

CALIFORNIA AIR RESOURCES BOARD

**THE CALIFORNIA REFORMULATED GASOLINE
REGULATIONS**

Title 13, California Code of Regulations, Sections 2250-2273
(As last amended June 16, 2000)

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NOTE: This is a compilation of California Air Resources Board (ARB) motor vehicle gasoline regulations applicable on and after March 1, 1998. They are collectively referred to as the California reformulated gasoline (CaRFG) or cleaner burning gasoline regulations.

Title 13, California Code of Regulations, Division 3, Chapter 5 (Standards for Motor Vehicle Fuels), Article 1 (Standards for Gasoline) consists of two Subarticles. Subarticle 1 (starting with section 2250) contains standards that became applicable before 1996. Subarticle 2 (starting with section 2260) contains the Phase 2 CaRFG regulations that became applicable in 1996, and the Phase 3 CaRFG regulations that will apply starting December 31, 2002. Section 2261(b) identifies the preexisting subarticle 1 regulations that continue to apply to all California gasoline after April 1, 1996, and which are contained in this compilation: section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), section 2257 (Required Additives in Gasoline), and section 2259 (Exemptions for Motor Vehicle Fuels Used in Test Programs).

This compilation omits the Subarticle 1 regulations that were 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). It also omits the subarticle 1 regulations — section 2250 (Degree of Unsaturation of Gasoline) and section 2252 (Sulfur Content of Gasoline) — that applied from March 1996 through February 1998 only to small refiners that qualified under section 2272 for a temporary exemption from the CaRFG standards for sulfur content, olefin content, T50 and T90. The temporary exemptions for small refiners ended March 1, 1998. Finally, this compilation does not include sections 2296 (Motor Fuel Sampling Procedures) and 2297 (Test Method for the Determination of RVP Equivalent).

Most Recent Amendments

An amendment to section 2262.5(a)(2), adopted June 24, 1999, eliminated the mandatory requirement for wintertime oxygenated gasoline in the Lake Tahoe Air Basin prior to the start of the winter of 1999-2000. This amendment was approved by the Office of Administrative Law September 8, 1999 and became effective on the same date.

New section 2273, "Labeling of Equipment Dispensing Gasoline Containing MTBE," was adopted September 24, 1999. It was approved by the Office of Administrative Law November 16, 1999, and became effective December 16, 1999.

Major amendments including a prohibition of the use of MTBE in gasoline starting December 31, 2002 (§ 2262.6), establishment of the Phase 3 CaRFG standards (§ 2262), and establishment of a Phase 3 CaRFG Predictive Model (§ 2265(a)) were adopted June 16, 2000, following a December 9, 1999 hearing. These amendments were approved by the Office of Administrative Law on August 3, 2000, and become effective September 2, 2000. They include provisions allowing refiners to opt to produce gasoline subject to the Phase 3 CaRFG standards prior to December 31, 2002.

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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

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 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 lead compounds.
- (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 not lawfully 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.

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, 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,

Section 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 for the purpose of conducting tests or research into the effect thereof on vehicle emissions, fuel economy, performance, or for other related research objectives.

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, 43000, 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).

Section 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 reformat, 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 her/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).

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).

Section 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.

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).

Subarticle 2. Standards for Gasoline Sold Beginning March 1, 1996

Section 2260. Definitions.

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

- (1) "Alternative gasoline formulation" means a blend of gasoline meeting all of the specifications identified in a certification issued by the Executive Officer pursuant to the "California Test Procedures for Evaluating Alternative Specifications for Gasoline", adopted September 18, 1992, which is incorporated herein by reference.
- (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.
- (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.

- (8) "Ethanol" means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.
- (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.
- (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 facility at which imported California gasoline or CARBOB is first received 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.
- (20) “PM alternative gasoline formulation” means a final blend of gasoline that is subject to a set of PM alternative specifications.
- (21) “PM alternative specifications” means the specifications for the following gasoline properties, as determined in accordance with section 2263: maximum Reid vapor pressure, expressed in the nearest hundredth of a pound per square inch; maximum sulfur content, expressed in the nearest part per million by weight; maximum benzene content, expressed in the nearest hundredth of a percent by volume; maximum olefin content, expressed in the nearest tenth of a percent by volume; minimum and maximum oxygen content, expressed in the nearest tenth of a percent by weight; maximum T50, expressed in the nearest degree Fahrenheit; maximum T90, expressed in the nearest degree Fahrenheit; and maximum aromatic hydrocarbon content, expressed in the nearest tenth of a percent by volume.
- (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.
- (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.

(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.

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).

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 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, 2002. 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, 2002 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and December 31, 2004 (for the 30 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, 2003 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and February 14, 2005 (for the 30 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, 2003 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and March 31, 2005 (for the 30 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, 2002.

(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, 2003 (for the benzene content limit and the 60 parts per million sulfur content limit) or February 14, 2005 (for the 30 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, 2003 (for the benzene content limit and the 60 parts per million sulfur content limit) or March 31, 2005 (for the 30 parts per million sulfur content limit).

(3) ***Early Compliance with the CaRFG Phase 3 Standards Before December 31, 2002.***

(A) Any producer or importer wishing to supply from its production or import facility, before December 31, 2002, 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 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, 2002, any producer or importer may comply with the CaRFG Phase 3 standards that apply starting December 31, 2002 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.
- (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) and section 2254 (Manganese Additive Content) 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.

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).

Section 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

<i>Property</i>	<i>Flat Limits</i>		<i>Averaging Limits</i>		<i>Cap Limits</i>	
	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>
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
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	1.8 ⁶ -3.5 ⁷
					0 ⁶ - 3.5	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 standards apply only during the warmer weather months identified in section 2262.4.
- ² The 6.90 psi standard applies only when a producer or importer is using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model.
- 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 and 30 parts per million are phased in starting December 31, 2002, and December 31, 2004, 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 but no more than 10 volume percent ethanol, the maximum oxygen content cap is 3.7 percent by weight.

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).

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

- (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), or (3) has been reported as an alternative gasoline formulation pursuant to section 2266(c).
- (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:
- (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).

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).

Section 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):*

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 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 Central Coast Air Basin
Lake County Air Basin
Northeast Plateau Air Basin

(E) *May 1 through October 31:*

South Central Coast Air Basin (Excluding Ventura County)
North Coast Air Basin

(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) For purposes of compliance with section 2262.4(b) only, gasoline that is produced in California and is transported to the South Coast Air Basin, Ventura County, or the San Diego Air Basin by marine vessel shall be treated as having been imported at the facility to which the gasoline is off-loaded from the marine vessel.

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).

Section 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 (of any year) and October 1 through October 31 (in 1996 through 2002):*
South Coast Area

(B) *October 1, 1998 through January 31, 1999 and October 1, 1999 through January 31, 2000:*
Fresno County
Madera County

(C) *October 1, 1998 through January 31, 1999:*
Lake Tahoe Air Basin

(D) *November 1 through February 29 (of any year):*
Imperial County

- (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 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 reported as a PM alternative gasoline formulation pursuant to section 2265(a) or as an alternative gasoline formulation pursuant to section 2266(c), and 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.*** 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: [i] the gasoline to which the oxygenates are added has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), or as an alternative gasoline formulation pursuant to section 2266(c), and has not been commingled with other gasoline, and [ii] 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 or alternative gasoline formulation. Nothing in this section (d) prohibits adding oxygenates to CARBOB.

(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) Section (a) shall not apply to a transaction occurring in an area shown in (a)(2) in November 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.

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).

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 volume percent starting December 31, 2002, 0.15 volume starting December 31, 2003, and 0.05 volume percent starting December 31, 2004.

(b) ***Phase-in of MTBE prohibitions.*** In the first year in which a prohibition applies under section 2262.6(a), 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.

- (3) ***Phase-in for low-throughput fueling facilities.*** For the first year in which a prohibition applies under section 2262.6(a)(1), the prohibition 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.

(c) ***Use of oxygenates other than ethanol or MTBE in California gasoline on or after December 31, 2002.*** 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 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.

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).

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, 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> ^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 5580-95 ^e
2262	Olefin Content	ASTM D 1319-95a ^f
2262	Oxygen Content	ASTM D 4815-94
2262	T90 and T50	ASTM D 86-90
2262	Aromatic Hydrocarbon Content	ASTM D 5580-95 ^g
2262.5(b)	Ethanol Content	ASTM D 4815-94a
2262.6	MTBE Content	ASTM D 4815-94a

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:

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 The reproducibility of total aromatic hydrocarbon is as follows:

Reproducibility = 1.4 vol%

(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).

Section 2263.7. Multiple Notification Requirements.

Where a producer or importer is subject to multiple notification requirements pursuant to sections 2264(a)(2)(A), 2264.2(a)(2), 2264.2(b)(2), 2265(a)(2), 2266(c) or 2266.5(b), the producer shall combine the notifications to the extent practicable.

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).

Section 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 sections (a)(2) and (c) through (i) 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) through (i). 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.*** 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 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 content 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 olefins in excess of a limit of 4.0 percent by volume.

- (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 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.

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).

Section 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).

(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 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.

(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.

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).

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 adopted June 16, 2000, 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, 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.
- (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.

- (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; 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.

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).

Section 2266. Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emission Testing.

- (a) ***Certification of alternative gasoline formulations.*** Following application by a producer or importer, the executive officer may certify, and identify alternative specifications for, an alternative gasoline formulation pursuant to the Air Resources Board's "California Test Procedures for Alternative Specifications for Gasoline," as adopted September 18, 1992, which is incorporated herein by reference.
- (b) ***Prohibited activities regarding 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 an 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 an alternative gasoline formulation shall not be subject to section 2262.3(b) or (c), section 2262.4(b), and section 2262.5(c).
- (c) ***Notification regarding sales and supplies of alternative gasoline formulations.*** A producer or importer intending to sell or supply a final blend of California gasoline from its production facility or import facility as an 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 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 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).

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).

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.*** All of the standards and requirements in sections 2261, 2262.3, 2262.4, 2262.5(a), (b), (c) and (e), 2262.6, 2264, 2264.2, 2264.4, 2265, 2266, 2267, 2268, 2270(b), 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 CARBOB complies with the standards for California gasoline.***

(A) 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 and 2262.6 shall 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). Where the producer or importer has in accordance with section (b)(1)(C) designated a range of amounts of oxygenate, or more than one oxygenate type, to be added to the CARBOB, the minimum designated amount of the oxygenate having the smallest designated volume shall be added to the CARBOB when determining the properties and characteristics of the final blend. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the properties of the final blend for purposes of the producer’s or importer’s compliance with sections 2262.3 and 2262.5 shall be determined without adding oxygenate to the gasoline.

(B) In determining whether CARBOB complies with the standards for California gasoline. the oxygenate added must be representative of the oxygenate the producer or importer reasonably expects will be subsequently added to the final blend. Prior to supplying CARBOB from a production or import facility, the producer or importer must enter into a protocol with the executive officer setting forth how the representativeness of the oxygenate will be determined.

(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 a 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 and 2262.6 shall be calculated without adding the amount of oxygenate to the CARBOB.

(4) No producer or importer may sell, offer for sale, supply or offer for sale a 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 - the designated minimum volume the oxygenate will represent, expressed as a decimal fraction, 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 under section (a)(2).

(b) *Notification 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. 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) The designation of each oxygenate type or types and amount or range of amounts to be added to the CARBOB. 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 or is reported as an alternative formulation in accordance with section 2266(c), 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, the amount of oxygenate to be added must be such that the resulting California gasoline has a range of oxygen content that is identical to the oxygen content PM alternative specification for the final blend. For a final blend of CARBOB that is reported as an alternative formulation in accordance with section 2266(c), the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an amount or range of oxygen content that is identical to the oxygen content alternative specification identified in the certification order for the formulation;

(D) The estimated volume of the final blend of CARBOB, and of the California gasoline that will result when the minimum specified amount of oxygenate is added to the final blend of CARBOB. 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.

- (2) 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)(2) have been met, timely notification shall be deemed to have occurred.
- (3) 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) *Sampling, testing and recordkeeping by producers and importers of CARBOB.*

- (1) Each producer of CARBOB shall sample and test for the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and, during the regulatory control periods identified in section 2262.4(a)(2) and (b)(2), the Reid vapor pressure, of each final blend of CARBOB that the producer has produced, by collecting and analyzing a representative sample of CARBOB taken from the final blend, in accordance with section (a). If a producer blends CARBOB directly to pipelines, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested by the producer or authorized contractor.
- (2) Each importer of CARBOB shall sample and test for the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and, during the regulatory control periods identified in section 2262.4(a)(2) and (b)(2), the Reid vapor pressure, of each shipment of CARBOB which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, by collecting and analyzing a representative sample of CARBOB taken from the shipment, in accordance with section (a).
- (3) Each producer or importer required to sample and analyze a final blend or shipment of CARBOB pursuant to this section (c) shall maintain, for two years from the date of each sampling, records showing the sample date, identify of blend or product sampled, container or other vessel sampled, the final blend or shipment volume, and the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and Reid vapor pressure as determined in accordance with section (a)(2). All CARBOB produced or imported by the producer or importer and not tested as required by this section shall be deemed to have a Reid vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50 and T90 exceeding the applicable flat limit or averaging limit standards specified in section 2262, unless the importer demonstrates that the CARBOB 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 (c) 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 or shipment of CARBOB in accordance with the requirements of this section, the final blend or shipment of CARBOB shall be presumed to have been sold by the producer or importer in violation of the applicable flat limit or averaging limit standards and compliance requirements in sections 2262, 2262.3(b) or (c), 2262.4(b), or 2262.5(c), unless the importer demonstrates that the CARBOB meets those standards and limit(s).
- (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 (c)(1) or (c)(2). 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 sections 2262, 2262.3(b) or (c), 2262.4(b), or 2262.5(c), and the PM averaging limit(s). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(d) *Documentation required when CARBOB is transferred.*

- (1) 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, and
 - (B) 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.
- (2) 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) 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 transferred from a final distribution facility.

(2) No person may sell or supply CARBOB from a final distribution 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) 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) 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, or

(B) Other CARBOB for which the same oxygenate type and amount (or range of amounts) was specified by the producer or importer at the time the CARBOB was supplied from the production or import facility.

(2) 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.

(g) *Requirements for oxygenate blenders.*

(1) *Registration and Certification.*

(A) 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, a oxygenate blender must register with the executive officer annually by January 1. The registration must be addressed to the attention of the Chief, Compliance Division, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

(B) 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) 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 pursuant to Health and Safety Code section 43021.
- (D) Any oxygen blender must submit updated registration information to the executive officer at the address identified in section (h)(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.
- (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) 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) Notwithstanding section (i)(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.

- (3) Notwithstanding section (i)(1), a person may add nonoxygenate 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) 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) Section 2266.5(i)(1) does not apply to combining California gasolines that are in a motor vehicle's fuel tank.

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).

Section 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.

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).

Section 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.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 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, 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).

Section 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, and September 1, 2002, 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.

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, 43013.1, 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).

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 section 2262.2(c), 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 section 2262.3(c), 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.
- (2) Each producer 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 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 and benzene content, 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 and benzene content, 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 and benzene content, T50 and T90 exceeding the applicable averaging limit standards specified in section 2262, or exceeding the comparable PM averaging limits if applicable, unless the producer 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 shipment 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 shipment, 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 limit standards specified in section 2262, or exceeding the comparable PM averaging limit(s) if applicable, 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), 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), and the PM averaging limit(s). 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 persons(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.

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).

Section 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 or 2262.6 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. The 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 control 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, and 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. 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). Inputs 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, 2002, 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 section 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 officer 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 unforeseen 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 failure 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).

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).

Section 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 60 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, 2002 through March 31, 2003 shall be treated as a calendar quarter under this section (c)(2).
- (3) For the period December 31, 2002, through December 31, 2003, 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. (Note: At the time this section 2272(d)(5) was adopted in June 2000, section 2282 did not include a mechanism for offsetting excess emissions from gasoline subject to the small refiner CaRFG Phase 3 standards. As such, a qualifying small refiner accordingly may not elect to have its gasoline subject to the small refiner CaRFG Phase 3 standards until section 2282 is amended to provide a mechanism for offsetting the excess emissions and those amendments become operative. The Air Resources Board intends to consider such amendments in a Fall 2000 rulemaking.)

(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 § 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, 2002 through January 31, 2003 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 (d)(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, 2002 through December 31, 2003, 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.

(2) Whenever a small refiner fails to provide records identified in sections (d)(1)(A), (B), or (C) in accordance with the requirements of those sections (d)(1)(A), (B), or (C), the California gasoline 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 sections 2262.2, 2262.4, and 2262.6.

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, 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).

Section 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 4815-94a, 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	The consecutive number of times the gasoline storage tank must be drained and
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refilling	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 (C_o) 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 shall provide to the outlet operator or responsible employee, at 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 4815-94a, 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 nonsuperseded 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.

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).