

UPDATED INFORMATIVE DIGEST

Section Affected: Amendments to Title 13, California Code of Regulations, section 2282.

Background. Air Resources Board (ARB) regulations impose statewide limits on the aromatic hydrocarbon content and the sulfur content of diesel fuel sold or supplied after September 30, 1993 for use in motor vehicles in California. The aromatic hydrocarbon content limits are contained in Title 13, California Code of Regulations, section 2282. Motor vehicle diesel fuel produced by large refiners or imported into the state is subject to a 10 percent aromatic hydrocarbon content limit. As described in more detail below, qualifying small refiners are subject to an aromatic hydrocarbon content limit of 20 percent; for a limited period of one to three years, independent refiners can also be subject to this less stringent limit.

A producer or importer is allowed to sell or supply batches of its California motor vehicle diesel fuel exceeding the applicable 10 percent and 20 percent aromatic hydrocarbon content limits, as long as the batches are reported to the ARB and the excess aromatic hydrocarbon content is fully offset by other batches sold within specified time limits and having aromatic hydrocarbon contents below the applicable limits. Producers and importers are also permitted to seek certification of an alternative diesel fuel formulation, based on an engine test demonstration that the alternative formulation will result in the same emission benefits as typical diesel fuel meeting the 10 percent (or, as applicable, 20 percent) aromatic hydrocarbon content standard. Once the ARB certifies the alternative formulation, a producer or importer may comply with the regulation by selling diesel fuel that meets the designated specifications for the alternative fuel formulation.

The aromatic hydrocarbon content regulation imposes an annual limit on the quantity of California motor vehicle diesel fuel produced by a small refiner that is subject to the less stringent 20 percent standard. This specified quantity of diesel fuel is called the small refiner's "exempt volume." For each small refiner, the "exempt volume" equals 65 percent of the average of the three highest annual production volumes of "distillate fuel" at the small refiner's refinery during 1983-1987, as reported in required annual reports to the California Energy Commission (CEC). In these reports, "distillate fuel" includes the refiner's production of No. 1, No. 2 and No. 4 diesel fuel, and No. 1 and No. 2 fuel oil, whether sold for use in California or exported.

The "exempt volume" provisions were designed to limit the small refiner's production of 20 percent aromatic hydrocarbon content diesel fuel to the small refiner's historic production level of California motor vehicle diesel fuel. The Board based the exempt volumes on data reported to the CEC for 1983-1987 because the reports provided fixed, preexisting figures that could not be modified to maximize production of diesel fuel subject to the less stringent 20 percent aromatic hydrocarbon limit. Because the reported

"distillate fuel" volumes included fuel that was not sold for use in California diesel vehicles, it was necessary to adjust the reported volumes to exclude that nonvehicular fuel. The Board applied a single adjustment factor for all small refiners, based on the industry-wide average proportion of California motor vehicle diesel fuel to all reported distillate fuel. This proportion, based on a survey of both large and small refiners, was 65 percent.

The regulation permits a different calculation of the "exempt volume" of a small refiner that was shut down for two or more years during 1983-1987, but that had already installed hydrotreating processes allowing the production of low-sulfur diesel fuel. Such small refiners may have their exempt volume determined as 65 percent of their reported distillate fuel production in 1989 and 1990. Only one small refiner--Powerine--qualifies for this alternative calculation of "exempt volume."

The Amendments. The Board has now added an optional method a small refiner may elect for determining its exempt volume. Under the new option, a small refiner's exempt volume would be calculated using the following steps:

First, the barrel per calendar day "operable crude oil capacity" of the small refiner's refinery for 1991 and 1992 is identified, based on data which are reported to the ARB from the California Energy Commission (CEC) and are derived from "Monthly Refining Reports" (EIA 810) submitted to the CEC no later than June 30, 1994. If the CEC is unable to derive such data from the "Monthly Refining Reports" for a particular small refiner, the Executive Officer shall determine the small refiner's operable crude oil capacity for 1991 and 1992 based on other publicly available and generally recognized sources.

Second, this crude oil capacity is multiplied by 0.9011, representing the overall refinery utilization rate (crude oil run divided by operable crude oil capacity) in the California refining industry for 1991 and 1992, as derived from reports of crude oil run and operable capacity in the "Quarterly Oil Reports" issued by the CEC.

Third, the resulting crude throughput volume is multiplied by the average of the refinery's two highest annual ratios of distillate produced to crude oil distilled in the period 1988 through 1992, based on distillate production data recorded by the CEC from MO-7 reporting forms submitted to the CEC no later than June 30, 1994 and from crude oil run data derived by the CEC from "Monthly Refining Reports" submitted to the CEC no later than June 30, 1994.

Fourth, the resulting volume is multiplied by the average of the small refiners' two highest annual fractions of distillate production that have been sold as California motor vehicle diesel fuel during the period 1988 through 1992. These fractions shall be determined by the Executive Officer from sales data certified by authorized representatives of the small refiners and such other information from the small refiners deemed necessary by the Executive Officer.

The amendments also allow a small refiner to designate batches of its diesel fuel as subject to the 10 percent aromatic hydrocarbon content standard, and therefore not counting against the refiner's exempt volume. In addition, the amendments provide that for any independent refiner qualifying for interim treatment as a small refiner, exempt volume will continue to be determined in accordance with the method designated in the regulation prior to this rulemaking.