol.% denatured ethanol shall be added; ~~and~~ where the designated range for oxygen from denatured ethanol is 2.5 wt.% to 2.9 wt.% (or is within between 2.5 wt.% and 2.9 wt.% and includes 2.7 wt.%), 7.7 vol.% denatured ethanol 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.%), 10.0 vol.% denatured ethanol 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:

$$\text{Vol.\% Denatured Ethanol} = 620 \div [(218.8 \div \text{wt.\% oxygen}) - 0.40]$$

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. Denatured ethanol used as the oxygenate must have the properties set forth in section (a)(2)(D)2.

[No changes to the rest of the section]

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).

5. Amend section 2262.6, title 13, California Code of Regulations, to read as follows:

**Section 2262.6. Prohibition of MTBE and Oxygenates Other Than Ethanol in California Gasoline Starting December 31, 2002.**

(a) ***Basic MTBE prohibitions.***

- (1) Starting December 31, 2002, no person shall sell, offer for sale, supply or offer for supply California gasoline which has been produced with the use of methyl tertiary-butyl ether (MTBE).
- (2) No person shall sell, offer for sale, supply or offer for supply California gasoline which contains MTBE in concentrations greater than: ~~0.3~~ 0.60 volume percent starting December 31, 2002, 0.30 volume percent starting July 1, 2003, 0.15 volume percent starting December 31, ~~2003~~ 2004, and 0.05 volume percent starting December 31, ~~2004~~ 2005.

(b) ***Phase-in of MTBE prohibitions.***

(1) **Phase-in of MTBE prohibitions starting December 31, 2002, 2004, 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 prohibition starting July 1, 2003.* The prohibition in section 2262.6(a) that starts July 1, 2003 shall be phased in as follows:

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

(B) Starting August 15, 2003 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 October 1, 2003 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.* For the first year in which a prohibition applies under section 2262.6(a)(1), ~~the prohibitions in section (a) starting respectively on December 31, 2002, July 1, 2003, December 31, 2004, and December 31, 2005,~~ 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 February 14 of that year, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to March 31 of that year 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, 2002.***

(1) Starting December 31, 2002, no person shall sell, offer for sale, supply or offer for supply California gasoline which has been produced with the use of any oxygenate other than ethanol or MTBE unless a multimedia evaluation of use of the ~~ether~~ 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, 2002, 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).

(3) Starting July 1, 2003, 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).

(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)  
Ethyl *tert*-butylether (ETBE)  
Diisopropylether (DIPE)  
*Tert*-amylmethylether (TAME)

(5) The prohibitions in section 2262.6(c)(1)and (2), and in section 2262.2(c)(3), shall be phased in respectively as follows:

(A) Starting December 31, 2002 and July 1, 2003 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, 2003 and August 15, 2003 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, 2003 and September 30, 2003 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, 2002 and July 1, 2003, 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 2262.6(c)(5).

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).

Amend section 2263, title 13, California Code of Regulations, to read as follows:

### **Section 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 standards set forth in this subarticle 2, other than the standards in section 2262.9, the test methods presented in Table 1 shall be used. All identified test methods are incorporated herein by reference.

**Table 1**

<i>Section</i>	<i>Gasoline Specification</i>	<i>Test Method</i> <sup>a</sup>
2262	Reid Vapor Pressure	ASTM D 323-58 <sup>b</sup> or 13 C.C.R. Section 2297
2262	Sulfur Content	ASTM D 2622-94 <sup>c, d</sup> or ASTM D 5453-93
2262	Benzene Content	ASTM D 5580-00 <sup>e</sup>
2262	Olefin Content	ASTM D 1319-95a <sup>f</sup> (Through December 31, 2001) <sup>-</sup> ASTM D 6550-00 <sup>g, h, i</sup> (Starting January 1, 2002)
2262	Oxygen Content	ASTM D 4815-99
2262	T90 and T50	ASTM D 86-99aε1
2262	Aromatic Hydrocarbon Content	ASTM D 5580-00 <sup>j</sup>
2262.5(b)	Ethanol Content	ASTM D 4815-99
2262.6(a)	MTBE Content	ASTM D 4815-99
<u>2262.6(c)</u>	<u>Oxygen Content from Specified Oxygenates Other Than Ethanol or MTBE</u>	<u>ASTM D 4815-99<sup>k</sup></u>

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 sulfur concentration can be calculated as follows:

$$\text{Sulfur from thiophene (gm)} = \text{Weight of thiophene} * 32.06 * \text{purity} / 84.14$$

$$\text{Sulfur from 2-methylthiophene (gm)} = \text{Weight of 2-methylthiophene} * 32.06 * \text{purity} / 98.17$$

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

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:

<i>Sulfur Content, ppm</i>	<i>Reproducibility</i>
10 to 30	40.5% X Sulfur Content (ppm)
>30	19.2% X Sulfur Content (ppm)

- e The reproducibility of benzene is as follows:

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

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

<i>Range</i>	<i>Reproducibility</i>
Olefins 0.3 – 33	0.819 (X) <sup>0.6</sup>

X = Volume %

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

$$\text{Reproducibility} = 0.32 X^{0.5}$$

where X is between 0.3 and 25 mass % olefin

h The conversion from mass % olefin to volume % olefin is defined as follows:

$$\text{volume \% olefin} = 0.857 * \text{mass \% olefin}$$

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:

$$\text{Reproducibility} = 1.4 \text{ volume \%}$$

k The weight percent oxygenate content of each of the oxygenates listed below, determined in accordance with ASTM D 4815-99, shall be multiplied by the fraction of oxygen in the oxygenate listed below.

<u>OXYGENATES DETERMINED BY ASTM D 4815-99</u>	<u>Fraction oxygen in oxygenate</u>
<u>Methanol</u>	<u>0.499</u>
<u>Isopropanol</u>	<u>0.266</u>
<u>n-Propanol</u>	<u>0.266</u>
<u>n-Butanol</u>	<u>0.216</u>
<u>iso-Butanol</u>	<u>0.216</u>
<u>sec-Butanol</u>	<u>0.216</u>
<u>tert-Butanol</u>	<u>0.216</u>
<u>Tert-pentanol (tert-amylalcohol)</u>	<u>0.182</u>
<u>Methyl tert-butylether (MTBE)</u>	<u>0.182</u>
<u>Ethyl tert-butylether (ETBE)</u>	<u>0.156</u>
<u>Diisopropylether (DIPE)</u>	<u>0.157</u>
<u>Tert-amylmethylether (TAME)</u>	<u>0.157</u>

The total oxygen content of the fuel from the listed oxygenates is obtained by summing the weight percent of each oxygenate. Where the measured oxygenate content for an individual oxygenate is below the LOD specified in ASTM 4815-99, the oxygenate content shall be treated as 0.00 volume percent.

(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.

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).

6. Amend section 2265(a)(2), title 13, California Code of Regulations, to read as follows:

**Section 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 last amended April 25, 2001, which is incorporated herein by reference (the two 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, and estimated volume~~ 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, hydrocarbons, 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.

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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).

7. Amend section 2270(a)(1), title 13, California Code of Regulations, to read as follows:

**Section 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. The references to sulfur content shall apply to each producer or importer that has elected to be subject to the section 2262.2(e) averaging limit for sulfur, or to a PM averaging limit for sulfur. The references to benzene content shall apply to each producer or importer that has elected to be subject to the section 2262.3(e) averaging limit for benzene, or to a PM averaging limit for benzene. 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. The references 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. 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. 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.

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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).