State of California
AIR RESOURCES BOARD

Executive Order 96-002

WHEREAS, on December 14, 1995, the Air Resources Board (the Board or ARB) conducted a hearing to consider amendments to the California reformulated gasoline (CaRFG) regulations, including amendments regarding the downstream blending of oxygenates and other technical matters;

WHEREAS, following the public hearing on December 14, 1995, the Board adopted Resolution 95-48, in which the Board approved regulatory amendments as set forth in Attachment A thereto, with the modifications set forth in Attachment B thereto;

WHEREAS, Resolution 95-48 directed the Executive Officer to make the approved amendments set forth in Attachment B, with such other conforming modifications as may be appropriate, available to the public for a supplemental written comment period of 15 days, and thereafter either to adopt the amendments with such additional modifications as may be appropriate in light of supplemental comments received, or to present the amendments to the Board for further consideration if warranted in light of supplemental written comments received;

WHEREAS, the text of the amendments to sections 2260, 2262.1, 2262.5, 2264, 2265, and 2272, and the adoption of sections 2263.7 and 2266.5, in Title 13, California Code of Regulations, as set forth in modified form in Attachment B to Resolution 95-48, was made available for a supplemental 15-day comment period, in accordance with the provisions of Title 1, California Code of Regulations, section 44, with the modifications to the originally proposed text clearly indicated;

WHEREAS, no written comments were received during the supplemental 15-day comment period; and

WHEREAS, Attachment A hereto contains the text of the amendments to sections 2260, 2262.1, 2262.5, 2264, 2265, and 2272, and the adoption of sections 2263.7 and 2266.5, in Title 13, California Code of Regulations, as set forth in Attachment B to Resolution 95-48.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 95-48 are incorporated herein.

IT IS FURTHER ORDERED, in accordance with Resolution 95-48 and Health and Safety Code sections 39515 and 39516, that the amendments to sections 2260, 2262.1, 2262.5, 2264, 2265, and 2272, and the adoption of sections 2263.7 and 2266.5, in Title 13, California Code of Regulations, are hereby adopted as set forth in Attachment 1 hereto.

Executed this 10th day of January, 1996, at Sacramento, California.

James D. Boyd
Executive Officer

Attachments

FINAL REGULATION ORDER

AMENDMENTS TO THE CaRFG REGULATIONS, INCLUDING AMENDMENTS REGARDING THE DOWNSTREAM BLENDING OF OXYGENATES

NOTE: The amendments made in this rulemaking are shown in *italics* to show additions and ~~strikeout~~ to show deletions. All subsection headings are shown in ***bold italics***. New language added to subsection headings is shown in ***shadowed bold italics***.

Adopt and amend portions of section 2260(a) of Title 13, California Code of Regulations, to read as follows:

Section 2260. Definitions.

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

* * * *

(6.5) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

* * * *

(10) "Final blend" means a distinct quantity of gasoline *or CARBOB* which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

(11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline *or CARBOB* is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution facility where the cargo tank truck is used to transport *CARBOB and* gasoline and carries written documentation demonstrating that ~~oxygenates, in quantities that will bring the gasoline *CARBOB* into compliance with section 2262.5(a) and (c),~~ *the designated type and amount or range of amounts of oxygenates designated by the producer or importer* will be or have been blended directly into the cargo tank truck prior to delivery of the *resulting* gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.

* * * *

(16) "Import facility" means the facility at which imported California gasoline *or CARBOB* is first received in California, including, in the case of gasoline *or CARBOB* imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline *or CARBOB* is imported.

* * * *

(19.3) "Oxygenate blending facility" means any facility (including a truck) at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.

(19.6) "Oxygenate blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.

* * * *

(26)(A) "Produce" means, except as otherwise provided in section (a)(26)(B) or (a)(26)(C), to convert liquid compounds which are not gasoline into gasoline *or CARBOB*. When a person blends volumes of blendstocks which are not gasoline with volumes of gasoline acquired from another person, and the resulting blend is gasoline, the person conducting such blending has produced only the portion of the blend which was not previously gasoline. When a person blends gasoline with other volumes of gasoline, without the addition of blendstocks which are not gasoline, the person does not produce gasoline.

(B) Where a person supplies gasoline to a refiner who agrees in writing to further process the gasoline at the refiner's refinery and to be treated as the producer of the gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the gasoline.

(C)Where ~~a person~~ *an oxygenate blender* blends oxygenates into ~~gasoline~~ *CARBOB* which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the CARBOB *or the resulting* gasoline in any other ~~way~~ *manner except for the addition of deposit control additives or other similar additives,* the ~~person does not produce gasoline~~ *oxygenate blender is not producing any portion of the resulting gasoline, and the producer or importer of the CARBOB is treated as the producer or importer of the full volume of the resulting gasoline.*

(27) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.

(28) "Production facility" means a facility in California at which gasoline *or CARBOB* is produced. Upon request of a producer, the executive officer may designate, as part of the producer's production facility, a physically separate bulk storage facility which *(A)* is owned ~~and~~ *or leased by the producer, and (B) is* operated by *or at the direction of* the producer, and ~~which~~ *(C)* is not used to store or distribute gasoline *or CARBOB* that is not supplied from the production facility.

* * * *

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 40000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

Amend Title 13, California Code of Regulations, section 2262.1(b) to read as follows:

Section 2262.1. Standards for Reid Vapor Pressure.

* * * *

(b) **Additional Regulatory Standards for Gasoline Sold, Supplied or Transferred from a Production or Import Facility.**

(1) California gasoline sold, offered for sale, supplied or offered for supply by a producer or importer from its production facility or import facility in an air basin during the regulatory period specified in section (b)(2) shall have a Reid vapor pressure not exceeding 7.00 pounds per square inch. California gasoline transported directly from a production facility or import facility in an air basin during the regulatory period set forth in section (b)(2) shall have a Reid vapor pressure not exceeding 7.00 pounds per square inch.

(2) *Additional Regulatory Control Periods.*

(A) March 1 through March 31 *(March 1 through April 14 in 1996):*
South Coast Air Basin and Ventura County
San Diego Air Basin
Southeast Desert Air Basin

(B) April 1 through April 30:
San Francisco Bay Area Air Basin
San Joaquin Valley Air Basin
Sacramento Valley Air Basin
Great Basin Valley Air Basin

Mountain Counties Air Basin
Lake Tahoe Air Basin

(C) May 1 through May 31:
North Central Coast Air Basin
South Central Coast Air Basin (Excluding Ventura County)
North Coast Air Basin
Lake County Air Basin
Northeast Plateau Air Basin

* * * *

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

Amend Title 13, California Code of Regulations, section 2262.5 to read as follows:

Section 2262.5. Standards for Oxygen Content.

(a) ***Minimum wintertime oxygen content standard for all California gasoline.***

(1) Within each of the air basins during the regulatory control period set forth in section (a)(2), no person shall sell, offer for sale, supply, offer for supply, or transport California gasoline unless it has an oxygen content of not less than 1.8 percent by weight.

(2) *Regulatory Control Periods.*

(A) *October 1 through February 29*
South Coast Air Basin and Ventura County

(B) *October 1 through January 31*
Sacramento Valley Air Basin
San Joaquin Valley Air Basin
San Francisco Bay Area Air Basin
Lake Tahoe Air Basin
Great Basin Valley Air Basin
Mountain Counties Air Basin
North Coast Air Basin
Lake County Air Basin
Northeast Plateau Air Basin
North Central Coast Air Basin

San Luis Obispo County

(C) *November 1 through February 29*
San Diego Air Basin
~~South Central Coast Air Basin (Excluding Ventura County)~~
Santa Barbara County
Southeast Desert Air Basin

(b) ***Maximum oxygen content standard for all California gasoline.*** No person shall sell, offer for sale, supply, or transport California gasoline which has an oxygen content exceeding 2.7 percent by weight.

(c) ***Additional oxygen content standards for producers and importers.*** No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which has an oxygen content less than 1.8 percent by weight or more than 2.2 percent by weight, unless the gasoline has been reported as a PM alternative gasoline formulation pursuant to section 2265(a) or as an alternative gasoline formulation pursuant to section 2266(c), and complies with the standards contained in sections (a) and (b).

(d) ***Restrictions on adding oxygenates to California gasoline*** ~~***produced or imported by others after it has been supplied from the production or import facility***~~**.** No person may add ~~*any*~~ oxygenates to California gasoline ~~produced or imported by another person where the resulting oxygenated gasoline blend has an oxygen content exceeding 2.2 percent by weight, except where the person adding the oxygenates demonstrates that: (i) the gasoline to which the oxygenates are added has been reported pursuant to section 2266(c) as an alternative gasoline formulation and has not been commingled with other gasoline, and (ii) the person adding the oxygenates is doing so at the express request of the producer or importer of the gasoline, and (iii) the resulting oxygenated gasoline blend has an oxygen content not more than the maximum oxygen content specification in the certification for the reported alternative gasoline formulation.~~ *after it has been supplied from the production or import facility at which it was produced or imported, except where the person adding the oxygenates demonstrates that: [i] the gasoline to which the oxygenates are added has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), or as an alternative gasoline formulation pursuant to section 2266(c), and has not been commingled with other gasoline, and [ii] both before and after the person adds the oxygenate to the gasoline, the gasoline has an oxygen content within the oxygen content specifications of the applicable PM alternative gasoline formulation or alternative gasoline formulation. Nothing in this section (d) prohibits adding oxygenates to CARBOB.*

(e) ***Application of prohibitions.***

~~(1) Sections (a) and (c) shall not apply to transactions involving gasoline not meeting the minimum oxygen content standard where the person selling, supplying, or offering the gasoline demonstrates by affirmative defense that: [i] the gasoline has not yet been~~

~~supplied from the final distribution facility, and [ii] the documents accompanying such gasoline clearly state that it does not comply with the minimum oxygen content standard in sections (a) and (c), and either [iii] the person has taken reasonably prudent precautions to assure that he or she will bring the gasoline within the standards in sections (a) and (c) before it is supplied from the final distribution facility, or [iv] at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the gasoline stating that he or she will take reasonably prudent precautions to assure that the gasoline is brought within the standards of section (a) and (c) before it is supplied from the final distribution facility.~~

~~(2)~~ Section (a) shall not apply to a transaction occurring in an air basin during the regulatory control period where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility when the station or facility is not subject to a regulatory control period.

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

* * * *

Adopt Section 2263.7 to read as follows:

Section 2263.7. Multiple Notification Requirements.

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

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

Amend section 2264, Title 13, California Code of Regulations, to read as follows (the only portions affected are section (a) and new subsection (j)):

Section 2264. Designated Alternative Limits.

(a) ***Assignment of a designated alternative limit.***

(1) A producer or importer that has elected to be subject to sections 2262.2(c), 2262.3(c), 2262.4(c), 2262.6(c), 2262.6(e), or 2262.7(c) may assign a designated alternative limit to a final blend of California gasoline produced or imported by the producer or importer by satisfying the notification requirements in this section (a). In no case shall a designated alternative limit be less than the sulfur, benzene, olefin or aromatic hydrocarbon content, or T90 or T50, of the final blend shown by the sample and test conducted pursuant to section 2270, *or section 2266.5(a), as applicable*. If a producer or importer intends to assign designated alternative limits for more than one gasoline specification to a given quantity of gasoline, the party shall identify the same final blend for all designated alternative limits for the gasoline.

(2) (A) The producer or importer shall notify the executive officer of the estimated volume (in gallons), the designated alternative limit, the blend identity, and the location of each final blend receiving a designated alternative limit. This notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend. A producer or importer may revise the reported estimated volume, as long as notification of the revised volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production or import facility. If notification of the revised volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume.

(B) For each final blend receiving a designated alternative limit exceeding 0.80 percent by volume benzene content, 30 parts per million by weight sulfur content, 4.0 percent by volume olefin content, 22.0 percent by volume aromatic hydrocarbon content, T90 of 290 degrees Fahrenheit, or T50 of 200 degrees Fahrenheit, the producer or importer shall notify the executive officer of the date and time of the start of physical transfer from the production or import facility, within 24 hours after the start of such physical transfer. For each final blend receiving a designated alternative limit less than 0.80 percent by volume benzene content, 30 parts per million by weight sulfur content, 4.0 percent by volume olefin content, 22.0 percent by volume aromatic hydrocarbon content, T90 of 290 degrees Fahrenheit, or T50 of 200 degrees Fahrenheit, the producer or importer shall notify the executive officer of the date and time of the completion of physical transfer from the production or import facility, within 24 hours after the completion of such physical transfer.

(3) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(3) have been met, timely notification shall be deemed to have occurred.

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section*s* (a)(2) *and (c) through (i)* shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section*s* (a)(2) *and (c) through (i)*. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) Whenever the final blend of a producer or importer includes volumes of gasoline the party has produced or imported and volumes the party has neither produced nor imported, the producer's or importer's designated alternative limit shall be assigned and applied only to the volume of gasoline the party has produced or imported. In such a case, the producer or importer shall report to the executive officer in accordance with section (a) both the volume of gasoline produced and imported by the party, and the total volume of the final blend. The party shall also additionally report the sulfur content, benzene content, olefin content, aromatic hydrocarbon content, T90, and T50, as applicable, of the portion of the final blend neither produced nor imported by the party, determined as set forth in section 2270(b), *or section 2266.5(a)(2), as applicable*.

(b) ***Additional prohibitions regarding gasoline to which a designated alternative limit has been assigned.***

(1) No producer or importer shall sell, offer for sale, or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit exceeding 0.80 percent by volume benzene content, 30 parts per million by weight sulfur content, 4.0 percent by volume olefin content, 22.0 percent by volume aromatic hydrocarbon content, T90 of 290 degrees Fahrenheit, or T50 of 200 degrees Fahrenheit, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to section (a).

(2) No producer or importer shall sell, offer for sale or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit less than 0.80 percent by volume benzene content, 30 parts per million by weight sulfur content, 4.0 percent by volume olefin content, 22.0 percent by volume aromatic hydrocarbon content, T90 of 290 degrees Fahrenheit, or T50 of 200 degrees Fahrenheit, where the total volume of the final blend sold, offered for sale, or supplied is less than the

volume reported to the executive officer pursuant to section (a).

(c) ***Offsetting excess sulfur.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for sulfur content exceeding 30 parts per million, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 30 parts per million to offset the mass of sulfur in excess of a limit of 30 parts per million.

(d) ***Offsetting excess benzene.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for benzene content exceeding 0.80 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 0.80 percent by volume to offset the volume of benzene in excess of a limit of 0.80 percent by volume.

(e) ***Offsetting excess olefins.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for olefin content exceeding 4.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 4.0 percent by volume to offset the volume of olefins in excess of a limit of 4.0 percent by volume.

(f) ***Offsetting T90.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for T90 exceeding 290 degrees Fahrenheit, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 290 degrees Fahrenheit to offset the extent to which the gasoline exceeded a T90 of 290 degrees Fahrenheit.

(g) ***Offsetting T50.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for T50 exceeding 200 degrees Fahrenheit, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 200 degrees Fahrenheit to offset the extent to which the gasoline exceeded a T50 of 200 degrees Fahrenheit.

(h) ***Offsetting excess aromatic hydrocarbons.*** Within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which

a producer has assigned a designated alternative limit for aromatic hydrocarbon content exceeding 22.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 22.0 percent by volume to offset the volume of aromatic hydrocarbons in excess of a limit of 22.0 percent.

(i) ***Designated alternative limits for PM alternative gasoline formulations.*** The producer or importer of a final blend of California gasoline that is subject to the PM averaging compliance option for one or more properties may assign a designated alternative limit to the final blend by satisfying the notification requirements of section 2264(a). The producer or importer of such a final blend shall be subject to all of the provisions of this section 2264, except that, with respect to that final blend:

(A) The PM averaging limit (if any) for benzene content shall replace any reference in this section 2264 to 0.80 percent by volume benzene content;

(B) The PM averaging limit (if any) for olefin content shall replace any reference in this section 2264 to 4.0 percent by volume olefin content;

(C) The PM averaging limit (if any) for sulfur content shall replace any reference in this section 2264 to 30 parts per million by weight sulfur content;

(D) The PM averaging limit (if any) for aromatic hydrocarbon content shall replace any reference in this section 2264 to 22.0 percent by volume aromatic hydrocarbon content;

(E) The PM averaging limit (if any) for T90 shall replace any reference in this section 2264 to T90 of 290 degrees Fahrenheit; and

(F) The PM averaging limit for T50 (if any) shall replace any reference in this section 2264 to T50 of 200 degrees Fahrenheit.

(j) ***Offsetting exceedances generated by final blends supplied from production or import facilities from March 1, 1996 through May 30, 1996.*** *Notwithstanding the 90-day periods identified in sections (c) through (h), for any final blend of gasoline triggering the need for offsets and supplied from the production or import facility starting March 1, 1996 through May 30, 1996, the producer or importer may offset the exceedance by completing by August 28, 1996 the physical transfer from the same production or import facility of gasoline offsetting the exceedance as described in sections (c) through (h).*

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

* * * *

Amend section 2265, Title 13, California Code of Regulations, to read as follows (the only portion affected is section 2265(c)(2)):

Section 2265. Gasoline Subject to PM Alternative Specifications Based on the California Predictive Model.

(a) ***Election to sell or supply a final blend as a PM alternative gasoline formulation.***

(1) In order to sell or supply from its production facility or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to PM alternative specifications, a producer or importer shall satisfy the requirements of this section (a).

(2) The producer or importer shall evaluate the candidate PM alternative specifications in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, which is incorporated herein by reference (hereafter the "Predictive Model Procedures"). If the PM alternative specifications meet the criteria for approval in the Predictive Model Procedures, the producer shall notify the executive officer of: (A) The identity, location, and estimated volume of the final blend; (B) the PM alternative specifications that will apply to the final blend, including for each specification whether it applies as a PM flat limit or a PM averaging limit; and (C) the numerical values for percent change in emissions for oxides of nitrogen, hydrocarbons, and potency-weighted toxic air contaminants as determined in accordance with the Predictive Model Procedures. The notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(3) Once a producer or importer has notified the executive officer pursuant to this section 2265(a) that a final blend of California gasoline is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of California gasoline subsequently sold or supplied from that production or import facility shall be subject to the same PM alternative specifications until the producer or importer either (A) designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications, (B) elects in accordance with section 2264.2 to have a final blend at that facility subject to flat limit compliance options and/or averaging compliance options, or (C) elects in accordance with section 2266(c) to sell a final blend at that facility as an alternative gasoline formulation.

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section (a)(2) shall be

applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (a)(2). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in section (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(5) have been met, timely notification shall be deemed to have occurred.

(b) ***Prohibited activities regarding PM alternative gasoline formulations.***

(1) No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which is reported pursuant to section 2265(a) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:

(A) The identified PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures; or

(B) The producer was prohibited by section 2265(c) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or

(C) The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications; or

(D) With respect to any property for which the producer or importer has identified a PM averaging limit,

1. the gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a); or

2. a designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a), and either of the following occur:

a. The gasoline exceeds the designated alternative limit for the property, or

b. Where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable

provisions in section 2264(c) through (i)(2) Where a producer or importer has elected to sell or supply a final blend of California gasoline as a PM alternative gasoline formulation in accordance with this section 2265, the final blend shall not be subject to section 2262.2(b) and (c), section 2262.3(b) and (c), section 2262.4(b) and (c), section 2262.5(c), section 2262.6(b), (c), (d), and (e), and section 2262.7(b) and (c).

(c) ***Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations.***

(1) A producer or importer may not elect to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to any provision in section 2264 (c), (d), (e), (f), (g), or (h).

(2) Once a producer or importer has elected to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more properties, the producer or importer may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to the applicable provisions in section 2264 (c), (d), (e), (f), (g), or (h). *However, this section (c)(2) shall not preclude a producer or importer under the circumstances described above from electing another PM alternative gasoline formulation where:*

(A) the only changes are that either:

1. *PM flat limits for one or more properties are changed to PM averaging limits, or*

2. *a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit, and*

(B) there are no changes to the PM alternative specifications for the remaining properties, and

(C) the new PM alternative formulation meets the criteria for approval in the Predictive Model Procedures.

(3) Once a producer or importer has elected to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation, the producer or importer may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to section 2264 (c), (d), (e), (f), (g), or (h) for any final blend sold or supplied from the production or import facility subsequent to the

election.

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

* * * *

Adopt Title 13, California Code of Regulations, section 2266.5 to read as follows:

Section 2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

(a) ***Application of the California gasoline standards to CARBOB.***

(1) ***Applicability of standards and requirements to CARBOB.*** *All of the standards and requirements in sections 2262.1, 2262.2, 2262.3, 2262.4, 2262.5(a), (b), (c) and (e), 2262.6, 2262.7, 2264, 2264.2, 2264.4, 2265, 2266, 2267, 2268, 2270(b), 2271 and 2272 pertaining to California gasoline or transactions involving California gasoline also apply to CARBOB or transactions involving CARBOB. Whenever the term "California gasoline" is used in the sections identified in the preceding sentence, the term means "California gasoline or CARBOB." Whenever the term "gasoline" is used in section 2265(b)(1), the term means "California gasoline or CARBOB."*

(2) ***Determining whether CARBOB complies with the standards for California gasoline.***

(A) Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of compliance with sections 2262.1 through 2262.7 shall be determined by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Where the producer or importer has in accordance with section (b)(1)(C) designated a range of amounts of oxygenate, or more than one oxygenate type, to be added to the CARBOB, the minimum designated amount of the oxygenate having the smallest designated volume shall be added to the CARBOB when determining the properties and characteristics of the final blend. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the properties of the final blend for purposes of the producer's or importer's compliance with sections 2262.2 through 2262.7 shall be determined without adding oxygenate to the gasoline.

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

(3) ***Calculating the volume of a final blend of CARBOB.*** *Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the volume of a final blend shall be calculated for all purposes under section 2264 by adding the minimum designated amount of the oxygenate having the smallest volume designated by the producer or importer. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the volume of the final blend for purposes of the refiner or producer's compliance with sections 2262.1 through 2262.7 shall be calculated without adding the amount of oxygenate to the CARBOB.*

(4) No producer or importer may sell, offer for sale, supply or offer for sale a final blend of CARBOB from its production facility or import facility where the sulfur, benzene, olefin or aromatic hydrocarbon content of the CARBOB, when multiplied by (1 - the designated minimum volume the oxygenate will represent, expressed as a decimal fraction, after it is added to the CARBOB), results in a sulfur, benzene, olefin or aromatic hydrocarbon content value exceeding the applicable limit for that property under section (a)(2).

(b) ***Notification regarding the supply of CARBOB from the facility at which it was produced or imported.***

(1) A producer or importer supplying a final blend of CARBOB from the facility at which the producer or importer produced or imported the CARBOB must notify the executive officer of the information set forth below. The notification must be received by the executive officer before the start of physical transfer of the final blend of CARBOB from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(A) The identity and location of the final blend;

(B) The designation of the final blend as CARBOB;

(C) The designation of each oxygenate type or types and amount or range of amounts to be added to the CARBOB. The amount or range of amounts of oxygenate to be added shall be expressed as a volume percent of the gasoline after the oxygenate is added, in the nearest tenth of a percent. For any final blend of CARBOB except one that is subject to PM alternative specifications or is reported as an alternative formulation in accordance with section 2266(c), the amount of oxygenate to be added

must be such that the resulting California gasoline will have a minimum oxygen content no lower than 1.8 percent by weight and a maximum oxygen content no greater than 2.2 percent by weight. For a final blend of CARBOB that is subject to PM alternative specifications, the amount of oxygenate to be added must be such that the resulting California gasoline has a range of oxygen content that is identical to the oxygen content PM alternative specification for the final blend. For a final blend of CARBOB that is reported as an alternative formulation in accordance with section 2266(c), the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an amount or range of oxygen content that is identical to the oxygen content alternative specification identified in the certification order for the formulation;

(D) The estimated volume of the final blend of CARBOB, and of the California gasoline that will result when the minimum specified amount of oxygenate is added to the final blend of CARBOB. A producer or importer may revise the reported estimated volume, as long as notification of the revised volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production or import facility. If notification of the revised volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume.

(2) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (b)(1) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (b)(2) have been met, timely notification shall be deemed to have occurred.

(3) The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying how the requirements in section (b)(1) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (b)(1). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(c) ***Sampling, testing and recordkeeping by producers and importers of CARBOB.***

(1) Each producer of CARBOB shall sample and test for the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and, during the regulatory control periods identified in section 2261.1(a)(2) and (b)(2), the Reid vapor pressure, of each final blend of CARBOB that the producer has produced, by collecting and analyzing a representative sample of CARBOB taken from the final blend, in accordance with

section (a). If a producer blends CARBOB directly to pipelines, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested by the producer or authorized contractor.

(2) Each importer of CARBOB shall sample and test for the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and, during the regulatory control periods identified in section 2261.1(a)(2) and (b)(2), the Reid vapor pressure, of each shipment of CARBOB which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, by collecting and analyzing a representative sample of CARBOB taken from the shipment, in accordance with section (a).

(3) Each producer or importer required to sample and analyze a final blend or shipment of CARBOB pursuant to this section (c) shall maintain, for two years from the date of each sampling, records showing the sample date, identify of blend or product sampled, container or other vessel sampled, the final blend or shipment volume, and the sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50, T90, and Reid vapor pressure as determined in accordance with section (a)(2). All CARBOB produced or imported by the producer or importer and not tested as required by this section shall be deemed to have a Reid vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen and benzene content, T50 and T90 exceeding the standards specified in sections 2262.1(a) or (b), 2262.2(c), 2262.3(c), 2262.4(c), 2262.5(c), 2262.6(c), 2262.6(e), and 2262.7(c), or exceeding the comparable PM averaging limit(s) if applicable, unless the importer demonstrates that the CARBOB meets those standards and limit(s).

(4) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this section (c) within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend or shipment of CARBOB in accordance with the requirements of this section, the final blend or shipment of CARBOB shall be presumed to have been sold by the producer or importer in violation of the standards in sections 2262.1(a) or (b), 2262.2(c), 2262.3(c), 2262.4(c), 2262.5(c), 2262.6(c), 2262.6(e), and 2262.7(c), or exceeding the comparable PM averaging limit(s) if applicable, unless the importer demonstrates that the CARBOB meets those standards and limit(s).

(5) The executive officer may enter into a protocol with any producer or importer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of sections (c)(1) or (c)(2). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the provisions of sections 2262.1(a) or (b), 2262.2(c), 2262.3(c), 2262.4(c), 2262.5(c), 2262.6(c), 2262.6(e), and 2262.7(c), and the PM averaging limit(s). Any such protocol shall include the producer's or importer's

agreement to be bound by the terms of the protocol.

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

(1) On each occasion when any person transfers custody or title of CARBOB, the transferor shall provide the transferee a document that prominently:

(A) states that the CARBOB does not comply with the standards for California gasoline without the addition of oxygenate, and

(B) identifies, consistent with the notification made pursuant to section (b), the oxygenate type or types and amount or range of amounts that must be added to the CARBOB to make it comply with the standards for California gasoline.

(2) A pipeline operator may comply with this requirement by the use of standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB is identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB.

(e) ***Restrictions on transferring CARBOB.***

(1) No person may transfer ownership or custody of CARBOB to any other person unless the transferee has agreed in writing with the transferor that either:

(A) The transferee is a registered oxygenate blender and will add oxygenate of the type(s) and amount (or within the range of amounts) designated in accordance with section (b) before the CARBOB is transferred from a final distribution facility, or

(B) The transferee will take all reasonably prudent steps necessary to assure that the CARBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in accordance with section (b) to the CARBOB before the CARBOB is transfered from a final distribution facility.

(2) No person may sell or supply CARBOB from a final distribution facility where the type and amount or range of amounts of oxygenate designated in accordance with section (b) has not been added to the CARBOB.

(f) ***Restrictions on blending CARBOB with other products.***

(1) No person may combine any CARBOB that has been supplied from the facility at which it was produced or imported with any other CARBOB, gasoline, blendstock or oxygenate, except:

(A) Oxygenate of the type and amount (or within the range of amounts) specified by the producer or importer at the time the CARBOB was supplied from the production or import facility, or

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

(2) Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully combine CARBOB with California gasoline or other CARBOB during a changeover in service of a storage tank for a legitimate operational business reason. The executive officer may only enter into such a protocol if he or she reasonably determines that commingling of the two products will be minimized as much as is reasonably practical. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(g) ***Quality audit requirements for a producer or importer supplying CARBOB from its production or import facility.***

(1) Each producer or importer supplying CARBOB from its production or import facility shall conduct a quality assurance sampling and testing program substantially satisfying the requirements in 40 C.F.R. §80.69(a)(7) as it existed on July 1, 1995, (A) changing "RBOB" to "CARBOB"; (B) changing in the first paragraph ". . . using the methodology specified in §80.46 . . ." to ". . . using the methodology specified in section 2263 . . ."; and (C) changing in paragraph (a)(7)(ii) "(within the ranges specified in §80.65(e)(2)(i))" to "(within the ranges of the applicable test methods)." 40 C.F.R. §80.69(a)(7) as it existed on July 1, 1995 is incorporated by reference.

(2) The executive officer may enter into a protocol with any producer or importer for the purpose of specifying alternative quality audit requirements which shall satisfy the provisions of section (g)(1). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the provisions of sections 2262.1(a) or (b), 2262.2(c), 2262.3(c), 2262.4(c), 2262.5(c), 2262.6(c), 2262.6(e), and 2262.7(c), and the PM averaging limit(s). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(h) ***Requirements for oxygenate blenders.***

(1) ***Registration and Certification.***

(A) Any oxygen blender must register with the executive officer by March 1, 1996, or at least 20 days before blending oxygenates with CARBOB, whichever occurs later.

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

(B) The registration must include the following:

1. *The identify the oxygen blender's contact name, telephone number, principal place of business which shall be a physical address and not a post office box, and any other place of business at which company records are maintained.*

2. *For each of the oxygen blender's oxygenate blending facilities, the facility name, physical location, contact name, and telephone number.*

(C) The executive officer shall provide each complying oxygen blender with a certificate of registration compliance no later than June 30. The certification shall be effective from no later than July 1, through June 30 of the following year. The certification shall constitute the oxygen blender's certification pursuant to Health and Safety Code section 43021.

(D) Any oxygen blender must submit updated registration information to the executive officer at the address identified in section (h)(2) within 30 days of any occasion when the registration information previously supplied becomes incomplete or in accurate.

(2) ***Requirement to add oxygenate to CARBOB.*** *Whenever an oxygenate blender receives CARBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CARBOB, the oxygenate blender must add to the CARBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CARBOB.*

(3) ***Additional requirements for terminal blending.*** *Any oxygenate blender who makes a final blend of California reformulated gasoline by blending any oxygenate with any CARBOB in any gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bull purchaser-consumer facilities, shall, for each such final blend, determine the oxygen content and volume of the final blend prior to its leaving the oxygen blending facility, by collecting a and analyzing a representative sample of gasoline taken from the final blend, using methodology set forth in section 2263.*

(4) ***Additional requirements for oxygenate blenders who blend oxygenate in trucks.***

(A) Any oxygen blender who obtains any CARBOB in any gasoline delivery truck shall conduct a quality assurance sampling and testing program substantially satisfying the requirements in 40 C.F.R. §80.69(e)(2) as it existed on July 1, 1995, (A) changing "RBOB" to "CARBOB"; (B) changing in paragraph (e)(2)(iv) ". . . using the testing methodology specified in §80.46 . . ." to ". . . using the testing methodology specified

in section 2263 . . ."; and (C) changing in paragraph (e)(2)(v) "(within the ranges specified in §80.65(e)(2)(i))" to "(within the ranges of the applicable test methods)." 40 C.F.R. §80.69(e)(2) as it existed on July 1, 1995 is incorporated by reference.

(B) The executive officer may enter into a protocol with any producer or importer for the purpose of specifying alternative quality audit requirements which shall satisfy the provisions of section (h)(4)(A). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the provisions of sections 2262.1(a) or (b), 2262.2(c), 2262.3(c), 2262.4(c), 2262.5(c), 2262.6(c), 2262.6(e), and 2262.7(c), and the PM averaging limit(s). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(i) ***Downstream blending of California gasoline with nonoxygenate blendstocks.***

(1) No person may combine California gasoline which has been supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person can affirmatively demonstrate that (1) the blendstock that is added to the California gasoline meets all of the California gasoline standards without regard to the properties of the gasoline to which the blendstock is added, and (2) the person meets with regard to the blendstock all requirements in this subarticle applicable to producers of California gasoline.

(2) Notwithstanding section (i)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into California gasoline which has been supplied from its production or import facility. The executive officer may only enter into such a protocol if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the California gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(3) Notwithstanding section (i)(1), a person may add nonoxygenate blendstock to California gasoline that does not comply with one or more of the cap limits contained in sections 2262.1(a), 2262.2(a), 2262.3(a), 2262.4(a), 2262.5(a) and (b), 2262.6(a) and 2262.7(a), where the person obtains the prior approval of the executive officer based on a demonstration that adding the blendstock is a reasonable means of bringing the gasoline into compliance with the cap limits.

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018, 43021, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air

Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

* * * *

Amend section 2272 of Title 13, California Code of Regulations, to read as follows (the only portions affected are subsections (c)(2) and (c)(3)):

Section 2272. Gasoline Produced by Small Refiners.

(a) ***Inapplicability of specified standards prior to March 1 and April 1, 1998.***

(1) The standards contained in sections 2262.2(b) and (c) (sulfur content), 2262.4(b) and (c) (olefin content) and 2262.6(b), (c), (e) and (f) (distillation temperatures) shall not apply to gasoline supplied from a small refiner's California refinery prior to March 1, 1998, if the small refiner has been issued a currently effective certification pursuant to section (b), and the gasoline qualifies for treatment under section (c).

(2) Prior to April 1, 1998, the standards in sections 2262.2(a), 2262.4(a), and 2262.6(a) shall not apply to gasoline described in section (a)(1).

(b) ***Certification of small refiners.***

(1) A small refiner wishing to produce gasoline subject to this section shall submit to the executive officer an application for certification on the Air Resources Board's ARB/SSD/CPB Form 92-4-1, for each of the small refiner's California refineries. An application for qualification for the 12 month period March 1, 1996 through February 28, 1997 shall be submitted by December 1, 1995. An application for qualification for the 12 month period March 1, 1997 through February 28, 1998 shall be submitted by December 1, 1996. The application shall be executed by a responsible corporate officer under penalty of perjury.

(2) The small refiner's application shall set forth: [A] the crude oil capacity of the refinery since January 1, 1978; [B] the crude oil capacities of all the refineries in California and the United States which are owned or controlled by, or under common ownership or control with, the small refiner since September 1, 1988; [C] data demonstrating that the refinery has the capacity to produce liquid fuels by distilling petroleum; and [D] copies of the reports made to the California Energy Commission as required by the Petroleum Industry Reporting Act of 1980 (Public Resources Code Sections 25350 et seq.) showing the annual production volumes of all grades of motor gasoline at the small refiner's California refinery for 1987 through 1991; the copies of the reports shall be accompanied by a statement by a responsible corporate officer stating whether the reported gasoline volumes include any oxygenates, and the volume of any such oxygenates included.

(3) The application shall include a compliance schedule showing how the small refiner will

modify the California refinery(ies) to enable the production of gasoline meeting the standards set forth in sections 2262.2, 2262.4 and 2262.6 by March 1, 1998, in a volume equal to or greater than the small refiner's qualifying volume. The compliance schedule shall set forth the sequence and respective dates of all key events in the construction process including securing of financing, completion of plans and engineering drawings, ordering of equipment, receipt of equipment, signing of construction and other necessary contracts, commencement and completion of various phases of work, commencement and completion of testing, and other similar events and dates. An application for qualification for the 12 month period March 1, 1996 through February 28, 1997 shall additionally include evidence of capital commitments to make the refinery modifications identified in the compliance plan. Such evidence shall include copies of binding contracts for design and construction, and copies of approved permits for construction of the equipment. An application for qualification for the 12 month period March 1, 1997 through February 28, 1998 shall additionally include evidence that on-site construction has begun.

(4) Within 60 days of receipt of the application, the executive officer shall grant or deny it in writing. The executive officer shall grant the application if he or she determines that: [A] the application contains all of the information identified in sections (b)(1) and (2) above; [B] the applicant meets the definition of small refiner, and [C] the compliance schedule is reasonably likely to enable the small refiner to produce gasoline in compliance with sections 2262.2, 2262.4 and 2262.6 by March 1, 1998. An order certifying a refiner as qualifying for treatment under this section shall set forth the compliance schedule found by the executive officer to be reasonably likely to enable compliance. Any denial of an application shall include a statement of the reasons for denial.

(5) A small refiner who has received a certification pursuant to section (b)(4) shall notify the executive officer in writing within 10 days after the failure of the small refiner to meet any increment of progress on the compliance schedule identified in the certification order, and the likely effect of that failure on the ability of the small refiner to comply with sections 2262.2, 2262.4 and 2262.6 by March 1, 1998.

(6) Upon a determination of good cause, based on receipt of a notification made pursuant to section 2272(b)(5) or other relevant information, the executive officer may conduct a public hearing on the ability of a small refiner that has received a certification pursuant to section (b)(4) to produce gasoline in compliance with sections 2622.2, 2262.4 and 2262.6 by March 1, 1998. At least 10 days written notice of the hearing shall be given to the small refiner and to any person who has requested such notice. If following the hearing the executive officer determines that the small refiner is no longer reasonably likely to be able to produce gasoline in compliance with sections 2262.2, 2262.4 and 2262.6 by March 1, 1998, s/he shall rescind the order issued pursuant to section (b)(4), effective 10 days after written notification of the rescission to the small refiner.

(c) ***Criteria for qualifying gasoline.*** Gasoline shall only be subject to treatment under this section if the small refiner demonstrates all of the following:

(1) The gasoline was produced by the small refiner at the small refiner's California refinery.

(2) The gasoline was supplied from the small refiner's California refinery in a calendar quarter in which two-thirds or more of the gasoline *that was produced by the small refiner and that was supplied* from the refinery *in the calendar quarter* was refined at the small refinery from crude oil. *The volume of oxygenates in the gasoline shall not be counted in making this calculation. The period from March 1, 1996 through June 30, 1996 shall be treated as a calendar quarter under this section (c)(2).*

(3) For the 12 month periods March 1, 1996 through February 28, 1997, and March 1, 1997 through February 28, 1998, the gasoline was supplied from the small refiner's California refinery before the full qualifying volume of gasoline produced by the small refiner had been supplied from the refinery during the 12 month period. In calculating the volume of gasoline supplied from the refinery in the 12 month periods, the volume of oxygenates in the gasoline shall not be counted. *Gasoline that is designated by the small refiner as not qualifying for treatment under this section (c), and is reported to the executive officer pursuant to a protocol entered into by the small refiner and the executive officer, shall not be counted against the qualifying volume and shall be subject to all of the standards identified in section 2272(a)(1).*

(4) At the time the gasoline was supplied from the small refiner's refinery, the small refiner met the definition of a small refiner.

(d) ***Additional reporting requirements for small refiners.***

(1) In addition to the requirements of section 2270, for the period from March 1, 1996 through February 28, 1998, each small refiner who qualifies for treatment under this section shall submit to the executive officer reports containing the information set forth below for each of the small refiner's California refineries. The reports shall be executed in California under penalty of perjury, and must be received within the time indicated below:

(A) The quantity, ASTM grade, sulfur content, olefin content, T90 and T50 of all gasoline, produced by the small refiner, that is supplied from the small refinery in each month, within 15 days after the end of the month;

(B) The identity and volume of each oxygenate contained in the gasoline described in section (d)(1)(A) above, within 15 days after the end of the month;

(C) The quantity and ASTM grade of any gasoline that is supplied from the small refinery in each month and that was not produced by the small refiner, accompanied by a demonstration why the gasoline was not produced by the small refiner, within 15 days after the end of the month;

(D) For each calendar quarter, a statement whether two-thirds or more of the gasoline

transferred from the small refiner's refinery was produced by the distillation of crude oil at the small refiner's refinery, within 15 days after the close of such quarter;

(E) The date, if any, on which the small refiner completes transfer from its small refinery in the 12 month periods March 1, 1996 through February 28, 1997, and March 1, 1997 through February 28, 1998, of the small refiner's qualifying volume of gasoline produced by the small refiner, calculated as described in section (c)(3), within 5 days after such date;

(F) Within 10 days after project completion, any refinery addition or modification which would affect the qualification of the refiner as a small refiner pursuant to the definition in section 2260(a)(22); and

(G) Any change of ownership of the small refiner or the small refiner's refinery, within 10 days after such change of ownership.

(2) Whenever a small refiner fails to provide records identified in sections (d)(1)(A), (B), or (C) in accordance with the requirements of those sections (d)(1)(A), (B), or (C), the California gasoline supplied by the small refiner from the small refiner's refinery in the time period of the required records shall be presumed to have been sold or supplied by the small refiner in violation of sections 2262.2, 2262.4, and 2262.6.

NOTE: Authority cited: sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 40000, 43016, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).