

SECOND 15-DAY MODIFIED TEXT

**PROPOSED 2007 AMENDMENTS TO THE CALIFORNIA
PHASE 3 REFORMULATED GASOLINE REGULATIONS
(SECOND 15 DAY CHANGES)**

Note: The preexisting text is set forth below in normal type. The amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The 15 day changes are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. The second 15 day changes are shown in shaded underline to indicate additions and ~~shaded strikeout~~ to indicate deletions. Headings are shown in italics, and are to be italicized in Barclays California Code of Regulations. The symbol “* * * * *” means that intervening text not being amended is not shown. Only sections with second 15 day changes are shown in this document.

**California Code of Regulations, Title 13, Division 3
Chapter 5. Standards for Motor Vehicle Fuels
Article 1. Standards for Gasoline**

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

Section 2261. Applicability of Standards; Additional Standards.

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(b) Applicability of the CaRFG Phase 3 Standards.

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(5) *Early compliance with the CaRFG Phase 3 Amendments (PM Emissions Offsetting) Before December 31, 2009.*

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(EC) Any producer or importer that produces gasoline that supplies from its production or import facility, before December 31, 2009, any final blends of gasoline subject to section 2264.2(d), shall comply with section 2265.1.

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(6) *Ethanol Emission Reduction Plan (EERP)*

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e.(C) Application Process.

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5. After an EERP or third party EERP application has been received and deemed complete, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the EERP or third party EERP application. Any public comment addressing whether the Executive Officer should approve or disapprove the EERP or third party EERP application shall be based on the contents and merits of the application. No comment received by the Executive Officer after the 30-day period will be considered. The Executive Officer shall send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, the following:

- (A)a. The identity of the applicant producer(s) or importer(s);
- (B)b. The start and end dates for the 30-day comment period;
- (C)c. The address of the EERP internet site where the application is posted; and,
- (D)d. Where and how to submit comments.

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7. Final Action.

After the public comment period ends, the Executive Officer may take final action to either approve or deny the EERP or third party EERP application. The Executive Officer shall notify the producer or importer, post on the ARB internet site, send to subscribers of the Fuels listserv, and mail to those interested parties who have requested copies by mail, of the final action.

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d.(D) Revocation or Modification of an Approved EERP or third party EERP.

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3. Any violations incurred pursuant to subsection (eE) shall not be cancelled or in any way affected by the subsequent cancellation or modification of an EERP or third party EERP.

e.(E) Additional prohibitions.

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f.(F) A cause of action against the producer or importer or third party under this section shall be deemed to accrue on the date(s) when the records establishing a violation of the EERP or third party EERP are received by the Executive Officer.

g.(G) *Transferability.* Rights to use, or protection under, the EERP or third party EERP are non-transferable, unless such transfer is approved in writing by the Executive Officer.

h.(H) *Notification of final blends associated with an EERP or third party EERP.*

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(I) Notification of Increased Ethanol Blending Offsets

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2. *Fuels.* Except as otherwise provided, the producer or importer shall notify the Executive Officer in writing as provided in the EERP or third party EERP, for receipt by the Executive Officer before the start of physical transfer of the gasoline from the production facility 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, with the information in subsection (h)(1)(H)1 as they relate to other batches of California gasoline or diesel fuel used to offset the emissions associated with increased ethanol blending.

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(7) *Election allowing a producer or importer that produces gasoline to blend percentages of denatured ethanol into CARBOB that are higher than the common carrier pipeline specifications for oxygen and denatured ethanol until December 30, 2009.*

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(B) In order to elect to blend higher volumes of denatured ethanol, the producer or importer must satisfy the following requirements:

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4. *Month end reconciliation by the producer or importer.* The producer or importer must notify the Executive Officer of the following. The notification shall be received by the Executive Officer by the twentieth of the month for all final blends elected by the producer or importer in accordance with section 2261(b)(7)(B)1., which completed physical transfer of at least one pipeline tender from the production or import facility during the preceding calendar month. If the

twentieth occurs on a weekend or holiday, the notification shall be received by the Executive Officer by the first business day after the twentieth of the month. The notification must include:

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d. Copies of each notification specified in section (B)3.;

e. The volume (gallons) of CARBOB blended at a higher volume of denatured ethanol than the amount specified by the common carrier pipeline specifications listed by each individual oxygenate blending facility. The sum of the volume (gallons) from all oxygenate blending facilities;

f. **The opening balance at the beginning of the month.** The volume (gallons) of CARBOB qualified under this section 2261(b)(7) that was not blended at a rate higher than common carrier pipeline specifications carried over from the previous calendar month. This volume is available for blending at the higher rate; and

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10. **Recordkeeping by producers and importers.** Each producer or importer must compile and maintain records that affirmatively demonstrate the production or import and the sale or supply of all final blends elected under section (B). The records must show, at a minimum:

a. Information regarding the production or import of the final blend;

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iv. The CARBOB PM formulation having oxygen and denatured ethanol ranges greater than, and encompasses, the common carrier pipeline specification for oxygen and denatured ethanol;

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c. Copies of the notifications specified in section (B)3. that the producer or importer sent to the oxygenate blender regarding oxygenate blending; and

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(C) **Oxygenate blender.** An oxygenate blender that has entered into a contractual agreement in accordance with section (B)2. with a producer or importer may blend higher volumes of denatured ethanol into CARBOB at it's oxygenate blending facility provided that:

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2. **Month end reconciliation by the oxygenate blender.** The oxygenate blender notifies the Executive Officer of the following. The notification shall be received by the Executive Officer by the twentieth of the month for all oxygenate blending related activities occurring at its facility during the preceding calendar month. If the twentieth occurs on a weekend or holiday, the notification shall be received by the Executive Officer by the first business day after the twentieth of the month. If the oxygenate blender operates more than one oxygenate blending facility, the information in the notification must be presented per facility. The notification must include:

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c. **Information regarding oxygenate blending.** For each day of the calendar month at the oxygenate blending facility (if the oxygenate blender is oxygenate blending for more than one producer or importer, the information must be listed for each producer or importer):

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ii. The volume (gallons) of denatured ethanol that was used in-blended at the higher rate (if more than one producer or importer, identify the producer or importer):

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iii. If blending denatured ethanol at two rates that are higher than the common carrier pipeline specifications, list the CARBOB volumes and the denatured ethanol volumes for section (C)1.c.i. and (C)2.c.ii. separately for the two rates:

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v. The volume (gallons) of denatured ethanol that was used in-blended according to common carrier pipeline specifications:

d. **Summary.** Sums of the daily volumes (gallons) listed in c.i., c.ii., c.iv., and c.v. for the calendar month.

3. Whenever the oxygenate blender fails to provide the notification in section (C)2., regarding a volume of California gasoline or CARBOB in accordance with section (C)2., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (C)1.

4. **Recordkeeping by the oxygenate blender.** The oxygenate blender compiles

and maintains records that affirmatively demonstrate the denatured ethanol blending activities at its oxygenate blending facility. The must records show, at a minimum:

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c. All information regarding the daily oxygenate blending activities at the rack. If the oxygenate blender is oxygenate blending for more than one producer or importer, the information must be listed for each producer or importer.

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e. The oxygenate blender shall provide to the Executive Officer any such records within 20 days of written request received from the Executive Officer or his or her designee. Whenever the oxygenate blender fails to provide records regarding a volume of California gasoline or CARBOB in accordance with this section (C)54., the volume of California gasoline or CARBOB will be presumed to have been sold by the person in violation of section (C)1..

(D) **Protocols.**

1. **Recordkeeping or reporting for producers or importers.** The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying alternative recordkeeping or reporting requirements to satisfy the requirements of sections (B)1., (B)2., (B)3., (B)4., (B)910., and (B)11.. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (B)1., (B)2., (B)3., (B)4., (B)910., and (B)11.. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

2. **Recordkeeping or reporting for oxygenate blenders.** The Executive Officer may enter into a written protocol with any oxygenate blender for the purpose of specifying alternative recordkeeping or reporting requirements to satisfy the requirements of sections (C)2., and (C)4.. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (C)2. and (C)4.. Any such protocol shall include the oxygenate blender's agreement to be bound by the terms of the protocol.

3. **Notifications from ~~producer~~producers or importers to oxygenate blenders.**

The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying alternative notification requirements from the producer or importer to the oxygenate blender to satisfy the requirements of

section (B)3. The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (B)3. Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

4. Number of ethanol ranges for producers or importers. The Executive Officer may enter into a written protocol with any producer or importer for the purpose of specifying a different number of denatured ethanol ranges to satisfy the requirements of section (H). The Executive Officer may only enter into such a protocol if he or she reasonably determines that application of the regulatory requirements under the protocol are not less stringent or enforceable than application of the express terms of sections (H). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

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Section 2265.1. Offsetting Emissions Associated with Higher Sulfur Levels.

(a) Assignment of designated emissions offsetting limits and percent change in emissions values for batches of gasoline for which the emissions associated with higher sulfur levels are being offset.

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(2) Notification of final blends associated with a final blend deficit

(A) Except as otherwise provided, for each final blend that has a percent change in emissions value greater than 0.04 percent for oxides of nitrogen, total ozone forming potential, or potency-weighted toxics (referred to as the deficit final blend), the producer or the importer that produces gasoline shall notify the executive officer in writing, for receipt by the executive officer before the start of physical transfer of the gasoline from the production facility or the import facility, and in no case less than 12 hours before the producer or the importer that produces gasoline either completes physical transfer or commingles the final blend, with the following information:

1. Justification for using the PM emissions offsetting compliance option, including but not limited to, an explanation for the elevated sulfur level in the final blend and why the batch will not be re-blended or a different predictive model formulation will not be developed.
2. The targeted PM alternative specifications that the producer or the importer that produces gasoline was intending to produce and which

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would have resulted in a passing PM formulation but for the actual sulfur content of the blend.

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