

[This was done Wed, Sunday, of the weekend before we went to Hawaii]  
B52562

2/11/91 TTD's Comments  
2/22-23/91

PROPOSED REGULATION ORDER

Adopt new subarticle 2, sections 2260 - 2274, Title 13, California Code of Regulations, to read as follows:

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

ASTM 2260. Definitions.

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

RVP (1) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks or motor vehicles owned or operated by the person.

RVP (2) California gasoline means gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California.

RVP (3) California production facility means a facility in California at which gasoline is produced; it does not include a facility whose sole operation is to transfer gasoline or to blend additives into gasoline.

Ben... (4) Designated alternative limit means an alternative gasoline specification limit, expressed in appropriate limits, which is assigned by a producer or importer to a final blend of California gasoline pursuant to section 2426.

RVP (5) Ethanol means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

Ben... (6) Executive Officer means the executive officer of the Air Resources Board, or his or her designee.

Ben... (7) Final blend means a distinct quantity of gasoline which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

Ben... (8) Further process means to perform any activity on gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in subsection (a)(1).

In the Matter of Union Oil Company of California  
Docket No. 9305  
RX 198

(9) Gasoline means any fuel that is commonly or commercially known, sold or represented as gasoline, and any blend of fuels where more than 50 percent by weight is fuel that is commonly or commercially known, sold or represented as gasoline.

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

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

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(12) Motor vehicle has the same meaning as defined in section 415 of the Vehicle Code.

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(13) Oxygenate is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement.

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(14) Produce means to convert liquid compounds which are not gasoline into gasoline. 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.

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

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(16) Refiner means any person who owns, leases, operates, controls or supervises a refinery.

(17) Refinery means a facility that produces liquid fuels by distilling petroleum. A small refiner's refinery includes all bulk storage and bulk distribution facilities jointly owned or leased with the facility that produces liquid fuels by distilling petroleum.

(18) Regulated gasoline specification means any constituent in California gasoline for which standards are listed in this subarticle.

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(19) Supply means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

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, 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).

2261. Basic Prohibitions. *[Prohibited Activities]*

(a) Starting January 1, 1996, no person shall sell, offer for sale, dispense, supply, offer for sale, or transport California gasoline which does not comply with the standards for Reid vapor pressure, benzene, content, olefin content, oxygen content, aromatic hydrocarbon content, or distillation temperatures set forth in this subarticle 2.

(b) California gasoline sold or supplied on or after January 1, 1996, is also subject to section 2253.4 (Lead in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline).

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, 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).

2262.1. ~~Standards for Reid Vapor Pressure.~~

(a) Basic Regulatory Standard. *the RVP of California gasoline shall not exceed*

(1) Starting January 1, 1996, (within each of the air basins during the regulatory period set forth in section (a)(2), ~~no California gasoline shall have a Reid vapor pressure exceeding~~ 7.00 pounds per square inch.

- (2) **Basic Regulatory Control Periods.**
- (A) **April 1 through October 31:**
  - South Coast Air Basin (Including Ventura County)**
  - San Diego Air Basin**
  - Southeast Desert Air Basin**
- (B) **May 1 through September 30:**
  - Great Basin Valley Air Basin**
- (C) **May 1 through October 31:**
  - San Francisco Bay Area Air Basin**
  - San Joaquin Valley Air Basin**
  - Sacramento Valley Air Basin**
  - Mountain Counties Air Basin**
  - Lake Tahoe Air Basin**
- (D) **June 1 through September 30:**
  - North Coast Air Basin**
  - Lake County Air Basin**
  - Northeast Plateau Air Basin**
- (E) **June 1 through October 31:**
  - North Central Coast Air Basin**
  - South Central Coast Air Basin (Excluding Ventura County)**



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Enid was done 7/21, Sunday, [the weekend before we went to Hawaii]  
B52562

TTD's Comments  
@ 7/22-23/91

PROPOSED REGULATION ORDER

Adopt new subarticle 2, sections 2260 - 2274, Title 13, California Code of Regulations, to read as follows:

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

ASTM

2260. Definitions.

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

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(1) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks or motor vehicles owned or operated by the person.

RVP

(2) California gasoline means gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California.

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(3) California production facility means a facility in California at which gasoline is produced; it does not include a facility whose sole operation is to transfer gasoline or to blend additives into gasoline.

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(4) Designated alternative limit means an alternative gasoline specification limit, expressed in appropriate limits, which is assigned by a producer or importer to a final blend of California gasoline pursuant to section 2426.

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(5) Ethanol means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

Board

(6) Executive Officer means the executive officer of the Air Resources Board, or his or her designee.

Board

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

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(8) Further process means to perform any activity on gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in subsection (a)(1).

(9) Gasoline means any fuel that is commonly or commercially known, sold or represented as gasoline, and any blend of fuels where more than 50 percent by weight is fuel that is commonly or commercially known, sold or represented as gasoline.

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

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

RVP  
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(12) Motor vehicle has the same meaning as defined in section 415 of the Vehicle Code.

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(13) Oxygenate is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement.

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(14) Produce means to convert liquid compounds which are not gasoline into gasoline. 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.

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(16) Refiner means any person who owns, leases, operates, controls or supervises a refinery.

"

(17) Refinery means a facility that produces liquid fuels by distilling petroleum. A small refiner's refinery includes all bulk storage and bulk distribution facilities jointly owned or leased with the facility that produces liquid fuels by distilling petroleum.

"

(18) Regulated gasoline specification means any constituent in California gasoline for which standards are listed in this subarticle.

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(19) Supply means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

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, 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).

2261. Basic Prohibitions. *[Amended Article]*

*one* *just* (a) Starting January 1, 1996, no person shall sell, offer for sale, dispense, supply, offer for sale, or transport California gasoline which does not comply with the standards for Reid vapor pressure, benzene, content, olefin content, oxygen content, aromatic hydrocarbon content, or distillation temperatures set forth in this subarticle 2.

(b) California gasoline sold or supplied on or after January 1, 1996, is also subject to section 2253.4 (Lead in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline). *check this*

*file* 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, 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).

2262.1. ~~Standards for Reid Vapor Pressure.~~

(a) Basic Regulatory Standard.

(1) Starting January 1, 1996, *The RVP of California gasoline shall not exceed* (within each of the air basins during the regulatory period set forth in section (a)(2), ~~no California gasoline shall have a Reid vapor pressure exceeding~~ 7.00 pounds per square inch.

(2) Basic Regulatory Control Periods.

(A) April 1 through October 31:

South Coast Air Basin (Including Ventura County)

San Diego Air Basin

Southeast Desert Air Basin

(B) May 1 through September 30:

Great Basin Valley Air Basin

(C) May 1 through October 31:

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

(D) June 1 through September 30:

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(E) June 1 through October 31:

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(b) Additional Regulatory Standards for Gasoline Sold, Supplied or

Transferred from a Production or Import Facility

(1) Starting January 1, 1996, ~~no producer or importer shall sell, offer for sale, supply, or offer to supply~~ from its California production facility or California import facility in an air basin during the regulatory period specified in section (b)(2), California gasoline ~~which has a Reid vapor pressure~~ (exceeding 7.00 pounds per square inch. Starting January 1, 1996, ~~no person shall transport~~ directly from a California production facility or California import facility in an air basin during the regulatory period set forth in section (b)(2), ~~California gasoline~~ ~~which has a Reid vapor pressure~~ (exceeding 7.00 pounds per square inch.



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(2) Additional Regulatory Control Periods.

(A) March 1 through March 31:

South Coast Air Basin (Including 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

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(c) Special Provisions for Blends of Gasoline Containing Ethanol.

(1) Any blend of gasoline containing at least 10 percent ethanol by volume shall not result in a violation of this section (a)(1) unless the gasoline used in the blend exceeds the standards set forth in this section (a)(1).

(2) This section (c) shall be effective only so long as Health and Safety Code section 43830 establishes special provisions for the volatility of gasoline blends containing at least 10 percent ethanol by volume.

(d) Applicability

(1) Section (a) shall not apply to a transaction occurring in an air basin during the basic 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 basic regulatory control period.

(2) Section (b) shall not apply to a transaction occurring in an air basin during the additional regulatory control period for producers and importers where the person selling, supplying, offering or transporting the

gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility located in an air basin not then subject to the basic regulatory control period or the additional control period for producers and importers.

(3) Section (a)(1) shall not apply to a transaction occurring in an air basin during the basic regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred more than fourteen days before the start of the basic 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, 40000, 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).

2262.2. Sulfur Content

(a) Starting January 1, 1996, the sulfur content of California gasoline shall not exceed 30 parts per million by weight.

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, 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).

2262.3. Benzene Content

(a) Starting January 1, 1996, *of California gasoline* except as otherwise provided in this subsection (a), the benzene content shall meet the following standards:

- (1) The benzene content ~~does not~~ *shall* exceed 1.00 percent by volume; or

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(2) The ~~California~~ gasoline <sup>shall be</sup> has been reported in accordance with all of the requirements of section 2264, and:

(A) The benzene content ~~does~~ <sup>shall</sup> not exceed the designated alternative limit, and

(B) The benzene content ~~does~~ <sup>shall</sup> not exceed 1.20 percent by volume, and

(C) Where the designated alternative limit exceeds 0.80 percent by volume, the excess benzene content is fully offset in accordance with subsection (d), (e) and (f). (?) <sup>shall be</sup>

(b) On or before September 1, 1995, any person who sells, offers for sale, or supplies any California gasoline shall notify the executive officer of the ARB of their intent to comply with this regulation pursuant to section (a)(1) or (a)(2). Any person must comply with the regulatory standard for a minimum period of time of once a year. Any person wishing to change their regulatory standard selection must notify the executive officer 90 days prior to such a change.

(c) Subsection (a) and (b) shall not apply to a sale, offer for sale, or supply of California gasoline to a refiner where the refiner further processes the gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the gasoline.

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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, 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).

**2262.4. Olefin Content**

(a) Starting January 1, 1996, the olefin content of California gasoline shall not exceed 5 percent by volume.

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, 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).

2262.5. Oxygen Content

(a) Starting January 1, 1996, the oxygen content of California gasoline shall ~~have an oxygen content greater than or equal to 2.0 percent~~ by weight. *be at least*

(b) Oxygenate types

(1) The following types of oxygenates shall be used to provide the oxygen content:

(A) methyl-tertiary-butyl-ether; *or*

(B) ethanol

(2) Upon approval of the Executive Officer, other oxygenates may be used provided that independently verifiable emission tests performed on a representative fleet of automobiles that the blend would not result in an increase in exhaust emissions of oxides of nitrogen or in a net increase in the ozone forming potential caused by non-methane organic gases in the evaporative and exhaust emissions when compared to the emissions from the same automobile fleet using gasoline that meets all applicable specifications for gasoline established by the state board.

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, 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).

2262.6. Distillation Temperatures.

(a) Starting January 1, 1996, the temperature at which 90 percent of any California gasoline has evaporated shall not exceed 300 degrees Fahrenheit.

(b) Starting January 1, 1996, the temperature at which 50 percent of any California gasoline shall not exceed 190 degrees Fahrenheit.

(c) Starting January 1, 1996, the driveability index as calculated using the following equation, shall not exceed 1050.

Driveability Index = (1.5)(T10) + (3.0)(T50) + (T90)

- where: T10 = the temperature at which 10 percent of the gasoline evaporates;
- T50 = the temperature at which 10 percent of the gasoline evaporates;
- T90 = the temperature at which 10 percent of the gasoline evaporates;

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, 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).

**2262.7. Aromatic Hydrocarbon Content**

(a) Starting January 1, 1996, the aromatic hydrocarbon content of California gasoline shall not exceed 25 percent by volume.

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, 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).

**2263. Sampling and Test Methods.**

(a) Gasoline Sampling Procedures for Reid Vapor Pressure.

(1) Compliance with the standards set forth in Section 2402, subsections (a) and (b), shall be determined by use of an applicable sampling methodology set forth in 13 CCR section 2261.

(b) Test Methods.

(1) The test methods presented in Table 1 shall be used to determine compliance with the requirements of this article.

Table 1

Section	Gasoline Specification	Test Method a/
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2262.1.(a)(b)	Reid Vapor Pressure	ASTM D 323-58 b/ or 13 CCR Section 2262
2262.1.(c)	Ethanol Content	ASTM D 4815-88 c/
2262.2.(a)	Sulfur Content	ASTM D 2262-87
2262.3.(a)	Benzene Content	ASTM D
2262.4.(a)	Olefin Content	ASTM D
2262.5.(a)	Oxygen Content	ASTM D 4815-88
2262.6.(a)	Distillation Temperatures	ASTM D 86-82
2262.7.(a)	Aromatic Hydrocarbon Content	ASTM D

- a/ ASTM refers to American Society for Testing and Materials Methods, which are incorporated by reference herein.
- b/ Delete paragraph 4(b) concerning sampling.
- c/ The volume of ethanol shall include the volume of any denaturant approved for that purpose by the United States Bureau of Alcohol, Tobacco and Firearms, provided those denaturants do not exceed 5 percent of the volume of alcohol (including denaturants).

(c) Equivalent Test Methods.

(1) Whenever this article provides for the use of a specified test method, another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results with the specified method.

NOTE: Authority cited: sections 39600, 39601, 43013, 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, 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).

2264. Designated Alternative Limit.

(a) Procedure

(1) A producer or importer electing to comply with the regulation pursuant to section (a)(1)(B) may assign a designated alternative limit in accordance with this subsection (d) to a final blend of California gasoline produced or imported by the producer or importer. In no case may the

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designated alternative limit be less than the benzene content of the final blend shown by the sample and test conducted pursuant to subsection (f).

(2) The producer or importer shall notify the executive officer of the volume (in gallons) and the designated alternative limit of the final blend. 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 either completes physical transfer or comingles the final blend.

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(3) Before the start of physical transfer of any final blend of California gasoline to which a producer or importer has assigned a designated alternative limit exceeding 0.80 percent, the producer or importer shall have completed physical transfer from the production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below the limit specified in subsection (a)(1)(B) to offset the volume of benzene in the gasoline reported in excess of the limit.

(4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in subsection (d)(2), then the producer or importer shall notify the executive officer of the required data as soon as reasonably possible and shall 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 subsection (d)(4) are met, timely notification shall be deemed to have occurred.

(5) The executive officer may enter into a protocol with any individual producer or importer for the purposes of specifying how the requirements in subsections (d)(2) and (3) 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 subsections (d)(2) and (3). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(6) No person shall sell, offer for sale, or supply California gasoline, in a final blend to which a producer or importer has assigned a designated alternative limit exceeding 0.80 percent benzene content, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to subsection (d)(2) or (5).

(7) No person shall sell, offer for sale or supply California gasoline, in a final blend to which a producer or importer has assigned a designated alternative limit less than 0.80 percent benzene content, 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 subsection (d)(2) or (5).

(8) Whenever the final blend of a producer includes volumes of gasoline the producer has produced and volumes it has not produced, the producer's designated alternative limit shall apply only to the volume of gasoline the producer has produced. In such a case, the producer shall report to the ARB in accordance with subsection (d)(2) both the volume of gasoline produced and the total volume of the final blend.

(b) Early Generation of Benzene Credits.

(1) ~~Between September 1, 1995, and January 1, 1996~~ a producer or importer ~~complying with the regulation~~ pursuant to section (a)(1)(B) may notify ARB and receive credit for California gasoline with an alternative limit below 2.00 percent benzene by volume. The credit shall be calculated as follows:

$$\text{Credit} = \frac{2.00\% - \text{Alternative Limit}}{100} \times \text{volume of batch}$$

(c) Generation and Use of Benzene Credits

(1) Benzene credits will be generated and used only by the facility which produces or imports the California gasoline and has notified ARB (pursuant to section ( )) that they elect to comply with the regulation pursuant to section (a)(1)(B). Credits are nontransferable between different locations owned by the same producer or importer.



(2) The maximum benzene credit accumulation allowed will be calculated as follows:

$$\frac{1.2\%}{100} \times \text{one-half the volume of gasoline produced or imported at a single location during the past calendar year for which data exists, as reported to CEC.}$$

(3) Benzene credits will not be given for any California gasoline when the producer or importers account contains the maximum benzene credit specified above.

(4) For each batch with an alternative limit exceeding 0.80 percent by volume, ARB will withdraw benzene credits from the producers or importers account equal to:

$$\frac{\text{alternative limit} - 0.80\%}{100} \times \text{batch volume}$$

(5) If the producer or importer does not have benzene credits equal to or greater than the benzene credits needed as calculated above, the batch is in violation of this regulation.

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, 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).

**2265. Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on a Predictive Model.**

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, 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).

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

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, 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).

**2267. Exemptions**

**(a) Exemption for Gasoline Used in Research Programs.**

(1) The executive officer may approve a written application from any person seeking to sell, dispense, supply or transport not more than 5000 gallons of gasoline having specifications exceeding those specified in this subarticle as part of a test program investigating the effect of various gasoline characteristics on vehicle emissions, vehicle performance, or related research objectives. Upon approval of the application, the sale, dispensing, supply or transport of the gasoline described in the application shall not be subject to the standards in this subarticle.

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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, 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).

**2268. Testing and Recordkeeping.**

(a) Each producer shall sample and test for ~~the~~ regulated gasoline specification in each final blend of California gasoline which the producer has produced, in accordance with an applicable test method identified in section 2263. If a producer blends gasoline components directly to pipelines, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested for the regulated gasoline specification by the producer or authorized contractor. The producer shall

maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, final blend volume, and the regulated gasoline specification value. In the event a producer sells, offers for sale, or supplies gasoline which the producer claims is not California gasoline and which has a regulated gasoline specification value exceeding the appropriate standard set forth in this subarticle, such producer shall maintain, for two years from the date of any sale or supply of the fuel, records demonstrating that the gasoline was not California gasoline when it was sold or supplied by the producer. All gasoline produced by the producer and not tested as California gasoline by the producer pursuant to this subsection shall be deemed to have a regulated gasoline specification value exceeding the appropriate standard, unless the producer demonstrates that the gasoline meets the appropriate standard.

(b) Each importer shall sample and test for the regulated gasoline specification in each shipment of California gasoline which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, in accordance with an applicable test method identified in section 2263. The importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the shipment, and the regulated gasoline specification value. All gasoline imported by the importer and not tested as California gasoline by the importer pursuant to this subsection shall be deemed to have a regulated gasoline specification value exceeding the appropriate standard, unless the importer demonstrates that the gasoline meets the appropriate standard.

(c) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this section within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of California gasoline in accordance with the requirements of this section, the final blend of

gasoline shall be presumed to have been sold by the producer in violation of the appropriate standard.

(d) The executive officer may perform any sampling and testing deemed necessary to determine compliance by any person with the requirements of this subarticle and may require that special samples be drawn and tested at any time.

(e) The executive officer may enter into a protocol with any producer, importer, or person who sells, offers for sale, or transfers gasoline to a producer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of subsections (g)(1) or (g)(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 subsection (a). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

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, 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).

#### 2269. Violations

(a) For the purposes of this article, each sale of California gasoline at retail, and each dispensing of California gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of any applicable section of this subarticle.

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

**2270. Submittal of Compliance Plans.**

(a) Each producer shall, by January 1, 1993, submit to the executive officer a plan showing the producer's schedule for achieving compliance with the standards set forth in this subarticle. Each producer shall, by January 1, 1994, and January 1, 1995, submit an update of the plan.

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

**2271. Variances.**

(a) Any person who cannot comply with the requirements set forth in this article because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

- (1) The applicable section(s) in which the variance is sought;
- (2) the specific grounds upon which the variance is sought;
- (3) the proposed date(s) by which compliance with the provisions of the applicable section(s) will be achieved; and
- (4) a plan reasonably detailing the method by which compliance will be achieved.

(b) Upon receipt of an application for a variance containing the information required in section (a), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements of the applicable section(s) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(c) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested

members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(d) No variance shall be granted unless all of the following findings are made:

(1) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with the applicable section(s) would result in an extraordinary economic hardship;

(2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance; and

(3) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(e) Any variance order shall specify a final compliance date by which the requirements of the applicable section(s) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, such as limitations on the gasoline specifications, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(1) Any variance order addressing the Reid vapor pressure shall impose a substitute gasoline Reid vapor pressure limit as stringent as feasible under the circumstances, in no case to exceed 9.0 pounds per square inch.

(f) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the

state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(g) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(h) The executive officer may, after holding a hearing without complying with the provisions of sections (b) and (c), issue an emergency variance to a person from the requirements of the applicable section(s) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of section (f). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of the applicable section(s) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in section (d) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to section (h), and shall provide advance telephone notice to any such person.

(i) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(j) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements the applicable section(s) after holding a hearing in accordance with the provisions of sections (b) and (c).

NOTE: Authority cited: sections 39600, 39601, 43013, 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, 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).