Attachment A

15-DAY MODIFIED REGULATION ORDER

[Note: Set forth below is the 2012 amendments to the Clean Fuels Program regulation. The text of the amendments as proposed during the 45-day comment period is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language. The text of amendments proposed in this 15-day comment period is shown in ~~double strikeout~~ and double underline. All other portions remain unchanged and are indicated by the symbol "* * * * *" for reference]

Chapter 8. Clean Fuels Outlets ~~Program~~

§ 2300. Definitions.

(a) The following definitions apply to Chapter 8.

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~~(4.13)~~ (3)"Compliance year" means:
(A) regarding determinations made in calendar year 2012 pursuant to Section 2303, the twelve month period from May 1, 2015, through April 30, 2016; or
(B) for all subsequent years, the twelve month period running from ~~May 1 through April 30.~~January 1 through December 31.

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(14) "Importer" means any person who ~~owns an imported product when it is received at the import facility~~ first accepts delivery of gasoline in California.

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(17) "Market share" is the value that represents the percent of gasoline production and imports made by a major refiner/importer of gasoline as determined pursuant to Section 2306.~~5~~1.

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~~(28)~~(26) "Retail clean fuel outlet" means an establishment which is equipped to dispense a designated clean fuel to motor vehicles and at which the designated clean fuel is sold or offered for sale to the general public for use in motor vehicles without the required use of a key or card key and without the need to establish an account.

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NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2302. Equipping Retail Gasoline Outlets or Other Outlets to Dispense Designated Clean Fuels.

(a) ~~Any~~ Each major refiner/importer of gasoline ~~person who is the owner/lessor of an operating retail gasoline outlet~~ shall, for each designated clean fuel, establish ~~equip~~ at least the required minimum number for each compliance year, as determined in accordance with Section 2307(d), of ~~his or her retail gasoline outlets in the state, or of other outlets in the state, so that the outlets are~~ retail clean fuel outlets for the designated clean fuel. The required minimum number of retail clean fuel outlets for each compliance year shall apply to the entire compliance year. The requirements of this section shall apply at all times during which a refiner/importer meets the definition of a "major refiner/importer of gasoline" in Section 2300(a). ~~Person is an owner/lessor of an operating retail gasoline outlet. The requirements of this section shall in any case be deemed satisfied with regard to a designated clean fuel if all of the owner/lessor's operating retail gasoline outlets are equipped as retail outlets for the designated clean fuel.~~

(b) In the case of any designated clean fuel which is in gaseous form, the dispensing equipment required by this section shall be designed ~~for a minimum of four hours of high volume operation per day.~~ to satisfy the following minimum criteria:

(1) Dispense gaseous fuel upon request to bring on-board vehicle storage tanks to a full (at least ninety five percent) state of charge and be able to fill a seven kilogram on-board storage tank in seven minutes or less ~~vehicles designed with 5000 pounds per square inch (350 bar) and 10,000 pounds per square inch (700 bar) storage tanks~~;

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NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2303. Determination of Total Projected Maximum Volumes of Designated Clean Fuels.

The ~~e~~Executive ~~o~~Officer shall determine the total projected maximum volume of each designated clean fuel for each compliance year, at least ~~fourteen~~ twenty eight months before the start of the compliance year, in accordance with this section.

(a) *Identification of designated clean fuels*.
The Executive Officer shall determine which clean alternative fuels are designated as clean fuels. The ~~e~~Executive ~~o~~Officer shall determine ~~what~~which designated clean fuels are expected to be used as the certification fuel in zero~~low~~ emission vehicles in the compliance year. This determination shall be based on registration records of the Department of Motor Vehicles and projected production estimates submitted by motor vehicle manufacturers to the ~~e~~Executive ~~o~~Officer pursuant to ~~the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1,and~~the "California exhaust emission standards and test procedures for 2001 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles" as incorporated by reference in Title 13, California Code of Regulations, Section 1961, and the "California 2015 and subsequent model criteria pollutant exhaust emission standards and test procedures ~~for 2001~~ and 2017 and subsequent model greenhouse gas exhaust emission standards and test procedures for passenger cars, light-duty trucks and medium-duty vehicles" as incorporated by reference in Title 13, California Code of Regulations, Section 1961.2.

(b) *Estimation of number of designated clean fuel vehicles*.

(1) For each designated clean fuel identified pursuant to Section 2303(a), the ~~e~~Executive ~~o~~Officer shall make an estimate of the number of ~~low~~zero emission vehicles certified on the fuel for each calendar year. The estimate shall be the sum of:

[i] the number of ~~low~~zero emission vehicles certified on the fuel that vehicle manufacturers have projected to be produced in the corresponding model year for which calculations are being made and the two prior model years for sale in California;

[ii] for determinations made in calendar year 2012, one-sixth of the number of model year 2012 zero emission vehicles certified on the fuel that vehicle manufacturers project to produce. For determinations made in calendar year 2013 and later, one ~~sixth~~ third of the number of ~~low~~zero emission vehicles certified on the fuel that vehicle manufacturers project to produce for the model

year that is three~~two~~ years prior to the compliance year for which the calculations are being made; and

[iii] for determinations made in calendar year 2012, the number of zero emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through August 31, 2012. For determinations made in calendar year 2013 and later, the number of ~~low~~zero emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through May 31~~July 30~~ and ~~two~~ three years prior to the compliance year for which the estimates are being made.

(2) The vehicle manufacturers' projections used for the estimates made under this Section 2303(b) shall be the reports of projected production data air basin-specific vehicle deployment plans submitted by motor vehicle manufacturers to the ~~e~~Executive ~~o~~Officer pursuant to the ~~"California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, or~~ “California exhaust emission standards and test procedures for 2001 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles” as incorporated by reference in Title 13, California Code of Regulations, Section 1961, and the "California 2015 and subsequent model criteria pollutant exhaust emission standards and test procedures and 2017 and subsequent model greenhouse gas exhaust emission standards and test procedures for passenger cars, light-duty trucks and medium-duty vehicles" as incorporated by reference in Title 13, California Code of Regulations, Section 1961.2.

(c) *Determination of total projected maximum volumes of designated clean fuel*. Total projected maximum volume (TPMV) calculations detailed in this section shall be performed for designated clean fuel vehicles projected to be placed within the boundaries of an air basin when the trigger level requirement for that air basin is met pursuant to Section 230~~5~~3.5(a). TPMV calculations shall be performed considering designated clean fuel vehicles projected to be placed anywhere in California when the statewide trigger level requirement is met pursuant to Section 230~~3~~.5(a). ~~For each designated clean fuel identified pursuant to section 2303(a), the executive officer shall estimate the total projected maximum volume (TPMV) of the designated clean fuel for the year.~~ The ~~total projected maximum volume~~TPMV for each designated clean fuel shall be the sum of the maximum demand volumes (MXDV) calculated by model year and vehicle class (passenger car, light-duty truck, or medium-duty vehicle). The following equation shall be used to calculate total projected maximum volumes for an air basin and statewide:

$$TPMV = \sum_{\text{Model year (y)}} \left[\sum_{\text{vehicle class (i)}} MXDV\ (\text{vehicle class } i, \text{model year } y) \right]$$

Where:

TPMV is the total projected maximum volume (gasoline equivalent gallons per year for a liquid fuel and ~~therms~~kilograms per year for a gaseous fuel) for a particular clean fuel.

MXDV is the maximum demand volume for a particular clean fuel within vehicle classes *i* and model year *y* as calculated below.~~in the next paragraph of text.~~

Model year y is, in turn, each vehicle model year since and including ~~1994~~2000.

Vehicle class i is, in turn, each of three classes of vehicles: passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Maximum demand volume for a designated clean fuel (for a given model year and vehicle class within an air basin or statewide) shall equal the number of vehicles (as determined in Section 2303(b)) in a particular vehicle class certified on a particular fuel, multiplied by the average miles travelled per year per vehicle by those vehicles, divided by the average fuel economy of those vehicles.

The following equation shall be used to calculate ~~maximum demand volumes~~MXDVs:

$$\text{MXDV (vehicle class i, model year y)} = \frac{\textit{(number of vehicles certified on fuel) x (AMT per vehicle)}}{\textit{(average fuel economy)}}$$

Where:

MXDV is the maximum demand volume (gasoline equivalent gallons per year for a liquid fuel and ~~therms~~kilograms per year for a gaseous fuel) for a particular clean fuel within vehicle class *i* and model year *y*.

Vehicle class i is one of three possible classes of vehicles-passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Model year y is, in turn, each vehicle model year since and including ~~1994~~2000.

Number of vehicles certified on fuel shall be determined pursuant to section 2303(b), and shall be calculated separately for vehicles of the same model year and vehicle class (PC, LDT, MDV).

AMT per vehicle is the average vehicle miles traveled per year per ~~low~~zero emission vehicle, based on annual mileage accrual rates for motor vehicles for a specific model year and vehicle class derived from the

current version of the ARB's EMFAC emission inventory model and other reasonably available relevant information.

Average fuel economy represents the estimated fuel economy in miles per gasoline equivalent gallon (mpg) (or miles per ~~therm~~kilogram in the case of gaseous fuels) of ~~low~~zero emission vehicles of the same model year and vehicle class. The average fuel economy estimates shall be determined by the ~~e~~Executive ~~o~~Officer based on the fuel economy estimates provided by the vehicle manufacturers pursuant to the ~~"California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" and the~~ "California exhaust emission standards and test procedures for 2001 and subsequent model passenger cars, light-duty trucks and medium-duty vehicles," and the "California 2015 and subsequent model criteria pollutant exhaust emission standards and test procedures and 2017 and subsequent model greenhouse gas exhaust emission standards and test procedures for passenger cars, light-duty trucks and medium-duty vehicles," which are incorporated by reference in Title 13, California Code of Regulations, Sections ~~1960.1 and~~ 1961, 1961.2 and on other reasonably available relevant information.

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§ 2303.5. Identification of Designated Clean Fuels Projected to Reach the Trigger Level In a Particular Year.

(a) *The trigger level requirement.*

(1) *Number of designated clean fuel vehicles necessary to trigger a retail clean fuel outlet requirement.* There shall be no retail clean fuel outlets for a designated clean fuel required in a compliance year unless the ~~statewide~~ number of ~~low~~zero-emission vehicles projected by the ~~e~~Executive ~~o~~Officer for that fuel in accordance with Section 2303(b) is 10,000 or greater within the boundaries of an air basin and 20,000 or greater statewide, after discounting the number of fleet vehicles by 75 percent or a smaller discount factor determined in accordance with Section 2303.5(a)(2).

(2) *Reducing the discount factor for fleet vehicles.* The discount factor for fleet vehicles is intended to reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets in the compliance year for which the trigger determination is being made. If the ~~e~~Executive ~~o~~Officer determines, based on the reports filed pursuant to Section 2313 and on any other relevant reasonably available information, that a specified lower percentage of the clean fuel dispensed to the fleet vehicles will likely be dispensed from facilities other than retail clean fuel outlets, the ~~e~~Executive

~~e~~Officer shall discount the number of fleet vehicles by that specified lower percentage.

(b) *Yearly projections regarding the trigger level.*
For each compliance year, the ~~e~~Executive ~~o~~Officer shall identify any designated clean fuel(s) he or she projects will for the first time be the fuel for a sufficient number of ~~low~~zero-emission vehicles to reach the trigger level set forth in Section 2303.5(a). At least ~~sixteen~~ thirty one months before the start of the compliance year, the ~~e~~Executive ~~o~~Officer shall notify interested parties of the fuel or fuels identified, and shall make available a summary of the information and analysis relied upon, including the fleet discount factor applied. The notification shall also identify any other designated clean fuel that the ~~e~~Executive ~~o~~Officer projects will miss the trigger level by no more than thirty percent, with the information and analysis relied upon being made available. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(c) *Requests to revise trigger level projections.*
Any interested party may request in writing that the ~~e~~Executive ~~o~~Officer revise the trigger determination or fleet discount factor for any designated clean fuel, and may submit any relevant information supporting a revised determination. In order to be considered by the ~~e~~Executive ~~o~~Officer, the written request and supporting information must be received no more than thirty days after issuance of the notice. The ~~e~~Executive ~~o~~Officer shall consider any requests that are ~~timely~~ submitted in a timely manner, and shall issue his or her final trigger determination and fleet discount factor no less than ~~fourteen~~ twenty nine months before the start of the compliance year in question.

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2304. Determination of Total and Additional Number of Retail Clean Fuel Outlets Required for Each Designated Clean Fuel in Each Year.

The ~~e~~Executive ~~o~~Officer shall, for each designated clean fuel, determine the total number of retail clean fuel outlets required for each compliance year, and the total number of additional retail clean fuel outlets required for the first time in the compliance year, in accordance with this section. The Executive Officer shall make these determinations for an air basin when the trigger level requirement for that air basin is met pursuant to Section 2303.5(a), and for the State when the statewide trigger level requirement is met pursuant to Section 2303.5(a). The ~~e~~Executive ~~o~~Officer shall make the determinations at least ~~fourteen~~ twenty ~~nine~~ months before the start of the compliance year.

(a) *Determination of total number of retail clean fuel outlets required for each designated clean fuel in each year*.
The ~~e~~Executive ~~o~~Officer shall determine for each designated clean fuel the total number of retail clean fuel outlets that shall be required for that designated fuel in each compliance year, ~~calculated as follows~~using the following formula:

(1) *Formula for calculating required number of clean fuel outlets*.
Except as otherwise provided in this Section 2304(a), the total number of clean fuel outlets that shall be required for each designated clean fuel for each compliance year shall be calculated as follows:

$$\text{Required Clean Fuel Outlets} = \frac{\text{Total Projected Maximum Clean Fuel Volume} - \text{Discounted Clean Fuel Volume for Fleet Vehicles} \cancel{+ \text{Total Clean Fuel Volume From Vehicle Conversions}}}{\text{Clean Fuel Throughput Volume per Station}}$$

Where:

Total Projected Maximum Clean Fuel Volume shall be determined in accordance with the procedures set forth in Section 2303(c).

Discounted Clean Fuel Volume for Fleet Vehicles means the total volume of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis for liquid fuels) estimated to be used in fleet vehicles during the compliance year, multiplied by the discount factor determined pursuant to Section 2303.5(a) for the designated clean fuel for the compliance year in which the retail clean fuel outlet trigger was reached. This figure shall be determined by the ~~e~~Executive ~~o~~Officer using the methodology in Section 2303(c), the reports filed pursuant to Section 2313 and any other relevant reasonably available information.

~~*Total Clean Fuel Volume from Vehicle Conversions* means the total amount of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) for each vehicle class from conversions. This figure shall be determined by the executive officer based on information provided by the Department of Motor Vehicles and on any other relevant reasonably available information.~~

Clean Fuel Throughput Volume per Station ~~for liquid fuel~~ shall be 300,000 gasoline equivalent gallons per year for ~~each~~ liquid designated clean fuel and 146,000 kilograms per year for hydrogen. ~~, except that once more than five percent of all retail gasoline outlets are required to be equipped to dispense a particular liquid clean fuel, the clean fuel throughput volume per station shall be 600,000 gasoline equivalent gallons for purposes of calculating the number of required retail clean fuel outlets in excess of five~~

~~percent of all retail gasoline outlets. For gaseous fuel, the clean fuel throughput volume per station shall be 400,000 therms per year.~~

(2) ~~e~~*Executive* ~~o~~*Officer adjustments to the number of required retail clean fuel outlets*.

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(B) Change to the discount for fleet vehicles. If the ~~e~~Executive ~~o~~Officer determines pursuant to Section 2303.5(a)(2) that the discount factor applied to the calculation of the clean fuel volume for fleet vehicles in the equation in Section 2304(a)(1) does not accurately reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets projected ~~18~~thirty one months from the start of the compliance year for which the number of required clean fuel outlets is being determined, he or she shall revise the discount factor so that it is an accurate reflection of that percentage. The determination shall be based on reports filed pursuant to Section 2313 and on any other relevant reasonably available information.

(C) *Reducing the number of required retail clean fuel outlets to reflect certain preexisting outlets*.

1. For each compliance year, the ~~e~~Executive ~~o~~Officer shall determine for each designated clean fuel the number of retail clean fuel outlets that [i] are owned or leased by persons who are not ~~owners/lessors of any retail gasoline outlets~~major refiner/importers of gasoline, [ii] have a design capacity as set forth in Section 2302(b) where applicable, [iii] satisfy the provisions of Section 2309(b), and [iv] certify that they will~~are~~ operate~~ing~~ throughout the compliance year ~~as of fifteen months before the start of the year~~ for which the determination is being made.

2. For each compliance year, the ~~e~~Executive ~~o~~Officer shall reduce the total number of required clean fuel outlets required for each designated clean fuel, as determined pursuant to Sections 2304(a)(1)~~, (a)(2)(A)~~ and (a)(2)(B) by the number of retail clean fuel outlets determined in accordance with Section 2304(a)(2)(C)1.~~.~~ The ~~e~~Executive ~~o~~Officer shall notify the ~~owner/lessor~~refiner/importer responsible for ~~of~~ each retail clean fuel outlet included in the determinations made pursuant to this Section 2304(a)(2), and no such outlet may be constructively allocated pursuant to Section 2308.

3. If the terms of a Memorandum of Agreement (MOA) regarding hydrogen clean fuel outlets contain the elements specified below in Sections 2304(a)(2)(C)3 (i – v), and if the MOA has been signed by the regulated parties themselves (refiners/importers and automobile manufacturers) or an authorized representative, then the required number of hydrogen retail clean fuel outlets under this section shall be zero and shall remain zero until such time that the specified elements are no longer met. All other aspects of this Chapter 8 remain in full effect. The required elements to be included in the signed MOA are:

(i) Establish overarching Goal of achieving 100 operating hydrogen retail clean fuel outlets meeting specifications and performance criteria described in Section 2302(b) and Section 2309(b);
(ii) Secure public and voluntary private funding to support installation and operation of hydrogen clean fuel outlets;
(iii) Establish specific timeline and milestones by which progress and success or failure is measured;
(iv) Assign roles and responsibilities that ensure parties will contribute toward meeting the milestones established above; and
(v) Establish feedback and reporting mechanisms that ensure parties to the MOA are accountable to the terms of the MOA, and that information regarding progress in meeting the terms of the MOA is publically available.

Whenever it is determined that an element of the signed MOA is no longer met, the signers of the MOA shall first be given written notice and thirty days to satisfy the element in question. If the element of the MOA in question is not satisfied within thirty days of the notice, CARB shall then provide written notice to the signers, regulated refiners/importers, and the public that the provisions of Section 2304(a)(2)(C)3 no longer apply. This written notice shall specify the refiner/importer's required minimum number of hydrogen clean fuel outlets to be established no more than twenty eight months after the date of the notice.

(D) *Notification regarding any adjustments*. If the ~~e~~Executive ~~o~~Officer makes an adjustment pursuant to Section 2304(a)(2)~~(A),~~ (B) or (C) for a given compliance year, he or she shall notify interested parties of the adjustment and the underlying basis for the adjustment, at least twenty-eight~~fourteen~~ months before the start of the compliance year. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(E) *Requests to revise the ~~e~~Executive ~~o~~Officer 's adjustments*. Any interested party may request in writing that the ~~e~~Executive ~~o~~Officer revise the adjustments, and may submit any relevant information supporting revised determinations. In order to be considered by the ~~e~~Executive ~~o~~Officer, the written request and supporting information must be received no more than ~~30~~thirty days after issuance of the notice. The ~~e~~Executive ~~o~~Officer shall consider any requests that are timely submitted, and shall issue his or her final determinations no less than twenty-six~~twelve~~ months before the start of the compliance year in question. At the same time, the ~~e~~Executive ~~o~~Officer shall make any resulting modifications to the determinations and notifications made pursuant to Sections 2304(b), 2306.1 and 2307.

(F) *Adjusting the required number of outlets based on updated auto manufacturer reports*. Twenty months before the start of the year in question, the Executive Officer may adjust the final number of required outlets. The basis for this

adjustment will be the projected production estimates submitted annually by the motor vehicle manufacturers to the Executive Officer twenty one months prior to the year in question. If an adjustment pursuant to this subdivision is deemed necessary, the Executive Officer will notify interested parties within thirty days of that determination.

(b) *Determination of total number of additional clean fuel outlets required each year for each designated clean fuel*.
For each year, the ~~e~~Executive ~~o~~Officer shall determine, for each designated clean fuel, the total number of additional retail clean fuel outlets required for the first time to be in place in that compliance year. This figure shall be determined by subtracting the total number of required retail clean fuel outlets determined in accordance with Section 2304(a) for the previous compliance year~~, from the total number of required clean fuel outlets determined in accordance with 2304(a) for the previous year~~, from the total number of required clean fuel outlets determined in accordance with Section 2304(a) for the compliance year for which the calculations are being made.

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NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2306.1. Determination of Market Share for Each Major Refiner/Importer of Gasoline

For each year, at least twenty nine months before the start of the compliance year, the Executive Officer shall calculate each refiner/importer of gasoline's market share expressed in percent as follows:

$$\text{Market share}_i = \frac{\textit{Production and imports of major refiner/importer of gasoline}_i}{\textit{Sum of gasoline production and imports}}$$

Where: P*roduction and imports of major refiner/importer of gasoline*$_i$ equals the total gallons of gasoline recorded in the State Board of Equalization's motor vehicle fuel distribution reports for refiner/importer *i* for the two most recent consecutive calendar years for which complete reports are available.

Sum of gasoline production and imports equals the total gallons of gasoline recorded in the State Board of Equalization's motor vehicle fuel distribution reports for all of the major refiner/importers of gasoline for

the two most recent consecutive calendar years for which complete reports are available.

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2307. Allocation Among ~~Affected Owner/Lessors~~ Major Refiner/Importers of Gasoline of the Total Number of Retail Clean Fuel Outlets.

For each year, the ~~e~~Executive ~~o~~Officer shall, for each designated clean fuel, make the determinations set forth in this section.

(a) *Allocation among affected ~~owner/lessors~~major refiner/importer of gasoline of the number of additional retail clean fuel outlets for each year*.
For each compliance year, the ~~e~~Executive ~~o~~Officer shall determine the number of additional retail clean fuel outlets that each major refiner/importer of gasoline ~~affected owner/lessor of retail gasoline outlets~~ is required for the first time to have in place~~ in the state~~. This number shall be calculated, for each designated clean fuel, by multiplying the ~~owner/lessor's~~refiner/importer's market share ~~number of non-clean fuel retail gasoline outlets~~ (determined in accordance with Section 2306.1~~5~~~~2307(b)~~) by the ~~clean fuel fraction~~number of new clean fuel outlets (determined in accordance with Section 2304(b)~~7(c)~~), rounded to the nearest integer using conventional rounding. If the resulting number is less than 0.5~~zero~~, the number shall be adjusted to zero.

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(d) *Determination of each ~~owner/lessor~~major refiner/importer of gasoline's total required minimum number of retail clean fuel outlets for each clean fuel for each year*.
For each year, each ~~owner/lessor~~refiner/importer's required minimum number of retail clean fuel outlets for each designated clean fuel~~ in the state~~ shall consist of the number of additional retail clean fuel outlets that the refiner/importer ~~owner/lessor~~ is required for the first time to have in place in the compliance year as determined in accordance with Section 2307(a), added to the sum of the numbers of additional retail clean fuel outlets required of the refiner/importer ~~owner/lessor~~ for the first time in each of the previous compliance years as determined in accordance with Section 2307(a). The required minimum number of a~~n owner/lessor~~refiner/importer's retail clean fuel outlets for each designated clean fuel in a compliance year shall not be less than the required minimum number of such outlets for the previous compliance year.~~,~~ For example, if a refiner/importer is not required to equip new outlets in the compliance year for which the calculations are being made, but has previously been required to equip a total of fifteen retail clean fuel outlets, that refiner/importer is required to maintain a minimum of fifteen retail clean fuel outlets during the compliance year

for which the calculations are being made. ~~except that~~ However, there shall be no required minimum number of outlets for a designated clean fuel in any compliance year for which the number of vehicles estimated by the ~~e~~Executive ~~o~~Officer pursuant to Section 2303(b) is less than 10,000 within an air basin and 20,000 statewide. ~~For example, if a refiner/importer is not required to equip new outlets in the year for which the calculations are being made, but has previously been required to equip a total of fifteen retail clean fuel outlets, that refiner/importer is required to maintain a minimum of fifteen retail clean fuel outlets during the year for which the calculations are being made.~~

(e) *Notification of ~~owner/lessors~~refiner/importers*.
At least twenty eight~~fourteen~~ months before the start of each compliance year, the ~~e~~Executive ~~o~~Officer shall notify each affected refiner/importer~~owner/lessor~~ in writing of the ~~owner/lessor~~refiner/importer's required minimum number of clean fuel outlets for each designated clean fuel for the compliance year. The written notification shall include a detailed analysis of how the number was derived.

(f) If the total number of required additional outlets is adjusted and reduced pursuant to Section 2304(a)(2)(F), nineteen months prior to each compliance year, the Executive Officer shall notify each affected refiner/importer in writing of their adjusted required minimum number of clean fuel outlets for the compliance year. The written notification shall include a detailed analysis of how the number was derived.

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2308. Constructive Allocation of Retail Clean Fuel Outlets

(a) Any ~~owner/lessor of a retail gasoline outlet, and any~~ person who is the owner or ~~/~~lessor of a retail clean fuel outlet ~~which is not a retail gasoline outlet~~, may constructively allocate one or more retail clean fuel outlets to ~~the owner/lessor of a retail gasoline outlet~~ a major refiner/importer of gasoline, for purposes of demonstrating compliance with the requirements in Section 2302, as long as the requirements of this section are met.

(b) Any agreement to constructively allocate a retail clean fuel outlet pursuant to this section shall be in writing. The constructive allocation shall be in ~~calendar~~ compliance year increments, and shall not cover less than one ~~calendar~~ compliance year. The agreement shall be executed before the start of the first compliance year of constructive allocation covered by the agreement.

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(g) Any person who constructively allocates a retail clean fuel outlet to a~~n owner/lessor~~a major refiner/importer of gasoline shall submit a report to the ~~e~~Executive ~~o~~Officer ~~by January 10~~ at least 60 days prior to the start of each compliance year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information:~~.~~

(h) Any ~~owner/lessor~~refiner/importer who receives a constructive allocation of a retail clean fuel outlet shall submit a report to the ~~e~~Executive ~~o~~Officer by ~~January 10~~ at least 60 days prior to the start of each compliance year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information:~~.~~

* * * * * * *

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2309. Responsibilities of ~~Owner/Lessors~~Refiner/Importers of Selected Retail Clean Fuel Outlets.

Any retail clean fuel outlet that was equipped to dispense a designated clean fuel and received funding from the State to do so prior to January 1, 2015, shall be deemed to satisfy the criteria detailed below.

(a) *Locations of required clean fuel outlets.*

* * * * * * *

(2) At least twenty two~~eight~~ months before the start of each compliance year~~ (by March 1April 30 of the previous year)~~, each ~~owner/lessor~~major refiner/importer of gasoline who has received a notification pursuant to Section 2307(e) indicating that ~~s/he~~ he or she will be required to have in place additional retail clean fuel outlets for that compliance year shall submit to the ~~e~~Executive ~~o~~Officer proposed locations for such outlets and optional locations equal to at least ~~20~~40 percent of ~~off~~ the proposed locations, identified by street address, zip code, and universal transverse mercator (UTM) coordinates. The submittal shall include any outlets that are or may be constructively allocated to the ~~owner/lessor~~refiner/importer pursuant to Section 2308.

Following submittal, the ~~owner/lessor~~refiner/importer shall consult with designees of the ~~e~~Executive ~~o~~Officer ~~, and with the CEC's executive officer or his or her designees,~~ on the optimal locations for new retail clean fuel outlets. Designees of

the Executive Officer may employ modeling tools to establish and evaluate fuel infrastructure scenarios.

(3) The ~~owner/lessor~~refiner/importer shall notify the ~~e~~Executive ~~o~~Officer of the final locations of all new retail clean fuel outlets for the compliance year, no later than eighteen~~nineteen~~~~five~~ months before the start of the compliance year~~ (by July 31June 1)~~. This notification may include adjustments made pursuant to Sections 2304(a) and 2307(f).

(b) *Requirements ~~regarding facilities at~~for selected retail clean fuel outlets~~ at retail gasoline outlets~~.*
For each selected clean fuel outlet equipped to satisfy the requirements of Section 2302, the refiner/importer shall ensure that the requirements of this section are met.

* * * * * * *

(2) ~~Store~~ Ensure that a commercially reasonable quantity of the designated clean fuel is available at the outlet and offer the fuel for sale to the public. However, a refiner/importer shall not be liable for failure to comply with this requirement if the operator demonstrates he or she was unable to comply because of unforeseeable occurrences such as an earthquake or flood, and act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.

* * * * * * *

(6) Ensure that the designated clean fuel dispensers are available for public use during normal business hours without the required use of a key or cardkey.

* * * * * * *

(e) *Annual reports regarding compliance with Section 2302*.

(1) For each ~~calendar~~ compliance year, each ~~owner/lessor~~refiner/importer who is required to equip one or more ~~retail gasoline~~ outlets as ~~a~~ retail clean fuel outlets shall submit to the ~~e~~Executive ~~o~~Officer ~~by January 10~~ at least sixty days prior to the start of the compliance year a report containing the information set forth below regarding compliance with Section 2302. The information shall be categorized by each designated clean fuel. The reports shall be executed in California under penalty of perjury~~.~~, and shall include the following:

* * * * * * *

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2311. Relief from Liability Caused by Breakdowns of Clean Fuel~~CNG~~ Dispensing Equipment.

(a) A~~n owner/lessor or operator~~ refiner/importer or their contractor responsible for ~~of~~ a selected clean fuel outlet equipped to dispense gaseous hydrogen ~~CNG~~ shall not be liable for violations of Sections 2302~~,~~ or 2309(b) ~~or 2310(a)~~ resulting from a minor breakdown if:

(1) The refiner/importer or their contractor designated pursuant to Section 2309(d)(2)~~owner/lessor or operator~~ reports the breakdown to the ~~e~~Executive ~~o~~Officer within ~~4~~24 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;

(2) The equipment is repaired as quickly as possible in the exercise of reasonable diligence, in no case in more than 72 hours;

(3) Within 24~~12~~ hours of repair of the equipment, the refiner/importer or their contractor~~owner/lessor or operator~~ reports to the ~~e~~Executive ~~o~~Officer that the repairs have been completed, and describes the corrective measures, if any, taken to avoid breakdowns in the future; and

* * * * * * *

(b) A~~n~~ refiner/importer or their contractor responsible for ~~owner/lessor or operator of~~ a selected clean fuel outlet equipped to dispense gaseous hydrogen~~CNG~~ shall not be liable for violations of Sections 2302~~,~~ or 2309(b) ~~or 2310(a)~~ resulting from a major breakdown if the refiner/importer or their contractor~~owner/lessor or operator~~:

(1) Reports the breakdown to the ~~e~~Executive ~~o~~Officer within ~~4~~24 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;

(2) Within seven days of the breakdown, submits to the ~~e~~Executive ~~o~~Officer ~~is~~in writing a report that:

(A) Demonstrates to the reasonable satisfaction of the ~~e~~Executive ~~o~~Officer that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the reasonable control of the refiner/importer or their contractor~~ownerl/lessor or operator~~; and

(B) Identifies a plan reasonably detailing how the hydrogen~~CNG~~ dispensing equipment will be repaired or replaced as soon as possible with the exercise of reasonable diligence, including a final completion date no later than two~~one~~~~six~~ month~~s~~ following the date of the breakdown; and

* * * * * * *

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2311.5. Notification by Executive Officer of Reporting Obligations.

For each year starting with 2013~~02~~, the ~~e~~Executive ~~o~~Officer shall determine whether there is a substantial possibility that the 10,000 vehicle trigger within an air basin or the 20,000 statewide vehicle trigger level in Section ~~2304~~2303.5(a)(1) will for the first time be reached for one or more designated clean fuels. The ~~e~~Executive ~~o~~Officer shall identify any such designated clean fuel at least thirty four~~22~~ months before the start of the compliance year. The ~~e~~Executive ~~o~~Officer shall then take prompt and reasonable steps to provide notice of the identified fuel and applicable reporting obligations to: (1) all owners and ~~/~~lessors of retail gasoline outlets, (2) all zero emission vehicle fleet operators, ~~and~~ (3) all persons engaged in the business of distributing the identified fuel for use in motor vehicles, and (4) all major refiner/importers of gasoline.

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2312. [RESERVED] ~~Reports by Major Refiner/Importers of GasolineOwner/Lessors of Retail Gasoline Outlets.~~

~~(a) Once the eExecutive oOfficer has identified a designated clean fuel under section 2311.5, by July 31 of the year the identification was made and by July 31 of every year thereafter, each refiner/importer owner/lessor of a retail gasoline outlet shall report to the eExecutive oOfficer the total number of retail gasoline outlets in the state of which the person is affiliated, either as the owner, distributor, franchisor, or as the refiner/importer affiliated by name with the branded fuel the owner/lessor, the street addresses of the retail gasoline outlets, and the refiner/importer's owner/lessor's business interest in each the outlets.~~

~~NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).~~

§ 2313. Reports by Fleet Operators.

Once the ~~e~~Executive ~~o~~Officer has identified a particular designated clean fuel under Section 2311.5, every fleet operator shall, for any calendar year in which the fleet operator reasonably expects to operate fleet vehicles certified on a designated clean fuel, supply the following information to the ~~e~~Executive ~~o~~Officer, at least thirty two~~eighteen~~ months (by ~~June~~ April 30) before the start of the calendar year:

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NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2314. Reporting Requirements for Persons Who Produce and Distribute Designated Clean Fuels for Use in Motor Vehicles.

Starting with the beginning of the compliance year after the Executive Officer ~~the executive officer~~ identifies a particular designated clean fuel under Section 2311.5, each person who in a quarter produces and/or distributes a designated clean fuel for use in motor vehicles shall within 45 days after the end of the quarter, submit to the ~~e~~Executive ~~o~~Officer a report containing the following information for each designated clean fuel:

* * * * * * *

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2315. Determination of Violations.

* * * * * * *

(d) *Violations of Section 2303(b)(2).*
Whenever a motor vehicle manufacturer fails to deliver for sale or lease the projected number of designated clean fuel vehicles it submitted to the Executive Officer pursuant to the "California exhaust emission standards and test procedures for 2001 and subsequent model passenger cars, light-duty trucks and medium-duty vehicles" as incorporated by reference in Title 13, California Code of Regulations, Section 1961, and the "California 2015 and subsequent model criteria pollutant exhaust emission standards and test procedures and 2017 and subsequent model greenhouse gas exhaust emission standards and test procedures for passenger cars, light-duty trucks and medium-duty vehicles" as

incorporated by reference in Title 13, California Code of Regulations, Section 1961.2, that motor vehicle manufacturer will be deemed to have ~~knowingly submitted falsified documentation within the meaning of~~violated Health and Safety Code, Section 42402.4 upon the requisite showing of the manufacturer's knowledge of the falsity of the information submitted and the intent to deceive. The penalty as described in Health and Safety Code, Section 42402.4 will be assessed during the first quarter of the calendar year following the compliance year for which the Executive Officer made the determination pursuant to Sections 2304 and 2307 and motor vehicle manufacturer projections, that additional retail clean fuel outlets were required. No penalty will be assessed under Health and Safety Code, Section 42402.4 if the motor vehicle manufacturer delivers for sale or lease at least 80 percent of their projected number of vehicles during the calendar year the following compliance year for which the Executive Officer made the determination pursuant to Sections 2304 and 2307 that additional retail clean fuel outlets were required.

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NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).

§ 2318. Sunset for Particular Designated Clean Fuels.

This Chapter 8, shall cease to apply to a particular designated clean fuel once the number of retail clean fuel outlets offering the designated clean fuel represent at least ~~ten~~five percent of all retail gasoline outlets. If an MOA satisfies the requirements of Section 2304(a)(2)(C)3 then this Chapter 8 shall cease to apply to hydrogen fuel once at least 100 hydrogen fueling outlets meeting the performance requirements outlined in Sections 2302(b) and 2309(b) have been established and are operating independent of financial incentives.

NOTE: Authority cited: Sections 39600, 39601, 39667, 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, 39667, 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).