

State of California
AIR RESOURCES BOARD

Executive Order G-00-029

WHEREAS, on December 9, 1999, the Air Resources Board (the Board or ARB) conducted a public hearing to consider adoption of the Phase 3 California Reformulated Gasoline (CaRFG3) amendments to the California Reformulated Gasoline regulations, including a prohibition of California gasoline produced with the use of methyl tertiary-butyl ether (MTBE) starting December 31, 2002, establishment of CaRFG3 standards, establishment of a CaRFG3 Predictive Model that includes an evaporative emissions element, and various other changes;

WHEREAS, following the public hearing on December 9, 1999, the Board adopted Resolution 99-39, in which the Board approved the amendments to sections 2260, 2261, 2262.1, 2262.5, 2263, 2263.7, 2264, 2264.2, 2265, 2266, 2266.5, 2267, 2268, 2269, 2270, 2271, and 2272 the repeal of sections 2262.2, 2262.3, 2262.4, 2262.6, 2262.7 and 2264.4, and adoption of sections 2262, 2262.3 and 2262.6, of title 13, California Code of Regulations, as set forth in Attachment A thereto, with the modifications to those sections set forth in Attachment B thereto;

WHEREAS, in Resolution 99-39 the Board also approved the adoption of the "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model" (the CaRFG3 Predictive Model Procedures), as set forth in Attachment A thereto, with the modifications to those Procedures set forth in Attachment B thereto, and with further modifications on the weighting of evaporative, exhaust, and CO emissions, and the balancing of Tech Groups, necessary to reflect the EMFAC 2000 emissions inventory once those elements of the inventory are approved by the Board;

WHEREAS, Resolution 99-39 directed the Executive Officer: (1) to incorporate into the approved regulations and incorporated document the modifications described in Attachment B thereto and such other conforming modifications as may be appropriate; (2) to make the modified regulations and incorporated document, with the modifications clearly indicated, available for public comment for a period of at least 15 days; (3) to consider any comments on the modifications received during the supplemental comment period; and then (4) either to adopt the regulations as made available with any appropriate additional nonsubstantial modifications, to make additional modifications available for public comment for an additional period of at least 15 days, or to present the regulations to the Board for further consideration if he determines that this is warranted;

WHEREAS, the Board-approved modifications to the originally proposed texts, except for incorporation of the EMFAC 2000-related modifications to the CaRFG3 Predictive Model Procedures, were made available for a supplemental 15-day comment period starting April 7, 2000, in accordance with the provisions of section 44, title 1, California Code of Regulations, with the modifications clearly indicated;

WHEREAS, five written comments were received during the supplemental 15-day comment period, and those comments have been considered by the Executive Officer;

WHEREAS, Attachment 1 hereto contains the amendments to sections 2260, 2261, 2262.1, 2262.5, 2263, 2263.7, 2264, 2264.2, 2265, 2266, 2266.5, 2267, 2268, 2269, 2270, 2271, and 2272 the repeal of sections 2262.2, 2262.3, 2262.4, 2262.6, 2262.7 and 2264.4, and adoption of sections 2262, 2262.3, and 2262.6, of title 13, California Code of Regulations, reflecting the modified texts made available for the 15-day comment period and reflecting additional clarifying nonsubstantial modifications, some of which were made in response to comments submitted during the 15-day comment period;

WHEREAS, Attachment 2 hereto contains the text of the CaRFG3 Predictive Model Procedures reflecting the modified text made available for the 15-day comment period;

WHEREAS, when the Board directed in Resolution 99-39 that modifications be incorporated into the CaRFG3 Predictive Model Procedures to reflect the EMFAC 2000 emissions inventory once the relevant elements of the inventory are approved by the Board, it was expected that the Board would consider approval of EMFAC 2000 in March 2000; however, the Board was not able to consider the new inventory until May 25, 2000, at which time the Board approved EMFAC 2000 conditioned on the incorporation of various modifications that would take at least a month to complete; once EMFAC 2000 is finalized the modifications to the CaRFG3 Predictive Model Procedures reflecting the final EMFAC 2000 would have to be made available prior to adoption for another 15-day comment period that would necessarily close after June 30, 2000;

WHEREAS, last year's Senate Bill 529 (Stats. 1999, Ch. 812; Bowen), establishes in Health and Safety Code section 43830.8(h) an abbreviated mechanism for conducting environmental assessments for amendments to the ARB's CaRFG standards proposed prior to January 1, 2000, and adopted prior to July 1, 2000; under this mechanism, the California Environmental Policy Council (the Council) – consisting of the Secretary for Environmental Protection, the Chairpersons of the ARB, the State Water Resources Control Board (SWRCB) and the California Integrated Waste Management Board, and the Directors of the Office of Environmental Health Hazard Assessment (OEHHA), the Department of Toxic Substances Control, and the Department of Pesticide Regulation – reviews the environmental assessment for the amendments and determines whether there will be a significant adverse environmental impact on public health or the

environment, including any impact on air, water, or soil, that is likely to result from the change in gasoline that is expected to be implemented to meet the amended CaRFG requirements; the statute further provides that such a determination by the Council shall be deemed final and conclusive;

WHEREAS, the ARB has conducted this CaRFG3 rulemaking in anticipation that the abbreviated environmental review mechanism in Health and Safety Code section 43830.8(h) will be used; if the regulations are not adopted by June 30, 2000, that mechanism will no longer be available and the rulemaking would be subject to the more time-consuming environmental assessment mechanism in sections 43830.8(a)-(g), which would be difficult to implement at this point in the rulemaking without substantial further delay;

WHEREAS, in light of the considerations identified above, it is necessary and appropriate to adopt the CaRFG3 amendments without the modifications to the CaRFG3 Predictive Model reflecting EMFAC 2000;

WHEREAS, on January 18, 2000, the Council conducted a public meeting at which it considered reports of the ARB, the SWRCB and OEHHA that included an assessment of the environmental and health impacts likely to result from the changes in gasoline that are likely to result from the adoption of the CaRFG3 regulations;

WHEREAS, after considering the environmental assessment reports and public comment, at the January 18, 2000 meeting the Council adopted a Resolution expressing the Council's determination that there will not be a significant adverse environmental impact on public health or the environment, including any impact on air, water, or soil, that is likely to result from the change in gasoline that is expected to be implemented to meet the CaRFG3 regulations approved by the ARB;

WHEREAS, to the extent that the regulations adopted herein may result in adverse environmental impacts due to (1) increased refinery emissions and emissions related to increased use of transportation systems, (2) temporary emissions and the generation of dust from heavy-duty equipment used in the construction of refinery equipment needed for compliance with the regulations, and (3), increased shipments of ethanol, with concomitant impacts on waterborne, truck and rail traffic, none of the impacts would be associated with the actual use of the gasoline expected to be produced in compliance with the adopted CaRFG3 regulations, and there are no feasible mitigation measures or alternatives available to the Board which would further substantially reduce the above potential adverse impacts of the proposed regulations while at the same time providing the substantial and overriding public health benefit from the removal of MTBE from California gasoline and the preservation of air quality benefits.

NOW, THEREFORE, IT IS ORDERED that the recitals and findings contained in Resolution 99-39, and the findings in the Environmental Policy Council's January 18, 2000 Resolution, are incorporated herein.

IT IS FURTHER ORDERED, in accordance with Resolution 99-39 and Health and Safety Code sections 39515 and 39516, that the amendments to sections 2260, 2261, 2262.1, 2262.5, 2263, 2263.7, 2264, 2264.2, 2265, 2266, 2266.5, 2267, 2268, 2269, 2270, 2271, and 2272 the repeal of sections 2262.2, 2262.3, 2262.4, 2262.6, 2262.7 and 2264.4, and adoption of sections 2262, 2262.3, and 2262.6, of title 13, California Code of Regulations are hereby adopted as set forth in Attachment 1 hereto, and the CaRFG3 Predictive Model Procedures are hereby adopted as set forth in Attachment 2 hereto.

Executed this _____ day of June, 2000, at Sacramento, California.

Michael P. Kenny
Executive Officer

Attachments