

## APPENDIX A

# PROPOSED REGULATION ORDER

### Clean Fuels Outlet

Amend sections 2300, 2302, 2303, 2303.5, 2304, 2306, 2307 2308, 2309, 2310, 2311, 2311.5, 2312, 2313, 2314, 2315, 2316, and 2318; repeal of sections 2310 and 2312, title 13, California Code of Regulation (CCR), to read as follows:

[Note: Set forth below are the 2013 amendments to the Clean Fuels Program regulation. The regulatory text of the amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language.

## Chapter 8. Clean Fuels Outlet Program

### § 2300. Definitions.

(a) The following definitions apply to Chapter 8.

~~(1) "Affiliate" means any person who owns or controls, is owned or controlled by, or is under common ownership and control with, another person.~~

~~(2)~~(1) "CEC" means the State Energy Resources, Conservation and Development Commission.

~~(3)~~(2) "Clean alternative fuel" and "clean fuel" means for sections 2302, 2303, 2303.5, 2304, 2306, 2307, 2308, 2309, 2311, 2311.5, 2313, 2314, 2315, and 2318, any fuel used as the certification fuel in a low-zero-emission vehicle. For section 2317, "clean alternative fuel" and "clean fuel" mean any fuel used as the certification fuel in a low-emission vehicle, other than the primary gasoline or diesel fuel used in exhaust emission certification testing pursuant to the ARB's "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 through 2014 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 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, 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.

~~(4) "CNG" means compressed natural gas.~~

~~(4.3)~~ (3) "Compliance year" means the ~~twelve~~12 month period running from ~~May 1 through April 30.~~January 1 through December 31.

~~(4.7)~~(4) "Dedicated clean fuel vehicle" means a ~~low~~zero-emission vehicle designed and engineered to be operated solely on a clean alternative fuel, ~~and not on gasoline or any mixture of gasoline and the clean alternative fuel.~~

(5) "Designated clean fuel" means any clean alternative fuel as determined by the Executive Officer pursuant to section 2303(a), other than electricity. Designated clean fuel does not include electricity unless the Board concludes, based on the analysis conducted pursuant to section 2302(c), that public

charging infrastructure for electric vehicles should be incorporated into this regulation.

(6) "Distribute" means to physically transfer from a production or importation facility and irrevocably release into commerce for use as a motor vehicle fuel in California.

(7) "Distributor" has the same meaning as defined in section 20999 of the Business and Professions Code.

~~(8) "Dual-fuel vehicle" means any motor vehicle that is engineered and designed to be capable of operating on gasoline, and on liquefied petroleum gas, CNG or liquefied natural gas.~~

~~(9)~~(8) "Executive eOfficer" means the eExecutive eOfficer of the Air Resources Board, or his or her designee.

~~(40)~~(9) "Fleet operator" means, for any given calendar year, the operator in that year of fifteen or more ~~low~~zero-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.

~~(10.5)~~ "Fleet vehicle" means one of fifteen or more ~~low~~zero-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.

~~(11) "Flexible-fuel vehicle" means any alcohol-fueled motor vehicle that is engineered and designed to be operated using any gasoline-alcohol mixture or blend.~~

~~(12)~~(11) "Franchise," "franchisor," and "franchisee" have the same meaning as defined in section 20999 of the Business and Professions Code.

(12) "Gasoline" means finished gasoline and gasoline blendstocks.

~~(13) "Gasoline supplier" means any person, including affiliates of such person, who produces gasoline for use in California or imports gasoline into California.~~

~~(14)~~(13) "Import" means to bring motor vehicle fuel into California for the first time for use in motor vehicles in California.

(14) "Importer" means any person who first accepts delivery of gasoline in California.

~~(15) "Liquid designated clean fuel" means any designated clean fuel that is dispensed into motor vehicles in liquid form.~~

~~(16) "Low-emission vehicle" means any vehicle certified to the transitional low-emission vehicle, low-emission vehicle, ultra-low-emission vehicle, super ultra-low-emission vehicle, or zero-emission vehicle standards established in Title 13, California Code of Regulations, sections 1960.1 or 1961.~~

~~(17)~~(15) "Major breakdown" means an unforeseeable mechanical or electrical failure ~~off CNG~~ of clean fuel dispensing equipment which cannot in the exercise of reasonable diligence be repaired in 72 hours or less.

(16) "Major refiner/importer of gasoline" and "refiner/importer" mean a position holder who is also a producer of gasoline in California or importer of gasoline into California, and their total gasoline production and imports amounts to 500 million gallons or more for the calendar year, as determined from State Board of Equalization Motor Vehicle Fuel Distribution Reports used by the Board of Equalization to assess motor vehicle fuel taxes at the terminal rack.

(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.

~~(19)~~(18) "Minor breakdown" means an unforeseeable mechanical or electrical failure of clean fuel~~CNG~~ dispensing equipment which can in the exercise of reasonable diligence be repaired in 72 hours or less.

~~(20)~~(19) "Non-retail facility" means any establishment at which a designated clean fuel is supplied or offered for supply to motor vehicles, but is not supplied or offered to the general public.

~~(21)~~ "Owner/lessor" means:

~~(A) In the case of a retail gasoline outlet which is owned, leased or controlled by a franchisor, and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale of gasoline, the franchisor.~~

~~(B) In the case of a retail gasoline outlet which is owned, leased or controlled by a refiner or a distributor, and is operated by the refiner or distributor or his agent, the refiner or distributor.~~

~~(C) In the case of all other retail gasoline outlets, the owner of the retail gasoline outlet.~~

(20) "Position holder" (per section 7332 of the Revenue and Taxation Code) includes any person that holds the inventory position in the motor vehicle fuel, as reflected on the records of the terminal operator. A person holds the inventory position in motor vehicle fuel when that person has a contractual agreement with the terminal operator for the use of storage facilities and terminaling services at a

terminal with respect to the motor vehicle fuel. "Position holder" includes a terminal operator that owns motor vehicle fuel in its terminal.

~~(21)~~ (22) "Primary designated clean fuel" means a designated clean fuel for which a substitute fuel has been proposed or designated pursuant to section 2317.

~~(23) "Produce" means, in the case of any liquid motor vehicle fuel, to convert in California liquid compounds which do not constitute the fuel into the fuel.~~

(22) "Producer" means the person who owns the fuel when it is supplied from the facility at which it was produced.

~~(24)~~ (23) "Quarter" means the three month calendar quarters January-March, April-June, July-September, and October-December.

(24) "Rack" means a mechanism for delivering motor vehicle fuel from a refinery or terminal into a truck, trailer, railroad car, or other means of non-bulk transfer.

(25) "Refiner" has the same meaning as defined in section 20999 of the Business and Professions Code.

~~(26) "Refinery" means a facility that produces gasoline by means that include distilling petroleum.~~

~~(27) "Selected retail clean fuel outlet" means a specific retail clean fuel outlet which is equipped to store and dispense a designated clean fuel in order to comply with section 2302.~~

~~(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.

~~(29)~~ (27) "Retail gasoline outlet" means any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles.

(28) "Selected retail clean fuel outlet" means a specific retail clean fuel outlet which is equipped to store and dispense a designated clean fuel in order to comply with section 2302.

(29) "Terminal" means a motor vehicle fuel storage and distribution facility that is supplied by pipeline or vessel, and from which motor vehicle fuel may be removed at a rack. "Terminal" includes a fuel production facility where motor vehicle fuel is produced and stored and from which motor vehicle fuel may be removed at a rack.

~~(31) "Vehicle conversion" means a modification of a gasoline or diesel fueled vehicle, not certified to a low-emission vehicle standard, to a vehicle which uses a designated clean fuel and which is capable of meeting low-emission vehicle exhaust emissions standards as demonstrated either by installation of an ARB-approved conversion system that achieves such low-emission standards or by individual vehicle testing.~~

(30) "Zero emission vehicle" and "ZEV" mean a vehicle that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any and all possible operational modes and conditions.

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 with up to seven kilogram capacity to a full (at least 95 percent) state of charge in seven (7) minutes or less;

(2) For gaseous hydrogen, satisfy the fueling protocols specified in the Society of Automotive Engineers standard SAE TIR J2601, "Fueling Protocols for Light Duty Gaseous Hydrogen Surface Vehicles" dated March 16, 2010; and

(3) Satisfy the requirements for selected retail clean fuel outlets set forth in section 2309(b).

~~For all retail gasoline outlets or other that are claimed by the owner/lessor to be equipped in order to satisfy the requirements of this section, the owner/lessor shall notify the operator in writing that the outlet is so equipped.~~

(c) In the case of electricity used for transportation, the Board shall, by July 1, 2015, determine if requirements for electricity used for transportation and vehicle charging infrastructure for full-function battery electric vehicles and plug-in hybrid electric vehicles should be incorporated into this regulation based on the following:

(1) An evaluation of the development and usage of workplace and public charging infrastructure to determine:

(A) how pricing affects customer charging preferences in terms of frequency of use of home, workplace and public chargers;

(B) how incentives, such as free charging, free parking, preferential parking, and other factors, affect the use of workplace and public chargers;

(C) the level of current and future private market investment in public charging infrastructure;

(D) whether additional public charging infrastructure will increase 1. electric vehicle miles traveled by electric vehicles and plug-in hybrids, or 2. the sale of battery electric vehicles and plug-in hybrid vehicles, and to what extent; and

(E) the potential environmental impact of increased daytime charging at public charging stations especially during peak electricity demand periods.

(2) If the evaluation conducted pursuant to section 2302(c)(1) concludes that additional public charging infrastructure is needed, public charging locations and types of chargers will be assessed to determine which combinations of locations and charger types (i.e., Level 2 or DC fast chargers) have the highest likelihood of use by plug-in electric vehicles drivers. This assessment will include detailed discussion of environmental and economic impacts and benefits associated with the different public charging scenarios.

(3) A report summarizing the results of the assessment and assessment conducted pursuant to 2302(c)(1) and (2) will be completed and include:

(A) recommendations for locations and types of additional public chargers;

(B) environmental and economic impacts associated with the installation, operation, maintenance and use of recommended public chargers;

(C) interaction with other ARB regulations pertaining to emissions of greenhouse gases, criteria pollutants, and toxic air contaminants; and

(D) next steps including but not limited to recommendations for whether a charging infrastructure mandate is warranted, and if so, timeline for a regulatory proposal.

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 ~~e~~Officer shall determine the total projected maximum volume of each designated clean fuel for each compliance year, at least ~~fourteen~~ twenty-nine 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 ~~e~~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 ~~e~~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 through 2014 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 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, 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.

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

(1) For each designated clean fuel identified pursuant to section 2303(a), the ~~e~~Executive ~~e~~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] ~~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 ~~threetwo~~ years prior to the compliance year for which the calculations are being made; and

[iii] the number of ~~low~~zero-emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through ~~April 30~~ July 30 of the year ~~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 ~~e~~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 through 2014 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 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, or 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 2303.5(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 2303.5(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:

$$TPMV \equiv \sum_{\substack{\text{Model} \\ \text{year (y)}}} [\sum_{\substack{\text{vehicle} \\ \text{class (i)}}} MXDV (\text{vehicle class } i, \text{ model year } y).]$$

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 class *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:

*MXDV (vehicle class i, model year y) =*

$$\frac{(\text{number of vehicles certified on fuel}) \times (\text{AMT per vehicle})}{(\text{average fuel economy})}$$

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 through 2014 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for 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 ~~1960.4 and 1961~~ and 1961.2, respectively, and on other reasonably available relevant information.

(d) ~~[RESERVED] Characterization of certain dual-fuel or flexible-fuel vehicles. Any dual-fuel or flexible-fuel vehicle which is certified to meet, while operated on gasoline or diesel fuel, low-emission vehicle standards at least as stringent as the most stringent low-emission vehicle standards to which the vehicle is certified while operated on a fuel other than gasoline shall not be included in the determination pursuant to section 2303(b) of the number of low-emission vehicles certified on a 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).

### **§ 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.*

(A) Statewide trigger: Except as provided below in 2303.5(a)(1)(B), there shall be no retail clean fuel outlets for a designated clean fuel required in a compliance year unless the statewide number of lowzero-emission vehicles projected by the Executive Officer for that fuel in accordance with section 2303(b) is 20,000 or greater, after discounting the number of fleet vehicles by 75 percent or a smaller discount factor determined in accordance with section 2303.5(a)(2).

(B) Regional trigger: The regional trigger may only be applied if the statewide trigger has not been reached pursuant to 2303.5(a)(1)(A). Provided the statewide trigger has not been reached, there shall be no retail clean fuel outlets required (for a designated clean fuel in a compliance year) in an air basin unless the number of zero-emission vehicles projected by the Executive Officer in accordance with section 2303(b) is 10,000 or greater within the boundaries of that air basin, 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 Executive 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 Executive 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 Executive 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 lowzero-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 Executive 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 eExecutive eOfficer projects will miss the trigger level by no more than 30 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 eExecutive eOfficer 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 eExecutive eOfficer, the written request and supporting information must be received no more than 30 days after issuance of the notice.

The eExecutive eOfficer 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 eExecutive eOfficer 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 2303.5(a), and for the State when the statewide trigger level requirement is met pursuant to 2303.5(a). The eExecutive eOfficer shall make the determinations at least fourteen-twenty-eight 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 eExecutive eOfficer 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:

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

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 eExecutive eOfficer 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) ~~Executive eOfficer adjustments to the number of required retail clean fuel outlets.~~

(A) ~~[RESERVED] Reducing projected clean fuel volume to reflect the volume of gasoline used in dual-fuel or flexible-fuel vehicles. For each year, the executive~~

~~officer shall determine for each designated clean fuel the percentage of the low-emission vehicles identified for the year pursuant to section 2303(b) that will be dual-fuel or flexible-fuel vehicles. The executive officer shall further determine the approximate percentage of the fuel used during the year in these dual-fuel or flexible-fuel vehicles that will be gasoline rather than the designated clean fuel and multiply that percentage by 0.85. The executive officer shall then discount the "Total Projected Maximum Clean Fuel Volume" attributed to these vehicles in the section 2304(a)(1) equation by the adjusted percentage. The determinations are to be based on the information sources identified in section 2303(a) and on any other relevant reasonably available information.~~

(B) *Change to the discount for fleet vehicles.* If the ~~e~~Executive ~~e~~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 ~~e~~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 operating 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 ~~e~~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 ~~e~~Officer shall notify the ~~owner/lessor/refiner/importer responsible for~~ 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.

(D) *Notification regarding any adjustments.* If the ~~e~~Executive ~~e~~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 eExecutive eOfficer 's adjustments.* Any interested party may request in writing that the eExecutive eOfficer revise the adjustments, and may submit any relevant information supporting revised determinations. In order to be considered by the eExecutive eOfficer, the written request and supporting information must be received no more than ~~30~~thirty days after issuance of the notice. The eExecutive eOfficer 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 eExecutive eOfficer shall make any resulting modifications to the determinations and notifications made pursuant to sections 2304(b), 2306 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 refiner/importers according to section 2307(f) 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 eExecutive eOfficer 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 2304(a) for the compliance year for which the calculations are being made.

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. Identification of Affected Owner/Lessors Required to Equip Additional Retail Clean Fuel Outlets Each Year. Determination of Market Share for Each Major Refiner/Importer of Gasoline.**

~~For each year, at least fourteen months before the start of the year, the executive officer shall identify for each designated clean fuel the affected retail gasoline outlet owner/lessors who will be required to equip retail gasoline outlets or other~~

retail outlets to dispense that fuel. An affected station owner/lessor is any person who is the owner/lessor of a number of retail gasoline outlets equal to or greater than the minimum ownership level (MOL) for the year, calculated as follows:

$$\text{Minimum Ownership Level (MOL)} = \frac{\text{Number of Non-Clean Fuel Retail Outlets}}{\text{Sum of the Numbers of Additional Retail Clean Fuel Outlets for All Designated Clean Fuels}}$$

Where:

*Number of Non-Clean Fuel Retail Outlets* is calculated by subtracting the sum of the required retail clean fuel outlets determined in accordance with section 2304(a) for all designated clean fuels for the previous year, from the total number of retail gasoline outlets statewide estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.

*Sum of the Numbers of Additional Retail Clean Fuel Outlets for All Designated Clean Fuels* is the sum of the total additional number of clean fuel outlets calculated for the year for each designated clean fuel in accordance with section 2304(b).

The executive officer shall round the result of the calculation for minimum ownership level to the nearest integer.

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:

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

Where: Production and imports of major refiner/importer of gasoline<sub>i</sub> 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

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

For each year, the Executive 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 Executive 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 23062307(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 0.5zero, the number shall be adjusted to zero.

*(b) [RESERVED] Determination of an owner/lessor's number of non-clean fuel retail gasoline outlets.*

The executive officer shall determine an owner/lessor's number of non-clean fuel retail gasoline outlets by subtracting the sum of the owner/lessor's total required minimum number of retail clean fuel outlets for all designated clean fuels in the preceding year as determined pursuant to section 2307(d), from the owner/lessor's total number of retail gasoline outlets (based on reports submitted pursuant to section 2312 and other reasonably available relevant information).

*(c) [RESERVED] Determination of clean fuel fraction.*

For each designated clean fuel, the executive officer shall calculate the clean fuel fraction for each designated clean fuel as follows:

$$\text{Clean Fuel Fraction} = \frac{\text{Total Number of Retail Clean Fuel Retail Outlets}}{\text{Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors}}$$

Where:

*Total Additional Number of Retail Clean Fuel Outlets* is the total number of additional retail clean fuel outlets required for the year for the particular clean fuel in accordance with section 2304(b).

*Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors* is calculated by subtracting the sum of the required retail outlets

~~determined in accordance with section 2304(a) for all clean fuels from the sum of the number of retail gasoline outlets owned or leased by all of the affected owners and lessors estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.~~

*(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 an ~~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 ~~e~~Officer pursuant to section 2303(b) is less than 20,000 statewide, unless the number of vehicles estimated by the Executive Officer pursuant to section 2303(b) is 10,000 or greater within the boundaries of an air basin in which case the minimum number of outlets will still be required within that air basin.

*(e) Notification of ~~owner/lessors~~refiner/importers.*

At least ~~twenty-eight~~fourteen months before the start of each compliance year, the ~~e~~Executive ~~e~~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~~ 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~~ calendar-compliance year increments, and shall not cover less than one ~~calendar-compliance year~~ calendar-compliance year. The agreement shall be executed before the start of the first compliance year of constructive allocation covered by the agreement.

(c) A retail clean fuel outlet may not be constructively allocated unless it meets any applicable dispensing capacity requirements set forth in section 2302(b).

(d) ~~If the retail clean fuel outlet being constructively allocated is not a retail gasoline outlet, t~~ The person making the constructive allocation shall obtain prior approval from the e~~Executive e~~Officer. The e~~Executive e~~Officer shall approve the constructive allocation if s/he determines that the facility is adequately accessible for fueling motor vehicles by the general public with the designated clean fuel.

(e) Any person who constructively allocates a retail clean fuel outlet for a designated clean fuel shall ~~be deemed to be the owner/lessor of that retail clean fuel outlet and shall be subject to the requirements of sections 2309(b) and (c)(1)~~ during the period covered by the constructive allocation agreement.

(f) The owner or /lessor of any retail clean fuel outlet which is constructively allocated shall notify the operator in writing that it is claimed to be equipped in order to satisfy the requirements of section 2302, as applicable.

(g) Any person who constructively allocates a retail clean fuel outlet to ~~an owner/lessor~~ a major refiner/importer of gasoline shall submit a report to the ~~e~~Executive e~~Officer~~ Officer ~~by January 10 at least sixty 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:-

- (1) The name, address and telephone number of the person making the constructive allocation.
- (2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, the business interest in the outlet of the person making the constructive allocation, and the brand, trade, or other name under which the business at the outlet is conducted.
- (3) For each constructively allocated retail clean fuel outlet, the name and address of the owner/lessor/refiner/importer to whom the outlet was constructively allocated, and the starting and ending dates of the constructive allocation.
- (4) The name of the operator of the retail clean fuel outlet.

(h) Any owner/lessor/refiner/importer who receives a constructive allocation of a retail clean fuel outlet shall submit a report to the eExecutive eOfficer by January 40 at least sixty 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:-

- (1) The name, address and telephone number of the owner/lessor/refiner/importer.
- (2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, and the brand, trade, or other name under which the business at the outlet is conducted.
- (3) For each constructively allocated retail clean fuel outlet, the name and address of the person constructively allocating the outlet, and the starting and ending dates of the constructive allocation.
- (4) A copy of the executed constructive allocation agreement.

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/LessorsRefiner/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, 2014 shall be deemed to satisfy the criteria detailed below.

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

(1) For each designated clean fuel, in determining the locations of required retail clean fuel outlets, an a refiner/importer~~owner/lessor~~ shall provide a reasonable geographical dispersion of the outlets and place the outlets in locations that are reasonably near the existing and anticipated areas of operation of ~~low~~zero-emission vehicles that operate on the designated clean fuel, and are convenient to drivers of such vehicles. ~~Any retail clean fuel outlet that was equipped to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy these criteria.~~

(2) At least ~~twenty-two~~eight months before the start of each compliance year ~~(by April 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 ~~e~~Officer proposed locations for such outlets and optional locations equal to at least 2040 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 ~~e~~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 ~~e~~Officer of the final locations of all new retail clean fuel outlets for the compliance year, no later than ~~eighteen~~five months before the start of the compliance year ~~(by July 31)~~. This notification may include adjustments made pursuant to sections 2304(a) and 2307(f).

(b) *Requirements regarding facilities atfor 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.

(1) Locate the designated clean fuel dispensers in a location that is readily accessible and visible to customers upon entering the station. Any active dispenser equipped prior to January 1, 2014 to dispense a designated clean fuel as part of the Board's Hydrogen Highway program funding and the CEC's

Renewable Fuel and Vehicle Technology Program shall be deemed to satisfy this criterion.

(2) 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.

(3) Provide that hydrogen fuel dispensers satisfy all requirements of the Society of Automotive Engineers Standard SAE TIR J2601 "Fueling Protocols for Light Duty Gaseous Hydrogen Surface Vehicles" dated March 16, 2010.

(4) Ensure that the designated clean fuel dispensers are well marked and clearly identified with regard to the type of fuel.

(5) Display on the premises a sign which discloses that the clean fuel outlet offers the designated clean fuel for sale, and which is clearly visible from the street or highway adjacent to the outlet, provided that the signage is displayed in a manner consistent with applicable local ordinances.

(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.

(7) Ensure that a customer is able to pay for his or her fuel purchase without establishment of an account with the outlet owner or operator.

(8) Maintain lighting which keeps the designated clean fuel dispenser area reasonably well-illuminated when the outlet operates at night.

(9) Prominently display directions on use of the clean fuel dispensing equipment.

(10) Maintain the designated clean fuel dispensing equipment in good operating condition.

~~Each owner/lessor of a selected retail clean fuel outlet at a retail gasoline outlet shall, with respect to each such outlet:~~

~~(1) Locate the designated clean fuel dispenser(s) in a location substantially as accessible and visible to a customer entering the station as are the gasoline dispensers, and providing substantially the same convenience of ingress and egress as exists for the gasoline dispensers at the outlet; provided that any dispenser equipped prior to January 1, 1993 to dispense a designated clean fuel~~

as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy this criterion.

~~(2) Ensure that the designated clean fuel dispensers are substantially as well marked and as clearly identified as the gasoline dispensers with regard to the type of fuel.~~

~~(3) Maintain lighting which keeps the designated clean fuel dispenser area substantially as well illuminated as the gasoline dispensing area when the outlet operates at night.~~

~~(4) Ensure that customers using designated clean fuel dispensers will have, within the same service mode (e.g. self serve or full serve), substantially the same access to services and facilities such as canopy coverage, air and water, vending, and restrooms as do customers purchasing gasoline, unless the owner/lessor has, in the preceding 12 months, demonstrated to the satisfaction of the executive officer that providing such a service or facility is prohibited by local ordinance or applicable safety codes.~~

~~(5) Prominently display directions on use of the clean fuel dispensing equipment.~~

~~(6) Maintain the designated clean fuel dispensing equipment in good operating condition.~~

(c) [RESERVED] *Requirements regarding facilities at selected clean fuel outlets at which gasoline is not offered to the public.*

Each owner/lessor of a selected retail clean fuel outlet at which gasoline is not offered to the public shall, with respect to each such outlet:

~~(1) Locate the designated clean fuel dispenser(s) in a location that is readily accessible from main streets and highways.~~

~~(2) Ensure that the designated clean fuel dispensers are available for public use during normal business hours without the use of a key or cardkey.~~

~~(3) Ensure that a customer is able to pay for his or her fuel purchase without establishment of an account with the outlet owner or operator.~~

~~(4) If the outlet is operated after dark, maintain commercially reasonable lighting levels to provide user safety.~~

~~(5) Prominently display directions on use of the clean fuel dispensing equipment.~~

(d) *Requirements regarding supply of designated clean fuels to selected retail clean fuel outlets.*

(1) ~~[RESERVED]Whenever the operator of a selected retail clean fuel outlet requests that the owner/lessor of the outlet provide for the delivery, within a specified time not less than 72 hours from the request, of specified commercially reasonable quantities of the designated clean fuel to the outlet on commercially reasonable terms, the owner/lessor shall be jointly liable with the operator for any violations at the outlet of section 2310(a)(1) starting with the requested time of delivery and ending with the next delivery of commercially reasonable quantities of the clean fuel to the outlet, unless the owner/lessor does one of the following: [i] supplies the specified quantity of designated clean fuel to the outlet, within the specified time, on commercially reasonable terms, or [ii] identifies a third party willing to supply, within the specified time, the specified quantity of designated clean fuel to the outlet on commercially reasonable terms.~~

~~However, an owner/lessor's failure to satisfy the conditions set forth in [i] and [ii] shall not result in liability under this section if the owner/lessor demonstrates that s/he was prevented from satisfying the conditions by a natural disaster such as an earthquake or flood, an 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.~~

(2) ~~Whenever an owner/lessor a refiner/importer is required to submit a notification regarding final outlet locations to the eExecutive eOfficer pursuant to section 2309(a)(3), the notification shall include a description of the means by which the owner/lessor refiner/importer intends to comply with section 2309(e)(4)(b). The description shall include, but need not be limited to, [i] a description of any facility that is or will be owned or leased by the owner/lessor refiner/importer for the production or importation of the designated clean fuel, including the throughput capacity of such facility; [ii] the identities of any third parties with whom the owner/lessor refiner/importer has or plans to have contracts to supply the designated clean fuel, and the minimum volumes of the designated clean fuel subject to such contracts; [iii] if the owner/lessor refiner/importer will not have a designated clean fuel production or import facility, or a contract for supply of the fuel, a description of the manner in which supply of the designated clean fuel will be supplied arranged; [iv] a description, including location and capacity, of any facilities that are or will be owned or leased by the owner/lessor refiner/importer for the loading of the designated clean fuel into tank cars, vessels, or tank trucks; and [v] the identities of any parties with whom the owner/lessor refiner/importer has, or plans to have, contracts for the delivery of the designated clean fuel to the retail clean fuel outlets, and the facilities from which such parties will make such deliveries; and [vi] the identities of any parties with whom the refiner/importer has, or plans to have, contracts for the operation and maintenance of the retail clean fuel outlet.~~

(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 ~~eExecutive eOfficer~~ 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:

(A) The street address of each ~~of the owner/lessor's~~ retail gasoline outlets claimed by the refiner/importer to be equipped as a retail clean fuel outlet to satisfy the requirements of section 2302.

(B) For each such outlet, the type of designated clean fuel dispensed at the outlet, the brand, trade, or other name under which the business at the outlet is conducted, and the name of the operator of the outlet.

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).

**§ 2310. [RESERVED] Responsibilities of Operators of Selected Retail Clean Fuel Outlets.**

~~(a) The operator of a selected retail clean fuel outlet equipped to dispense gasoline shall, whenever gasoline is offered for sale at the outlet, do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:~~

~~(1) Store a commercially reasonable quantity of the designated clean fuel at the outlet and offer the fuel for sale to the public, during the same hours that gasoline is offered for sale. However, an operator shall not be liable for failure to comply with this section 2310(a)(1) if the operator demonstrates s/he was unable to comply because of a natural disaster 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.~~

~~(2) Maintain the designated clean fuel dispensing equipment in good operation conditions.~~

~~(3) Keep the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area during nighttime operation.~~

~~(4) Keep the designated clean fuel dispenser area and pad substantially as clean as the gasoline dispenser area and pad.~~

~~(b) The operator of a selected retail clean fuel outlet not equipped to dispense gasoline to the general public shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:~~

~~(1) Maintain reasonable access to the clean fuel dispensing equipment.~~

~~(2) Maintain the designated clean fuel dispensing equipment in good operating condition.~~

~~(3) Provide a payment option that does not require the purchaser to establish an account with the operator.~~

~~(c) The operator of any selected retail clean fuel outlet shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:~~

~~(1) If the designated clean fuel dispensers are at any time in a consumer self-service mode, post at all times in a conspicuous and convenient location directions illustrating the use of the dispensing equipment.~~

~~(2) Display on the premises a sign which discloses that the clean fuel outlet offers the designated clean fuel for sale, and which is clearly visible from the street or highway adjacent to the outlet, provided that the operator shall not be required to display a sign in a manner inconsistent with applicable local ordinances.~~

~~(3) Conspicuously post, on the designated clean fuel dispenser, the price of the clean fuel volume that provides the energy provided by a gallon of gasoline. This price shall be calculated for liquid fuels by multiplying the price of a volumetric gallon of the fuel by the values in the table below. In the case of CNG, the price shall be posted as 1.18 multiplied by the price of one therm of compressed natural gas.~~

<i>Fuel</i>	<i>Price Multiplier</i>
Gasoline	1.00
LPG	1.27
Methanol (M100)	2.08
M85	1.79
Ethanol (E100)	1.54
E85	1.43

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 FuelCNG Dispensing Equipment.**

(a) An ~~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 ~~e~~Officer within 424 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 2442 hours of repair of the equipment, the refiner/importer or their contractor ~~owner/lessor or operator~~ reports to the ~~e~~Executive ~~e~~Officer that the repairs have been completed, and describes the corrective measures, if any, taken to avoid breakdowns in the future; and

(4) The refiner/importer or their contractor ~~owner/lessor or operator~~ is able to demonstrate that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the control of the refiner/importer or their contractor ~~owner/lessor or operator~~.

(b) An refiner/importer or their contractor ~~owner/lessor or operator~~ 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 major breakdown if the refiner/importer or their contractor ~~owner/lessor or operator~~:

(1) Reports the breakdown to the ~~e~~Executive ~~e~~Officer within 424 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 7 days of the breakdown, submits to the ~~e~~Executive ~~e~~Officer ~~is in~~ writing a report that:

(A) Demonstrates to the reasonable satisfaction of the ~~e~~Executive ~~e~~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 ~~owner/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 twosix months following the date of the breakdown; and

(3) Completes the repair or replacement [i] by the final completion date identified in the submitted plan, or [ii] by such earlier completion date designated by the eExecutive eOfficer, within 14 days of receipt of the plan, as reasonably feasible based on review of the plan.

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 201402, the eExecutive eOfficer 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 23042303.5(a)(1) will for the first time be reached for one or more designated clean fuels.

The eExecutive eOfficer shall identify any such designated clean fuel at least thirty-four22 months before the start of the compliance year.

The eExecutive eOfficer 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 Owner/Lessors of Retail Gasoline Outlets.**

~~(a) Once the executive officer 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 owner/lessor of a retail gasoline outlet shall report to the executive officer the total number of retail gasoline outlets in the state of which the person is the owner/lessor, the street address of the retail gasoline outlet, and the owner/lessor's business interest in the outlet.~~

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 eExecutive eOfficer 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 ~~e~~Officer, at least ~~thirty-two~~~~eighteen~~ months (by ~~June~~April 30) before the start of the calendar year:

(1) The expected number of ~~low~~zero-emission vehicles in the fleet to be operated in the year that will be certified on a designated clean fuel, categorized by designated clean fuel.

(2) The total volume of each designated clean fuel expected to be used by the vehicles in the year.

(3) The total volume of designated clean fuel expected to be supplied to the fleet operator's ~~low~~zero-emission vehicles during the year from the fleet operator's own dispensing facilities and from facilities that are not retail clean fuel outlets.

(4) The actual vehicle miles traveled for the prior 12 month period and the estimated vehicle miles travelled for the year in question.

(5) The extent to which operations using the designated clean fuel would be expanded due to increased availability of the designated clean fuel at retail clean fuel 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).

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

Starting the 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 ~~e~~Officer a report containing the following information for each designated clean fuel:

(1) The volume of the designated clean fuel that was produced by the person and that was distributed in the quarter for use in motor vehicles.

(2) The volume of the designated clean fuel that was imported by the person and that was distributed in the quarter for use in motor vehicles.

(3) The volume of designated clean fuel distributed to each retail facility that the producer or distributor supplies designated clean fuel to.

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.**

### *(a) Violations of section 2302.*

At any time that an ~~refiner/importer/owner/lessor~~ fails to have equipped the number of clean fuel retail gasoline outlets required to be equipped by section 2302 ~~to be equipped to be a retail clean fuel outlet for a designated clean fuel,~~ the refiner/importer will be deemed to be in violation of section 2302 and subject to the penalty described in Health and Safety Code sections 43027 and 43028. ~~owner/lessor shall be deemed to have sold or supplied gasoline to motor vehicles in violation of these regulations. For each day that the owner/lessor violates section 2302, the first ten motor vehicles fueled at one of the owner/lessor's retail gasoline outlets shall be deemed to have been unlawfully fueled for each retail gasoline~~ Each day, or portion of a day, that the refiner/importer violates section 2302 for each outlet not equipped as required will be deemed a separate violation when assessing the penalties described in Health and Safety Code sections 43027 and 43028. If an ~~refiner/importer/owner/lessor~~ claims to comply with the requirements of section 2302 on the basis of retail clean fuel outlets constructively allocated pursuant to section 2308, such facilities shall not satisfy the refiner/importer's/owner/lessor's obligations if the requirements in section 2308 for constructive allocation are not met.

### *(b) Violations of section 2309(b).*

~~Whenever the owner/lessor of a selected retail clean fuel outlet violates section 2309(b) with respect to the outlet, the gasoline sold or supplied by the owner/lessor~~ Whenever the refiner/importer fails to satisfy the requirements of section 2309(b) at a clean fuel outlet required to be equipped to satisfy the requirements of section 2302, the refiner/importer is in violation of these regulations and subject to the penalties described in Health and Safety Code sections 43027 or 43028 as applicable. Each day, or portion of a day, that the refiner/importer violates section 2309(b) at a specific outlet shall be deemed a separate violation when assessing the penalties described in Health and Safety Code sections 43027 and 43028. ~~For each day that the owner/lessor violates section 2309(b) with respect to a selected retail clean fuel outlet, the first five motor vehicles fueled that day at the outlet with gasoline shall be deemed to have been unlawfully fueled by the owner/lessor.~~

### *(c) [RESERVED] Violations of section 2310.*

~~Whenever the operator of a selected retail clean fuel outlet violates section 2310 with respect to the outlet, the gasoline sold or supplied at the outlet shall be deemed to have been sold or supplied by the operator~~ violates section 2310, the

~~first five motor vehicles fueled that day with gasoline at the outlet shall be deemed to have been unlawfully fueled by the operator.~~

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, 43027, 43028 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, 43016, 43018, 43027, 43028 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).

**§ 2316. Determinations of Energy Equivalency of Fuels.**

Whenever implementation of this chapter requires values for the energy contents of fuels, the lower heating values in the following table shall be used.

<i>Volumetric Energy Contents</i>	
<i>Fuel</i>	<i>BTUs per gallon equivalent</i>
Gasoline	109,600-116,500
LPG	91,500
Methanol (M100)	56,500
M85	65,000
Ethanol (E100)	75,700
E85	81,800
CNG	1000 BTU/scf
Hydrogen gas	113,000

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).

**§ 2317. Satisfaction of Designated Clean Fuel Requirements with a Substitute Fuel.**

(a) Any person may petition the state board to designate by regulation a substitute fuel which may be used instead of a primary designated clean fuel to satisfy any requirements in this chapter pertaining to a designated clean fuel. The state board shall designate such a substitute fuel if it is satisfied that the petitioner has demonstrated all of the following:

(1) That use of the fuel in low-emission vehicles certified on the primary designated clean fuel will result in emissions of NMOG (on a reactivity-adjusted basis), NOx, and CO no greater than the corresponding emissions from such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels through 2014," as amended March 22, 2012 or the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels in 2015 and Subsequent Years," as adopted March 22, 2012, as applicable, which are incorporated herein by reference.

(2) That use of the fuel in low-emission vehicles certified on the primary designated clean fuel will result in potential health risks from exposure to benzene, 1,3-butadiene, formaldehyde, and acetaldehyde in the aggregate no greater than the corresponding potential health risks for such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels through 2014" or the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels in 2015 and Subsequent Years," as applicable, which are incorporated herein by reference.

(3) That if the proposed substitute fuel may be used to fuel any motor vehicle other than low-emission vehicles certified on the primary designated clean fuel:

(A) Use of the substitute fuel in such other motor vehicles would not increase emissions of NMOG (on a reactivity-adjusted basis), NOx, and CO as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels through 2014" or the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels in 2015 and Subsequent Years," as applicable, which are incorporated herein by reference; and

(B) Use of the substitute fuel in such other motor vehicles would result in potential health risks from exposure to benzene, 1,3-butadiene, formaldehyde, and acetaldehyde in the aggregate no greater than the corresponding potential health risk from the emissions from such vehicles when operating on their customary fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels through 2014" or the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels in 2015 and Subsequent Years," as applicable, which are incorporated herein by reference; and

(C) Use of the substitute fuel in such other motor vehicles would not result in increased deterioration of the emission control system on the vehicle and would not void the warranties of any such vehicles.

(b) Whenever the state board designates a substitute fuel pursuant to this section, the state board shall also establish by regulation required specifications for the substitute fuel.

(c) Commencing with the effective date of a regulatory action of the state board designating a substitute fuel pursuant to this section, any person may satisfy his or her obligations under this chapter pertaining to a primary designated clean fuel, in whole or in part, by substituting the substitute fuel in place of the primary 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).

### **§ 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.

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).