

State of California
AIR RESOURCES BOARD

Resolution 96-3

January 25, 1996

Agenda Item No.: 96-1-5

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (the Board or ARB) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, Health and Safety Code sections 43013 and 43018 authorize the Board to adopt and implement motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the Board has found to be necessary, cost-effective, and technologically feasible to carry out the purposes of Division 26 of the Health and Safety Code;

WHEREAS, following a hearing in November 1991, the Board adopted regulations for California reformulated gasoline (CaRFG), applicable beginning March 1, 1996; these regulations include a comprehensive set of specifications affecting eight different gasoline properties and are designed to ensure that commercial gasoline is a significantly cleaner-burning fuel;

WHEREAS, section 2271 of the CaRFG regulations (section 2271, Title 13, California Code of Regulations (CCR)) authorizes the Executive Officer to grant a variance from the CaRFG standards to any party that temporarily cannot comply, provided that the Executive Officer makes certain specified findings;

WHEREAS, in 1995 the Legislature enacted Senate Bill 709 (Stats. 1995, Chapter 675), which added a new section 43013.2 to the Health and Safety Code requiring the Board, among other things, to adopt regulations establishing guidelines for the consideration of variances and the imposition of fees and conditions;

WHEREAS, SB 709 requires these regulations to include: (1) methods for estimating excess emissions due to a variance, (2) factors to be considered in determining what is beyond the reasonable control of the applicant, and (3) a schedule of fees to cover the reasonable and necessary costs to the ARB in processing a variance;

WHEREAS, SB 709 further requires the regulations to be initially adopted by the Board as emergency regulations, after conducting at least one public workshop;

WHEREAS, under California law emergency regulations, upon approval by the Office of

Administrative Law (OAL), are legally effective for a 120-day period; this period provides time for staff to complete the administrative requirements and resubmit the regulations to OAL as a non-emergency submission, to replace the emergency regulations upon final OAL approval;

WHEREAS, staff has consulted with refiners and other interested parties, and has conducted a public workshop to discuss draft amendments to the CaFRG variance provisions in section 2271;

WHEREAS, the staff has proposed amendments to section 2271 that would implement SB 709 and ensure the reasonable and equitable implementation of the variance provisions;

WHEREAS, the proposed amendments to section 2271 would levy a fee on a variance applicant of \$0.15 per gallon for all gasoline sold under a variance, specify factors for the Executive Officer to consider in making the findings for granting a variance, and make various other changes to clarify the variance procedures and make them more specific;

WHEREAS, the Board has considered the impact of the proposed amendments on the economy of the State;

WHEREAS, the California Environmental Quality Act and Board regulations require that no action which may have significant adverse environmental impacts be adopted as originally proposed, if feasible alternatives or mitigation measures are available which would substantially reduce or avoid such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), Part 1, Division 3, Title 2 of the Government Code; and

WHEREAS, the Board finds that:

The variance amendments approved herein will streamline the handling of variance applications, discourage attempts to use variances inappropriately as a compliance tool, protect the investments of parties who will comply with the CaRFG regulations, and protect the public interest in minimizing the potential for excess emissions due to variances;

Public and private entities that could be significantly impacted by the amendments have been consulted in their development;

The amendments are authorized by California law and satisfy the requirements of SB 709;

The economic and cost impacts of the amendments have been analyzed as required by California law, and the analysis of these impacts is set forth in the Staff Report for this regulatory action;

The amendments will not have any adverse impact on the economy of the State;

The amendments will not result in any significant adverse environmental impacts.

Adoption of the amendments as emergency regulations is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as specified in section 43013.2(c) of the Health and Safety Code;

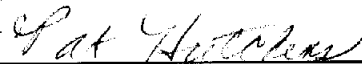
NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to section 2271, Title 13, CCR, as set forth in Attachment A hereto;

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments set forth in Attachment A as emergency regulations, with such other conforming modifications as may be appropriate, and submit them to the Office of Administrative Law (OAL) pursuant to Government Code section 11346.1;

BE IT FURTHER RESOLVED that during the 120-day period that the emergency regulations are legally effective, the Board directs the Executive Officer to complete all administrative requirements specified in the Administrative Procedure Act and resubmit the amendments to OAL as a non-emergency submission, to replace the emergency regulations.

BE IT FURTHER RESOLVED that, in order to complete the procedures for non-emergency regulations, the Board directs the Executive Officer to make the approved amendments set forth in Attachment A, with such other conforming modifications as may be appropriate, available to the public for a comment period of 15 days, and thereafter either to adopt the amendments with such additional modifications as may be appropriate in light of the comments received, or to present the amendments to the Board for further consideration if warranted in light of the comments.

I hereby certify that the above is a true and correct copy of Resolution 96-3, as adopted by the Air Resources Board.



Pat Hutchens, Board Secretary

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RESOURCES AGENCY OF CALIFORNIA

AIR RESOURCES BOARD2020 L STREET
P.O. BOX 2815
SACRAMENTO, CA 95814-2815State of California
AIR RESOURCES BOARD**Notice of Decision and
Response to Significant Environmental Issues****Item: ADOPTION OF AMENDMENTS TO THE VARIANCE PROVISIONS OF THE
CALIFORNIA REFORMULATED GASOLINE REGULATIONS**Adopted by: Executive Order G-96-020
Signed: April 2, 1996


Agenda Item No.: 96-1-5

Public Hearing Date: January 25, 1996

Issuing Authority: Air Resources Board

Comment: No comments were received identifying any significant environmental issues pertaining to this item. The staff report identified no adverse environmental effects.

Response: N/A

Certified: 
Artavia M. Edwards
Regulations CoordinatorDate: 2 Apr 96RECEIVED BY
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RESOURCES AGENCY OF CALIFORNIA

State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER G-96-020

WHEREAS, on January 25, 1996, the Air Resources Board (the "Board") conducted a public hearing to consider the proposed adoption of amendments to section 2271, Title 13, California Code of Regulations;

WHEREAS, following the public hearing, the Board adopted Resolution 96-3, in which the Board approved amendments to section 2271, Title 13, California Code of Regulations, as set forth in Attachment A thereto, as an emergency regulation;

WHEREAS, the Board declared that adoption of the amendments as emergency regulations is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as specified in section 43013.2(c) of the Health and Safety code;

WHEREAS, in Resolution 96-3, the Board directed the Executive Officer to adopt the approved amendments to section 2271, Title 13, California Code of Regulations, as emergency regulations, with such conforming modifications as may be appropriate, and submit them to the Office of Administrative Law, in accordance with Government Code section 11346.1;

WHEREAS, in Executive Order G-96-012, incorporated by reference herein, the regulation contained in section 2271, Title 13, California Code of Regulations, was adopted as set forth in Attachment 1 thereto as an emergency measure for the reasons set forth in the Finding of Emergency;

WHEREAS, on February 5, 1996, the Executive Officer filed the emergency regulation with the Office of Administrative Law;

WHEREAS, on February 15, 1996, the Office of Administrative Law approved the regulation as an emergency measure which became effective immediately;

WHEREAS, the approved emergency regulation was made available for public comment for fifteen days in accordance with the provisions of Title 1, California Code of Regulations, section 44, with the changes to the originally proposed text clearly indicated;


WHEREAS, one written comment was received during this 15-day period and has been considered by the Executive Officer and does not require modification nor reconsideration by the Board of the modified regulation; and

WHEREAS, I hereby certify that the provisions set forth in sections 11346.4 through 11346.8, inclusive, of the Government Code for formal adoption of the regulation was compiled with, prior to expiration of the 120 day effective period of the emergency regulatory action.

NOW, THEREFORE, IT IS ORDERED that section 2271, Title 13, California Code of Regulations, is adopted as set forth in Attachment II hereto.

IT IS FURTHER ORDERED, that the regulations be submitted to the Office of Administrative Law prior to the expiration of the emergency regulations, along with a request for an early effective date to ensure regulatory continuity.

Executed this 2nd day of April, 1996, at Sacramento, California.


James D. Boyd
Executive Officer

Attachment

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