

**PROPOSED MODIFICATIONS TO SECTIONS 2304 AND 2313,
TITLE 13, CALIFORNIA CODE OF REGULATIONS**

Note: The originally adopted amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The newly proposed modifications are shown in double underline to indicate additions and ***~~bold italicized strikeout~~*** to show deletions. Titles of subsections are shown in ***bold italics***, and are to be italicized in Barclays California Code of Regulations.

Section 2304. Determination of Total and Additional Number of Retail Clean Fuel Outlets Required For Each Designated Clean Fuel In Each Year Starting in 1994.

For each year starting with 1994, ~~t~~The executive officer shall, for each designated clean fuel, determine the total number of retail clean fuel outlets required for ~~the~~ each year, and the total number of additional retail clean fuel outlets required for the first time in the year, in accordance with this section. The executive officer shall make ~~preliminary estimated~~ the determinations of ~~these figures~~ at least ~~eighteen~~ fourteen months before the start of the year, ~~and final~~ determinations at least twelve months before the start of the year.

(a) ***Determination of total number of retail clean fuel outlets required for each designated clean fuel in each year.*** For each year starting with 1994, ~~t~~The executive officer shall determine for each designated clean fuel the total number of retail clean fuel outlets that shall be required for that designated fuel in ~~the~~ each year, calculated as follows:

~~(1) ***Number of designated clean fuel vehicles necessary to trigger a retail clean fuel outlet requirement.*** There shall be no required number of retail clean fuel outlets for a designated clean fuel in a year unless the number of vehicles estimated by the executive officer for that fuel in accordance with section 2303(b) is 20,000 or greater statewide, notwithstanding sections 2304(a)(2), (3) and (4).~~

~~(2) ***Minimum numbers of retail liquid clean fuel outlets required in 1994-1996 in the SCAQMD.***~~

~~(A) For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets in 1994, the required number of retail clean fuel outlets for 1994, 1995, and 1996 respectively shall be determined in accordance with sections 2304(a)(2)(B), (C), and (D), respectively. For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets for the first time in 1995, the required number of retail clean fuel outlets for 1995 and 1996 respectively shall be determined in accordance with sections 2304(a)(2)(B) and (C) respectively. For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets for the first time in 1996, the required number of retail~~

clean fuel outlets for 1996 shall be determined in accordance with section 2304(a)(2)(B):

(B) ~~*First year (1994, 1996 or 1996)*~~. The required number of retail clean fuel outlets for a liquid designated clean fuel subject to this subsection shall be the greater of 90 or the number determined pursuant to section 2304(a)(4):

(C) ~~*Second year (1995 or 1996)*~~. The required number of retail clean fuel outlets for a liquid designated clean fuel subject to this subsection shall be the greater of 200 or the number determined pursuant to section 2304(a)(4):

(D) ~~*Third year (1996)*~~. For any liquid designated clean fuel subject to this subsection, if the total number of vehicles estimated by the executive officer pursuant to section 2303(b) for 1996 is 200,000 or more statewide, the required number of retail clean fuel outlets for the liquid designated clean fuel in 1996 shall be the greater of 400 or the number determined pursuant to section 2304(a)(4). If the estimated number of vehicles is less than 200,000 statewide, the required number of retail clean fuel outlets for the liquid designated clean fuel in 1996 shall be the greater of 200 or the number determined pursuant to section 2304(a)(4):

(3) ~~*Minimum numbers of liquid clean fuel outlets required in 1997*~~. The required number of retail clean fuel outlets for a liquid designated clean fuel in 1997 in the state shall be the greater of [i] twice the required number of retail clean fuel outlets for the fuel in 1996 as determined pursuant to section 2304(a)(2), or [ii] the number of clean fuel outlets for the fuel in 1997 as determined pursuant to section 2304(a)(4):

(4) (1) *Formula for calculating required number of clean fuel outlets*. Except as otherwise provided in this section 2304(a), the total number of clean fuel outlets that shall be required for each designated clean fuel for each year shall be calculated as follows:

$$\begin{array}{rcccl}
 \text{Required} & & & \text{Discounted Clean Fuel} & \\
 \text{Clean Fuel} & = & \text{Total} & \sqrt{\text{Volume for Low-}} & \text{Total Clean} \\
 \text{Outlets} & & \text{Projected} & \text{Emission Fleet} & \text{Fuel Volume} \\
 & & \text{Maximum Clean} & \text{Vehicles at} & \text{From Vehicle} \\
 & & \text{Fuel Volume} & \text{Non-Retail Facilities} & \text{Conversions} \\
 & & & \hline
 & & \text{Clean Fuel Throughput Volume per Station} & &
 \end{array}$$

Where: *Total Projected Maximum Clean Fuel Volume* shall be determined in accordance with the procedures set forth in section 2303(c).

Discounted Clean Fuel $\sqrt{\text{Volume for Low-Emission Fleet Vehicles at Non-Retail Facilities}}$ means the total volume of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) estimated to be dispensed into low-emission

used in fleet vehicles at nonretail facilities during the year, multiplied by the discount factor determined pursuant to section 2303.5(a) for the designated clean fuel for the year in which the retail clean fuel outlet trigger was reached. This figure shall be determined by the executive officer based on using the methodology in section 2303(c), the reports filed pursuant to section 2313 and on any other relevant reasonably available information. For 1994, 1995 and 1996, the volume shall be based on facilities in the SCAQMD only.

Total Clean Fuel Volume from Vehicle Conversions means the total amount of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) for each vehicle class from conversions. This figure shall be determined by the executive officer based on information provided by the Department of Motor Vehicles and on any other relevant reasonably available information. For 1994, 1995 and 1996, the volume shall be based on conversions in the SCAQMD only.

Clean Fuel Throughput Volume Per Station for liquid fuel shall be 300,000 gasoline equivalent gallons per year for each designated clean fuel, except that once more than five percent of all retail gasoline outlets are required to be equipped to dispense a particular liquid clean fuel, the clean fuel throughput volume per station shall be 600,000 gasoline equivalent gallons for purposes of calculating the number of required retail clean fuel outlets in excess of five percent of all retail gasoline outlets. for the years 1994-1996, and as 600,000 gasoline equivalent gallons per year for each designated clean fuel starting in 1997. For gaseous fuel, the clean fuel throughput volume per station shall be 400,000 therms per year.

(5) Special provisions for determining required number of clean fuel outlets for CNG.

- (A) For each year starting with 1994, the executive officer shall determine the number of retail CNG outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2301(b), [iii] were installed in the SCAQMD by November 30, 1992, and [iv] are operating is of thirteen months before the start of the year for which the determination is being made:
- (B) For each year starting with 1997, the executive officer shall determine the number of retail CNG outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2302(b), [iii] were installed in the state outside the SCAQMD by November 30, 1995, and [iv] are operating as of thirteen months before the start of the year for which the determination is being made:
- (C) The executive officer shall reduce the total number of clean fuel outlets required for CNG in each year, as determined pursuant to section 2304(a)(4), by the number of

retail CNG outlets determined in accordance with section 2304(a)(5)(A) and (B). The executive officer shall notify the owner/lessor of each retail CNG outlet included in the determinations made pursuant to this section 2304(a)(5), and no such outlet may be constructively allocated pursuant to section 2308.

(2) *Executive officer adjustments to the number of required retail clean fuel outlets.*

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

(B) *Change to the discount for fleet vehicles.* If the executive officer determines that the discount factor applied to the calculation of the Clean Fuel Volume for Fleet Vehicles in the equation in section 2304(a)(1) does not accurately reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets projected 18 months from the start of the year for which the number of required clean fuel outlets is being determined, he or she shall revise the discount factor so that it is an accurate reflection of that percentage. The determination shall be based on reports filed pursuant to section 2313 and on any other relevant reasonably available information.

~~(2)~~ (C) *Reducing the number of required retail clean fuel outlets to reflect certain preexisting outlets.*

(A) 1. For each year, the executive officer shall determine for each designated clean fuel the number of retail clean fuel outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2302(b) where applicable, [iii] satisfy the provisions of section 2309(b), and [iv] are operating as of fifteen months before the start of the year for which the determination is being made.

~~(B)~~ 2. For each year, the executive officer shall reduce the total number of required clean fuel outlets required for each designated clean fuel, as determined pursuant to sections 2304(a)(1), (a)(2)(A) and (a)(2)(B) by the number of retail clean fuel outlets determined in accordance with section 2304(a)(2)~~(A)~~(C)1. The executive

officer shall notify the owner/lessor of each retail clean fuel outlet included in the determinations made pursuant to this section 2304(a)(2), and no such outlet may be constructively allocated pursuant to section 2308.

(3) Executive officer determinations to adjust the number of required retail clean fuel outlets.

(A) Permitted adjustments. The executive officer may adjust the number of retail clean fuel outlets otherwise required for a given year pursuant to this section 2304(a) based on the likelihood of vehicles to use the particular clean fuel, the fueling patterns of fleet vehicles, the potential for the operational range of fleet vehicles to be expanded by use of retail clean fuel outlets, and related factors. The maximum permitted upward adjustment would require the number of outlets resulting from the formula in section 2304(a)(1) without subtracting the discounted clean fuel volume for fleet vehicles. The maximum permitted downward adjustment would require the number of stations equal to the total projected clean fuel volume for dedicated non-fleet vehicles only.

(B) Notification regarding any adjustments. If the executive officer makes an adjustment pursuant to section 2304(a)(3)(2)(A), (B) or (C) for a given year, he or she shall notify interested parties of the adjustment and the underlying basis for the adjustment, at least fourteen months before the start of the year. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(C) Requests to revise the executive officer's adjustments. Any interested party may request in writing that the executive officer revise the adjustments, and may submit any relevant information supporting a revised determination. In order to be considered by the executive officer, the written request and supporting information must be received no more than 30 days after issuance of the notice. The executive officer shall consider any requests that are timely submitted, and shall issue his or her final determinations no less than twelve months before the start of the year in question. At the same time, the executive officer shall make any resulting modifications to the determinations and notifications made pursuant to sections 2304(b), 2306 and 2307.

(b) Determination of total number of additional clean fuel outlets required each year for each designated clean fuel. For each year starting with 1994, the executive officer shall determine, for each designated clean fuel, the total number of additional retail clean fuel outlets required for the first time to be in place in that year. This figure shall be determined by subtracting the total number of required retail clean fuel outlets determined in accordance with section 2304(a) for the previous year, from the total number of required clean fuel outlets determined in accordance with 2304(a) for the year for which the calculations are being made.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

Section 2313. Reports by Fleet Operators.

(a) Once the executive officer has identified a particular designated clean fuel under section 2311.5, Every fleet operator shall, for any year ~~starting with 1994~~ in which the fleet operator reasonably expects to operate fleet vehicles certified on a designated clean fuel, supply the following information to the executive officer, at least ~~fifteen~~ eighteen months (by June 30) before the start of the year:

- (1) The expected number of low-emission vehicles in the fleet to be operated in the year that will be certified on a designated clean fuel, categorized by designated clean fuel.
- (2) The total volume of each designated clean fuel expected to be used by the vehicles in the year.
- (3) The total volume of designated clean fuel expected to be supplied to the fleet operator's low-emission vehicles during the year from the fleet operator's own dispensing facilities and from facilities that are not retail clean fuel outlets.
- (4) The actual vehicle miles traveled for the prior 12 month period and the estimated vehicle miles traveled for the year in question.
- (5) The extent to which operations using the designated clean fuel would be expanded due to increased availability of the designated clean fuel at retail clean fuel outlets.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).