

REGULAR

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY AIR RESOURCES BOARD				AGENCY FILE NUMBER (if any)
FILE NUMBER	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING APR 12 '94	PUBLICATION DATE APR 22 '94	1995 APR 21 PM 4:10 OFFICE OF ADMINISTRATIVE LAW
Office of Administrative Law		
NOTICE		REGULATIONS

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE PREDICTIVE MODEL FOR PHASE 2 REFORMULATED GASOLINE	TITLE(S) 13	FIRST SECTION AFFECTED 2260	2. REQUESTED PUBLICATION DATE APRIL 22, 1994
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON W. THOMAS JENNINGS		TELEPHONE NUMBER (916) 322-2884
OAL USE ONLY <input checked="" type="checkbox"/>	ACTION ON PROPOSED NOTICE <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 94, 167	PUBLICATION DATE 4/22/94

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
13	ADOPT 2264.2, 2264.4, 2265 and the Incorporated Predictive Model for Phase 2 RFG
SECTIONS AFFECTED	AMEND 2260, 2261, 2262.2, 2262.3, 2262.4, 2262.5, 2262.6, 2262.7, 2264, 2270
	REPEAL

2. TYPE OF FILING

Regular Rulemaking (Gov. Code, § 11346) Resubmittal Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) Emergency (Gov. Code, § 11346.1(b))

Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

Print Only Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)
March 6, 1995 - March 21, 1995

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)
 Effective 30th day after filing with Secretary of State Effective on filing with Secretary of State Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY N/A
 Department of Finance (Form STD. 399) Fair Political Practices Commission State Fire Marshal
 Other (Specify)

6. CONTACT PERSON
W. Thomas Jennings, Senior Staff Counsel TELEPHONE NUMBER **(916) 322-2884**

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE
Michael H. Scheible DATE **4/7/95**
TYPED NAME AND TITLE OF SIGNATORY
Michael H. Scheible, Deputy Executive Officer

FINAL REGULATION ORDER

Amendments to the California Phase 2 Reformulated Gasoline Regulations, Including Amendments Providing for the Use of a Predictive Model

NOTE: The text of the adopted amendments is shown below in underline to indicate additions and ~~strikeout~~ to show deletions compared to the regulations prior to initiation of this rulemaking.

When the amendments were initially proposed, the text showed headings of subsections in bold. This text of the adopted amendments shows the headings of subsections in italics as well as bold, so that they will be identified by italics when printed in the California Code of Regulations published by Barclays.

Amend Title 13, California Code of Regulations, section 2260, to read as follows:

Section 2260. Definitions.

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

(1) "Alternative gasoline formulation" means a blend of gasoline meeting all of the specifications identified in a certification issued by the Executive Officer pursuant to the "California Test Procedures for Evaluating Alternative Specifications for Gasoline", adopted September 18, 1992, which is incorporated herein by reference.

(2) "Averaging compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.2(c), section 2262.3(c), section 2262.4(c), section 2262.6(c) or (e), or section 2262.7(c).

{2} (3) "ASTM" means the American Society of Testing and Materials.

{3} (4) "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.

(5) "Bulk plant" means an intermediate gasoline distribution facility where delivery of gasoline to and from the facility is solely by truck.

{4} (6) "California gasoline" means:

(A) Gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California; and

(B) Gasoline that is produced in California, and that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as gasoline produced in California and suitable for sale as a motor vehicle fuel in California.

{5} (7) "Designated alternative limit" means an alternative gasoline specification limit, expressed in the nearest part per million by weight for sulfur content, nearest hundredth hundredth percent by volume for benzene content, nearest tenth percent by volume for aromatic hydrocarbon content, nearest tenth percent for olefin content, and nearest degree Fahrenheit for T90 and T50, which is assigned by a producer or importer to a final blend of California gasoline pursuant to section 2264.

{6} (8) "Ethanol" means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

{7} (9) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

{8} (10) "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.

{9} (11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline 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 gasoline and carries written documentation demonstrating that oxygenates, in quantities that will bring the gasoline into compliance with section 2262.5(a) and (c), will be or have been blended directly into the cargo tank truck prior to delivery of the gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.

(12) "Flat limit compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.2(b), section 2262.3(b), section 2262.4(b), section 2262.6(b) or (d), or section 2262.7(b).

~~(10)~~ (13) "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 this subarticle.

~~(11)~~ (14) "Gasoline" means any fuel that is commonly or commercially known, sold or represented as gasoline.

(15) "Imported California gasoline" means California gasoline which is transported into California and does not meet the definition in section 2260(a)(6)(B).

~~(12)~~ (16) "Import facility" means the facility at which imported California gasoline is first received in California, including, in the case of 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.

~~(13)~~ (17) "Importer" means any person who first accepts delivery in California of imported California gasoline.

~~(14)~~ (18) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

~~(15)~~ (19) "Oxygenate" is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which, when added to gasoline increases the amount of oxygen in gasoline.

(20) "PM alternative gasoline formulation" means a final blend of gasoline that is subject to a set of PM alternative specifications.

(21) "PM alternative specifications" means the specifications for the following gasoline properties, as determined in accordance with section 2263: maximum Reid vapor pressure, expressed in the nearest hundredth of a pound per square inch; maximum sulfur content, expressed in the nearest part per million by weight; maximum benzene content, expressed in the nearest hundredth of a percent by volume; maximum olefin content, expressed in the nearest tenth of a percent by volume; minimum and maximum oxygen

content, expressed in the nearest tenth of a percent by weight; maximum T50, expressed in the nearest degree Fahrenheit; maximum T90, expressed in the nearest degree Fahrenheit; and maximum aromatic hydrocarbon content, expressed in the nearest tenth of a percent by volume.

(22) "PM averaging compliance option" means, with reference to a specific gasoline property, the compliance option for PM alternative gasoline formulations under which final blends of gasoline are assigned designated alternative limits in accordance with section 2264.

(23) "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

(24) "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

(25) "PM flat limit compliance option" means, with reference to a specific gasoline property, the compliance option under which each gallon of gasoline must meet the specification for the property contained in the PM alternative specifications.

~~(16)~~ (26) (A) "Produce" means, except as otherwise provided in section (a)~~(16)~~(26)(B) or (a)~~(16)~~(26)(C), 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.

(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 blends oxygenates into gasoline which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the gasoline in any other way, the person does not produce gasoline.

~~(17)~~ (27) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.

~~(18)~~ (28) "Production facility" means a facility in California at which gasoline 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 is owned and operated by the producer and which is not used to store or distribute gasoline that is not supplied from the production facility.

~~(19)~~ (29) "Qualifying volume" means, for each small refiner, the volume of gasoline equal to the average of the three highest annual production volumes of motor vehicle gasoline reported for the small refiner's California refinery(ies) in the period 1987 through 1991, inclusive, to the California Energy Commission as required by the Petroleum Industry Information Reporting Act of 1980 (Public Resources Code Sections 25350 et seq.), deducting the volume of oxygenates in the gasoline.

~~(20)~~ (30) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

~~(21)~~ (31) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

~~(22)~~ (32) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

~~(23)~~ (33) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(24) (34) "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, 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 2261 to read as follows:

Section 2261. Applicability of Standards; Additional Standards.

(a)(1)(A) Unless otherwise specifically provided, the standards 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) shall apply to California gasoline sold or supplied on or after April 1, 1996, and apply:

1. starting April 15, 1996 to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:

a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and

2. starting June 1, 1996 to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(B) ~~the~~ The remaining standards and requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline sold or supplied occurring on or after March 1, 1996.

(2) The standards 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) shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling,

offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to April 15, 1996, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to June 1, 1996.

(b) California gasoline sold or supplied on or after March 1, 1996, is also subject to section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline). California gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a), shall also be subject to section 2250 (Degree of Unsaturation of Gasoline) and section 2252 (Sulfur Content of Gasoline).

(c) The standards contained in this subarticle shall not apply to a sale, offer for sale, or supply of California gasoline to a refiner if: (1) the refiner further processes the gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the gasoline, and (2) in the case of standards applicable only to producers or importers, the refiner to whom the gasoline is sold or supplied is the producer of the gasoline pursuant to section (a)~~(16)~~(26)(B).

(d) The prohibitions in sections 2262.2(b) and (c), 2262.3(b) and (c), 2262.4(b) and (c), 2262.5(c), 2262.6(b), (c), ~~(e)~~(d) and ~~(f)~~(e), and 2262.7(b) and (c) shall not apply to gasoline which a producer or importer demonstrates was neither produced nor imported by the producer or importer.

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).

Title 13, California Code of Regulations, section 2262.1 reads as follows (no amendments to this section have been adopted):

Section 2262.1. Standards for Reid Vapor Pressure.

(a) Basic Regulatory Standard.

(1) No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which has a Reid vapor pressure exceeding 7.00 pounds per square inch within each of the air basins during the regulatory period set forth in section (a)(2).

(2) Basic Regulatory Control Periods.

(A) April 1 through October 31:

South Coast Air Basin and 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) 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:

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

(c) *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, 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 2262.2 to read as follows:

Section 2262.2. Standards for Sulfur Content.

(a) *Maximum sulfur standard for all California gasoline.* No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which has a sulfur content exceeding 80 parts per million by weight.

(b) *Additional flat sulfur standard for producers and importers.* No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a sulfur content exceeding 40 parts per million by weight, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (c), or 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).

(c) "Designated alternative limit" option Sulfur averaging compliance option for producers and importers. No producer or importer shall, during a period for which the producer or importer has elected to be subject to this section (c), sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a sulfur content exceeding 30 parts per million 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), or unless:

(1) A designated alternative limit for sulfur content has been established for the gasoline in accordance with the requirements of section 2264(a), and

(2) The sulfur content of the gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 30 parts per million, the excess sulfur content is fully offset in accordance with section 2264(c).

(d) Election of sulfur content standard by producers and importers. On or before November 1, 1995, each producer or importer shall notify the executive officer of the party's election to be subject to section (b) or to section (c). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

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 2262.3 to read as follows:

Section 2262.3. Standards for Benzene Content.

(a) *Maximum benzene standard for all California gasoline.* No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which has a benzene content exceeding 1.20 percent by volume.

(b) *Additional flat benzene standard for producers and importers.* No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a benzene content exceeding 1.00 percent by volume, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (c), or 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).

(c) *~~"Designated alternative limit" option Benzene averaging compliance option for producers and importers.~~* No producer or importer shall, during a period for which the producer or importer has elected to be subject to this section (c), sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a benzene content exceeding 0.80 percent by volume, 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), or unless:

(1) A designated alternative limit for benzene content has been established for the gasoline in accordance with the requirements of section 2264(a), and

(2) The benzene content of the gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 0.80 percent by volume, the excess benzene content is fully offset in accordance with section 2264(d).

(d) ***Election of benzene content standard by producers and importers.*** On or before November 1, 1996, each producer or importer shall notify the executive officer of the party's election to be subject to section (b) or to section (c). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

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 2262.4 to read as follows:

Section 2262.4. Standards for Olefin Content.

(a) ***Maximum olefin standard for all California gasoline.*** No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which has an olefin content exceeding 10.0 percent by volume.

(b) ***Additional flat olefin standard for producers and importers.*** No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has an olefin content exceeding 6.0 percent by volume, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (c), or 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).

(c) ***"Designated alternative limit" option Olefin averaging compliance option for producers and importers.*** No producer or importer

shall, during a period for which the producer or importer has elected to be subject to this section (c), sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has an olefin content exceeding 4.0 percent by volume, 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), or unless:

(1) A designated alternative limit for olefin content has been established for the gasoline in accordance with the requirements of section 2264(a), and

(2) The olefin content of the gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 4.0 percent by volume, the excess olefin content is fully offset in accordance with section 2264(e).

(d) Election of sulfur content standard by producers and importers.

On or before November 1, 1995, each producer or importer shall notify the executive officer of the party's election to be subject to section (b) or to section (c). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

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

(C) November 1 through February 29

San Diego Air Basin

South Central Coast Air Basin (Excluding Ventura 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 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 gasoline produced or imported by others.* No person may add 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.

(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).

Amend Title 13, California Code of Regulations, section 2262.6 to read as follows:

Section 2262.6. Standards for Distillation Temperatures.

(a) ***Maximum distillation temperature standards for all California gasoline.*** No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which has a T90 (90 percent distillation temperature) exceeding 330 degrees Fahrenheit, or which has a T50 (50 percent distillation temperature) exceeding 220 degrees Fahrenheit.

(b) ***Additional flat T90 distillation temperature standards standard for producers and importers.*** No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a T90 (90 percent distillation temperature) exceeding 300 degrees Fahrenheit, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (c), or 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).

(c) ***T90 "Designated alternative limit" option averaging compliance option for producers and importers.*** No producer or importer shall, during a period for which the producer or importer has elected to be subject to

this section (c), sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a T90 exceeding 290 degrees Fahrenheit, 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), or unless:

(1) A designated alternative limit for T90, not exceeding 310 degrees Fahrenheit, has been established for the gasoline in accordance with the requirements of section 2264(a), and

(2) The T90 of the gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 290 degrees Fahrenheit, the exceedance is fully offset in accordance with section 2264(f).

(d) ***Election of T90 distillation temperature standard by producers and importers.*** On or before November 1, 1996, each producer or importer shall notify the executive officer of the party's election to be subject to section (b) or to section (c). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

(e) (d) ***Additional flat T50 distillation temperature standard for producers and importers.*** No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a T50 (50 percent distillation temperature) exceeding 210 degrees Fahrenheit, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (f), or 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).

(f) (e) ***T50 "Designated alternative limit" option averaging compliance option for producers and importers.*** No producer or importer shall, during a period for which the producer or importer has elected to be subject to this section (f), sell, offer for sale, supply, or offer for

supply from its production facility or import facility California gasoline which has a T50 exceeding 200 degrees Fahrenheit, 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), or unless:

- (1) A designated alternative limit for T50 has been established for the gasoline in accordance with the requirements of section 2264(a), and
- (2) The T50 of the gasoline does not exceed the designated alternative limit, and
- (3) Where the designated alternative limit exceeds 200 degrees Fahrenheit, the exceedance is fully offset in accordance with section 2264(g).

~~(g) Election of T50 distillation temperature standard by producers and importers.~~ On or before November 1, 1995, each producer or importer shall notify the executive officer of the party's election to be subject to section (e) or to section (f). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

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 2262.7 to read as follows:

Section 2262.7. Standards for Aromatic Hydrocarbon Content.

(a) *Maximum aromatic hydrocarbon standard for all California gasoline.* No person shall sell, offer for sale, supply, offer for supply,

or transport California gasoline which has a aromatic hydrocarbon content exceeding 30.0 percent by volume.

(b) ***Additional flat aromatic hydrocarbon standard for producers and importers.*** No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a aromatic hydrocarbon content exceeding 25.0 percent by volume, unless the transaction occurs during a period for which the producer or importer has elected to be subject to section (c), or 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).

(c) ***"Designated alternative limit" option Aromatic hydrocarbon averaging compliance option for producers and importers.*** No producer or importer shall, during a period for which the producer or importer has elected to be subject to this section (c), sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a aromatic hydrocarbon content exceeding 22.0 percent by volume, 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), or unless:

(1) A designated alternative limit for aromatic hydrocarbon content has been established for the gasoline in accordance with the requirements of section 2264(a), and

(2) The aromatic hydrocarbon content of the gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 22.0 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with section 2264(h).

(d) ***Election of aromatic hydrocarbon content standard by producers and importers.*** On or before November 1, 1995, each producer or importer shall notify the executive officer of the party's election to be subject to section (b) or to section (c). All elections shall apply for a minimum of one calendar year and shall be effective in calendar year increments until changed by the producer or importer. A producer or importer may change or

make an election for any calendar year after 1996 only by notifying the executive officer no later than October 1 of the preceding calendar year.

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).

No amendments to Title 13, California Code of Regulations, section 2263 (Sampling Procedures and Test Methods) have been adopted.

Amend Title 13, California Code of Regulations, section 2264 to read as follows:

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(~~f~~)(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. 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 (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) 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).

(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.

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 2264.2 to read as follows:

Section 2264.2. Election of Applicable Limit for Gasoline Supplied From a Production or Import Facility.

(a) Election of the averaging compliance option.

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect pursuant to this section 2264.2(a) to have the final blend subject to the averaging compliance option for one or more of the following properties: sulfur,

benzene, olefins, aromatic hydrocarbons, T90 or T50. Once a producer or importer has made such an election for a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the averaging compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(b) to have a final blend at the facility subject to the flat limit compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(2) In order to elect to have a final blend subject to the averaging option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the information identified in section 2264(a)(2)(A), within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(b) *Election of flat limit compliance option.*

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect to have the final blend subject to the flat limit compliance option in accordance with this section 2264.2(b). No such election may be made if there are outstanding requirements to provide offsets for the gasoline property at the facility pursuant to the applicable provision in section 2264(c), (d), (e), (f), (g), or (h).

(2) In order to elect to have a final blend subject to the flat limit compliance option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the blend identity and the location of the final blend, within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(3) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the flat limit compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(a)

to have a final blend at the facility subject to the averaging compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(4) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property of a final blend at a production or import facility, the producer or importer may not use any previously assigned designated alternative limit for that property to provide offsets pursuant to the applicable provision in section 2264(c), (d), (e), (f), (g), or (h) for any final blend sold or supplied from the production or import facility subsequently to the election.

(c) Inapplicability to elections for PM alternative gasoline formulations.

Any election for a final blend to be subject to a PM averaging compliance option or a PM flat limit compliance option shall be made in accordance with section 2265 rather than this section 2264.2.

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 2264.4; to read as follows:

Section 2264.4. Extensions of the 90-Day Offset Period Under the Averaging or PM Averaging Compliance Options in 1996 and 1997.

(a) Election of extension of a 90-day offset period. A producer or importer may elect an extension of a 90-day offset period identified in sections 2264(c) through 2264(h) by complying with this section. The extension will apply to the 90-day period for offsetting exceedances.

generated by final blends previously transferred from a production or import facility. The extension will start on the day after the day by which the producer or importer is otherwise required to fully offset the exceedance.

(b) **Limitations on extensions.** A producer or importer may elect no more than three extensions that start in 1996 and no more than three extensions that start in 1997. No extension may start after December 31, 1997. None of the three extensions may exceed 10 days, but separate extensions may run consecutively.

(c) **Notice.** In order to elect an extension of a 90-day offset period, the producer or importer must provide notice which is received by the executive officer no later than 5:00 p.m. on the day by which full offsets would otherwise be required. The notice must include all of the following:

- (1) The date the extension will go into effect;
- (2) The length of the extension (not to exceed 10 days);
- (3) The production facility or import facility at which the extension will apply;
- (4) The primary fuel property and any additional fuel properties to which the extension will apply;
- (5) Identification of an unforeseen event necessitating the extension for each of the fuel properties identified pursuant to section (c)(4).

(d) **Effect of an extension.** With respect to the primary gasoline property specified by the producer or importer, the extension will establish a new deadline for offsetting an exceedance of either the limit for the property identified in section 2264(c) through 2264(h) or, if applicable, the PM averaging limit for the property. The new deadline will also apply for that property to other final blends of gasoline, transferred from the production or import facility, which previously had offset deadlines during the extension period. The new deadline will also apply, with respect to any additional properties identified in the producer or importer's notice pursuant to section 2264.4(c), to final blends of

gasoline transferred from the production or import facility which have offset deadlines at the start of, or during, the extension period.

For example, on September 1, 1996, a producer starts physical transfer from its production facility of a final blend of California gasoline which is subject to the averaging compliance option for sulfur and benzene content, and which has a designated alternative limit for sulfur content of 50 parts per million. On September 3, 1996, the producer starts physical transfer from its production facility of a final blend of California gasoline having designated alternative limits for sulfur content of 42 parts per million, and for benzene content of 1.10 percent by volume. The producer provides timely and proper notice of its election to extend the November 30, 1996 deadline for offsetting the excess sulfur content of the September 1, 1996 final blend 10 days to December 10, 1996, with the extension also applying to benzene content. Under the election, the excess sulfur content of the September 1, 1996 final blend, and the excess sulfur and benzene content of the September 3, 1996 blend, will have to be offset by final blends physically transferred from the production facility no later than December 10, 1996.

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 2265, to read as follows:

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).

(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).

No amendments to Title 13, California Code of Regulations, section 2266 (Certified Gasoline Formulations Resulting in Equivalent Emissions Reductions Based on Motor Vehicle Emission Testing), section 2267 (Exemptions), section 2268 (Liability of Persons Who Commit Violations Involving Gasoline That Has Not Yet Been Sold or Supplied to a Motor Vehicle), and section 2269 (Submittal of Compliance Plans) have been adopted.

Amend Title 13, California Code of Regulations, section 2270 to read as follows:

Section 2270. Testing and Recordkeeping.

(a)(1) The requirements of this section (a) shall apply to each producer and importer that has elected to be subject to sections 2262.2(c), 2262.3(c), 2262.4(c), 2262.6(c), 2262.6(f)(e), or 2262.7(c), or to a PM averaging limit. The references to sulfur content shall apply to each producer or importer that has elected to be subject to section 2262.2(c), or to a PM averaging limit for sulfur. The references to benzene content shall apply to each producer or importer that has elected to be subject to

section 2262.3(c), or to a PM averaging limit for benzene. The references to olefin content shall apply to each producer or importer that has elected to be subject to section 2262.4(c), or to a PM averaging limit for olefin content. The references to T90 shall apply to each producer or importer that has elected to be subject to section 2262.6(c), or to a PM averaging limit for T90. The references to T50 shall apply to each producer or importer that has elected to be subject to section 2262.6(f)(e), or to a PM averaging limit for T50. The references to aromatic hydrocarbon content shall apply to each producer or importer that has elected to be subject to section 2262.7(c), or to a PM averaging limit for olefin content.

(2) Each producer shall sample and test for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 in each final blend of California gasoline which the producer has produced, in accordance with an applicable test method identified by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodologies specified 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 sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, identity of blend sampled, container or other vessel sampled, final blend volume, sulfur, aromatic hydrocarbon olefin and benzene content, T50 and T90. In the event a producer sells, offers for sale, or supplies gasoline which the producer claims is not California gasoline and which has a sulfur, aromatic hydrocarbon, olefin or benzene content, T50 and T90 exceeding the standards specified in sections 2262-2(e), 2262-3(e), 2262-4(e), 2262-6(e), 2262-6(f), and 2262-7(e), such producer shall maintain, for two years from the date of any sale or supply of the gasoline, 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 as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90

exceeding the standards specified in sections 2262.2(c), 2262.3(c), 2262.4(c), 2262.6(c), 2262.6(f)(e), and 2262.7(c), or exceeding the comparable PM averaging limits if applicable, unless the producer demonstrates that the gasoline meets those standards and limits.

(3) Each importer shall sample and test for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 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 by collecting and analyzing a representative sample of the gasoline, using the methodologies specified 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, sulfur content, aromatic hydrocarbon, olefin and benzene content, T50 and T90. All gasoline imported by the importer and not tested as California gasoline by the importer pursuant to as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 exceeding the standards specified in sections 2262.2(c), 2262.3(c), 2262.4(c), 2262.6(c), 2262.6(f)(e), and 2262.7(c), or exceeding the comparable PM averaging limit(s) if applicable, unless the importer demonstrates that the gasoline 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 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 or importer in violation of the standards in sections 2262.2(c), 2263.3(c), 2262.4(c), 2262.6(c), 2262.6(f)(e), and 2262.7, or the PM averaging limit(s), to which the producer or importer has elected to be subject.

(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 (a)(2) or (a)(3). 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 2262.2(c), 2262.3(c), 2262.4(c), 2262.6(c), 2262.6(~~f~~)(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.

(b)(1) For each final blend which is sold or supplied by a producer or importer from the party's production facility or import facility, and which contains volumes of gasoline that party has produced and imported and volumes that the party neither produced nor imported, the producer or importer shall establish, maintain and retain adequately organized records containing the following information:

(A) The volume of gasoline in the final blend that was not produced or imported by the producer or importer, the identity of the persons(s) from whom such gasoline was acquired, the date(s) on which it was acquired, and the invoice representing the acquisition(s).

(B) The sulfur, benzene, aromatic hydrocarbon, olefin and benzene content, T50 and T90 of the volume of gasoline in the final blend that was not produced or imported by the producer or importer, determined either by (A) sampling and testing, by the producer or importer, of the acquired gasoline represented in the final blend, or (B) written results of sampling and test of the gasoline supplied by the person(s) from whom the gasoline was acquired.

(2) A producer or importer subject to this section (b) shall establish such records by the time the final blend triggering the requirements is sold or supplied from the production or import facility, and shall retain such records for two years from such date. During the period of required retention, the producer or importer shall make any of the records available to the executive officer upon request.

(c) In the event a producer or importer sells, offers for sale, or supplies, in California, gasoline which the producer claims is not

California gasoline, such gasoline shall be presumed to exceed the standards that would be applicable pursuant to this subarticle if it was California gasoline. The producer or importer shall maintain, for two years from the date of any sale or supply of such gasoline, records demonstrating that the gasoline was not California gasoline, or that it complied with all of the standards of this subarticle 2, when it was sold or supplied by the producer.

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).

No amendments to Title 13, California Code of Regulations, sections 2271 (Variances) and 2272 (Gasoline Produced by Small Refiners) have been adopted.