

NOTICE PUBLICATION/REGULATORY ACTION SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2019-0326-02N	
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 06 2019

1:34 pm

2019 MAR 26 P 3:12

OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Air Resources Board

AGENCY FILE NUMBER (If any)

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

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Removal of Duplicative Title 26 Toxics Regulations.		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
TITLE(S) 26		REPEAL See Attached	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Bradley Bechtold	TELEPHONE NUMBER 322-6533	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) bradley.bechtold@arb.ca.gov

8. 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
TYPED NAME AND TITLE OF SIGNATORY
Richard W. Corey, Executive Officer

DATE
3/20/2019

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ENDORSED APPROVED

MAY 06 2019

Office of Administrative Law

Attachment to Form 400

Repeal Sections:

Title	Section
26	§ 13-2263.7. Multiple Notification Requirements.
26	§ 13-2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

Division 7. Air Resources Board

(Title 13)

§§ 13-1956.8—13-2263. [Removed]

HISTORY

1. Removal of sections 13-1956.8—13-2263 from title 26 filed 3-18-96 pursuant to Cal. Code Regs., tit. 1, section 100. For current versions or prior history, see corresponding section(s) in title 13 (Register 96, No. 12).

§ 13-2263.7. Multiple Notification Requirements.

Where a producer or importer is subject to multiple notification requirements pursuant to sections 2264(a)(2)(A), 2265.1 (applicable only to producers and importers that produce gasoline), 2265.5 (applicable only to producers and importers that produce gasoline), 2264.2(a)(2), 2264.2(b)(2), 2265.4(a)(2), 2266(c) or 2266.5(b), the producer or importer shall combine the notifications to the extent practicable.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 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, 43013, 43013.1, 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).

HISTORY

1. New section filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
2. Amendment of NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
3. Amendment filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

§§ 13-2264—13-2266. [Removed]

HISTORY

1. Removal of sections 13-2264—13-2266 from title 26 filed 3-18-96 pursuant to Cal. Code Regs., tit. 1, section 100. For current versions or prior history, see corresponding section(s) in title 13 (Register 96, No. 12).

§ 13-2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

(a) *Application of the California gasoline standards to CARBOB.*

(1) *Applicability of standards and requirements to CARBOB.* All of the standards and requirements in sections 2261, 2262, 2262.3, 2262.4, 2262.5(a), (b), (c) and (e), 2262.6, 2264, 2264.2, 2265, 2266, 2267, 2268, 2270, 2271 and 2272 pertaining to California gasoline or transactions involving California gasoline also apply to CARBOB or transactions involving CARBOB. Whenever the term "California gasoline" is used in the sections identified in the preceding sentence, the term means "California gasoline or CARBOB." Whenever the term "gasoline" is used in section 2265(b)(1), the term means "California gasoline or CARBOB."

(2) *Determining whether a final blend of CARBOB complies with the standards for California gasoline.*

(A) *General.*

1. *Applicability.* This section (a)(2) governs the determination of whether a final blend of CARBOB complies with the standards for California gasoline that apply when the gasoline is sold or supplied from the production or import facility at which it was produced or imported. Section (a)(6) governs the determination of whether downstream CARBOB that has already been supplied from its production or import facility complies with the applicable cap limits for California gasoline.

2. Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be

determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

3. If the producer or importer has not complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of the producer's or importer's compliance with the limits for sulfur, benzene, aromatic hydrocarbons, olefins, T50, T90, and oxygen required by sections 2262.3, 2262.5, 2265 and 2266 shall be determined without using the CARBOB Model or adding oxygenate to the gasoline, and compliance with the flat limits for Reid vapor pressure and oxygenates required by sections 2262.4, 2262.6, 2265 and 2266 shall be determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

(B) *Determining whether a final blend of CARBOB complies with the standards for California gasoline by use of the CARBOB Model.*

1. A producer or importer may elect to have the CARBOB model used in determining whether a final blend designated as CARBOB complies with the standards applicable to California gasoline, by providing the notice in section (b)(1)(C). In this case, the CARBOB limits for the final blend shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, which is incorporated by reference herein. The CARBOB's compliance with the assigned CARBOB limit for a property shall constitute compliance with the corresponding finished gasoline limit — be it a section 2262 flat limit, PM flat limit, TC limit, or (if no designated alternative limit has been established) section 2262 or PM averaging limit. In addition, where the producer or importer has elected to use the CARBOB model for a given final blend that is not being transferred from its production or import facility during the Reid vapor pressure control period for that facility set forth in section 2262.4(a), the final blend must have a Reid vapor pressure no lower than the value used in the T50 CARBOB model.

2. Notwithstanding section (a)(2)(B)1., where a final blend of CARBOB is sampled and analyzed by a state board inspector in accordance with section 2263 using the methodology in (a)(2)(C), the results may be used to establish a violation of applicable standards for California gasoline.

(C) *Determining whether a final blend of CARBOB complies with the standards for California gasoline by oxygenate blending and testing.* Except as otherwise provided in section (a)(2)(B), the properties of a final blend of CARBOB shall be determined for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265, and 2266 by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Where the producer or importer has in accordance with section (b)(1)(E) designated a range for oxygen from denatured ethanol of 1.8 wt. % to 2.2 wt. % (or a range that is within 1.8 wt. % and 2.2 wt. % and includes 2.0 wt. %), denatured ethanol equal to 5.7 vol. % of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt. % to 2.9 wt. % (or is within 2.5 wt. % and 2.9 wt. % and includes 2.7 wt. %), denatured ethanol equal to 7.7 vol. % of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt. % to 3.7 wt. % (or is within 3.3 wt. % and 3.7 wt. % and includes 3.5 wt. %), denatured ethanol equal to 10.0 vol. % of the blended volume shall be added. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt. %, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

$$\text{Vol. \% Denatured Ethanol} = 620 \div [(218.8 + \text{wt. \% oxygen}) - 0.40]$$

Where the producer or importer has in accordance with section (b)(1)(E) designated a range of amounts of oxygen that is greater than 0.4 wt. %, or an oxygenate other than denatured ethanol, the oxygenate shall

be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(D) *Characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.*

1. *Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is used.* Except as provided in section (a)(2)(D)3., where a producer or importer has elected to use the CARBOB Model for a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the following default denatured ethanol specifications shall be specified for the CARBOB Model:

Sulfur content:	10 parts per million
Benzene content:	0.06 volume percent
Olefin content:	0.5 volume percent
Aromatic hydrocarbon content:	1.7 volume percent

2. *Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is not used.* Except as provided in section (a)(2)(D)3., where a producer or importer has not elected to use the CARBOB Model, denatured ethanol used as the oxygenate must have the following properties in determining whether CARBOB complies with the standards applicable to California gasoline when it is supplied from the production facility or import facility on or after December 31, 2003:

Sulfur content:	3-10 parts per million
Benzene content:	0-0.06 volume percent
Olefin content:	0-0.5 volume percent
Aromatic hydrocarbon content:	0-1.7 volume percent

3. *Producer- or importer-specified characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.*

a. With respect to a final blend of CARBOB supplied from its production or import facility prior to December 31, 2003, the producer or importer must specify the properties of the oxygenate used in determining whether the final blend of CARBOB complies with the applicable California gasoline standards, by providing the notice in section (b)(1)(D). With respect to a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the producer or importer may elect to specify the properties of the oxygenate in accordance with the preceding sentence. Where the producer or importer has elected to use the CARBOB model in connection with the final blend, the maximum value for each property identified in the section (b)(1)(D) notification shall be used for the CARBOB Model. Where the producer or importer has not elected to use the CARBOB model in connection with the final blend, the oxygenate used in oxygenate blending and testing in accordance with section (a)(2)(C)1. must not exceed the maximum value for each property identified in the section (b)(1)(D) notification; that oxygenate's specifications for each property may be under the maximum value for each property identified in the section (b)(1)(D) notification by no more than the following:

Sulfur content:	5 parts per million
Benzene content:	0.06 volume percent
Olefin content:	0.1 volume percent
Aromatic hydrocarbon content:	1.0 volume percent

b. *Maintaining oxygenate samples for use in compliance testing.* A producer or importer who is specifying the properties of the oxygenate used in a final blend of CARBOB in accordance with the preceding section (a)(2)(D)3.a. must maintain at the production or import facility, while the final blend is at the facility, oxygenate meeting the required specifications in quantities that are sufficient to enable state board inspectors to use the oxygenate in compliance determinations.

(E) *Protocol for determining whether a final blend of CARBOB complies with the standards for California gasoline.* The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying a alternative method for determining whether a final blend of CARBOB complies with the standards for California gasoline, as long as the executive officer reasonably determines that application of the protocol is not less stringent or enforceable than application of the express terms of section (a)(2)(A)-(D). Any such

protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(3) *Calculating the volume of a final blend of CARBOB.* Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the volume of the final blend shall be calculated for all purposes under section 2264 by adding the minimum designated amount of the oxygenate having the smallest volume designated by the producer or importer. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the volume of the final blend for purposes of the refiner or producer's compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be calculated without adding the amount of oxygenate to the CARBOB.

(4) *Specifications for a final blend of CARBOB when the CARBOB model is not being used.* A producer or importer who has not elected to use the CARBOB model pursuant to section (a)(2)(B) with regard to a final blend of CARBOB may not sell, offer for sale, supply or offer for sale that final blend of CARBOB from its production facility or import facility where the sulfur, benzene, olefin or aromatic hydrocarbon content of the CARBOB, when multiplied by (1 minus the designated maximum volume percent, expressed as a decimal fraction, that the oxygenate will represent after it is added to the CARBOB), results in a sulfur, benzene, olefin or aromatic hydrocarbon content value exceeding the applicable limit for that property.

(5) *Assignment of designated alternative limits for CARBOB and for the oxygenated California gasoline where the producer or importer has elected to use the CARBOB model.*

(A) *Applicability.* This section (a)(5) applies where a producer or importer has elected to have the CARBOB model apply in connection with a final blend of CARBOB which is also subject to an averaging compliance option or a PM averaging compliance option for one or more properties.

(B) *Assignment of CARBOB designated alternative limit.* The producer or importer may assign a CARBOB designated alternative limit for the final blend of CARBOB by satisfying the notification requirements of section (a)(5)(D). In no case shall a CARBOB 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 of the CARBOB conducted pursuant to section 2270. The CARBOB designated alternative limit shall be treated as the designated alternative limit under section 2262.3(c)(2), and a violation of section 2262.3(c)(2) will exist when the CARBOB exceeds the CARBOB designated alternative limit.

(C) *Determining the designated alternative limit for the final blend after the CARBOB is oxygenated.* Whenever a producer or importer has assigned a designated alternative limit for a final blend of CARBOB, the designated alternative limit for the final blend after the CARBOB is oxygenated shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blends for Oxygenate Blending (CARBOB)," as adopted April 25, 2001, last amended August 7, 2008, which is incorporated by reference herein. This will be the final blend's designated alternative limit for purposes of compliance with sections 2262.3(c)(3) and 2264(b) and (c).

(D) *Notification.* The producer or importer shall notify the executive officer of the CARBOB designated alternative limit, the designated alternative limit for the final blend after it is oxygenated, and all other 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).

(6) *Determining whether downstream CARBOB complies with the cap limits for California gasoline.*

(A) *Determining whether downstream CARBOB complies with the cap limits for California gasoline through the use of CARBOB cap limits derived from the CARBOB Model.* Whenever downstream CARBOB designated for ethanol blending has already been supplied from its production or import facility, the CARBOB's compliance with the cap limits

for California gasoline may be determined by applying the CARBOB cap limits in the following table:

Property	CARBOB Cap Limits	
	CaRFG ²	CaRFG ³
Reid Vapor Pressure ¹ (pounds per square inch)	5.78	5.99
Sulfur Content (parts per million by weight)	89	66 ² 32 ² 21 ²
Benzene Content (percent by volume)	1.33	1.22
Aromatics Content (percent by volume)	33.1	38.7
Olefins Content (percent by volume)	11.1	11.1
T50 (degrees Fahrenheit)	232 ³	232 ³
T90 (degrees Fahrenheit)	237 ³	237 ³
	335	335

¹ The Reid vapor pressure standards apply only during the warmer weather months identified in section 2262.4.

² The CaRFG Phase 3 CARBOB cap limits for sulfur are phased in starting December 31, 2003, December 31, 2005, and December 31, 2011, in accordance with section 2261(b)(1)(A).

³ The first number applies to CARBOB that is subject to the Reid vapor pressure standard pursuant to section 2262.4, and the second number applies to CARBOB that is not subject to the Reid vapor pressure standard.

(B) *Determining whether downstream CARBOB complies with the cap limits for California gasoline by oxygenate blending and testing.* Whenever downstream CARBOB designated for oxygenate blending has already been supplied from its production or import facility, the CARBOB's compliance with the cap limits for California gasoline may be determined by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Denatured ethanol used as the oxygenate must have the properties set forth in section (a)(2)(D)2. Where the designated range for oxygen from denatured ethanol is 1.8 wt.% and 2.2 wt.% (or is within 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), denatured ethanol equal to 6.7 vol.% of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt.% and 2.9 wt.% (or is within 2.5 wt.% and 2.9 wt.% and includes 2.7 wt.%), denatured ethanol equal to 7.7 vol.% of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt.% to 3.7 wt.% (or is within 3.3 wt.% and 3.7 wt.% and includes 3/5 wt.%), denatured ethanol equal to 10.0 vol.% of the blended volume shall be added. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt.%, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

$$\text{Vol. \% Denatured Ethanol} = 625 \div [(218.8 \div \text{wt. \% oxygen}) - 0.40]$$

Where the designated a range of amounts of oxygen is greater than 0.4 wt.%, or an oxygenate other than denatured ethanol is designated, the oxygenate shall be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(C) *Protocols.* A person may enter into a protocol with the executive officer for the purpose of identifying more stringent specifications for the denatured ethanol used pursuant to section (a)(6)(B), or different CARBOB cap limits under section (a)(6)(A), if the executive officer reasonably determines that the specifications or cap limits are reasonably premised on the person's program to assure that the denatured ethanol added to the CARBOB by oxygenate blenders will meet the more stringent specifications.

(b) *Notification to ARB regarding the supply of CARBOB from the facility at which it was produced or imported.*

(1) A producer or importer supplying a final blend of CARBOB from the facility at which the producer or importer produced or imported the CARBOB must notify the executive officer of the information set forth below, along with any information required under section 2265(a)(2) (for

a PM alternative gasoline formulation), section 2265.1 (for a PM emissions offsetting formulation, applicable only to producers and importers that produce gasoline), section 2265.5 (for an alternative emission reduction plan, applicable only to producers and importers that produce gasoline), or 2266(c) (for a test-certified alternative gasoline formulation). The notification must be received by the executive officer before the start of physical transfer of the final blend of CARBOB 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) The identity and location of the final blend;
(B) The designation of the final blend as CARBOB;

(C) If the producer or importer is electing to use the CARBOB model to determine whether the final blend complies with the standards applicable to California gasoline when it is supplied from the production facility or import facility, a statement of that election and

1. Each of the CARBOB limits that will apply to the final blend for properties not subject to the averaging compliance option or the PM averaging compliance option; and

2. For any property subject to the averaging compliance option or the PM averaging compliance option, the averaging or PM averaging limit for the CARBOB (the CARBOB is subject to this limit only if no designated alternative limit is assigned to the CARBOB pursuant to section 2266.5(a)(5)(B));

(D) If the producer or importer is specifying, pursuant to section (a)(3)(D)3., the properties of the oxygenate to be added downstream by the oxygenate blender, a statement of that election, the type of oxygenate, and the oxygenate's specifications for the following properties:

Maximum sulfur content (nearest part per million by weight)

Maximum benzene content (nearest hundredth of a percent by volume)

Maximum olefin content (nearest tenth of a percent by volume)

Maximum aromatic hydrocarbon content (nearest tenth of a percent by volume)

(E) The designation of each oxygenate type or types and amount or range of amounts to be added to the CARBOB, and the applicable flat limit, PM alternative specification, designated emissions offsetting limit, or TC alternative specification for oxygen. The amount or range of amounts of oxygenate to be added shall be expressed as a volume percent of the gasoline after the oxygenate is added, in the nearest tenth of a percent. For any final blend of CARBOB except one that is subject to PM alternative specifications, designated emissions offsetting limits, alternative emission reduction plan, or TC alternative specifications, the amount of oxygenate to be added must be such that the resulting California gasoline will have a minimum oxygen content no lower than 1.8 percent by weight and a maximum oxygen content no greater than 2.2 percent by weight. For a final blend of CARBOB that is subject to PM alternative specifications or designated emissions offsetting limits, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content PM alternative specification or designated emissions offsetting limits for the final blend. For a final blend of CARBOB that is subject to TC alternative specifications, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content alternative specification for the final blend.

(2) *Applicability of notification to subsequent final blends.* The notification a producer or importer provides pursuant to section (b)(1)(B), (C), (D) and (E) for a final blend of CARBOB shall apply to all subsequent final blends of CARBOB or California gasoline supplied by the producer or importer from the same production or import facility until the producer or importer designates a final blend at that facility as either (i) California gasoline rather than CARBOB, or (ii) CARBOB subject to a new notification made pursuant to section (b)(1).

(3) *Allowance of late notifications.* If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (b)(1) 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 (b)(3) have been met, timely notification shall be deemed to have occurred.

(4) *Protocols.* The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying how the requirements in section (b)(1) 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 (b)(1). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(c) [Reserved]

(d) *Documentation required when CARBOB is transferred.*

(1) *Required Documentation.* On each occasion when any person transfers custody or title of CARBOB, the transferor shall provide the transferee a document that prominently:

(A) States that the CARBOB does not comply with the standards for California gasoline without the addition of oxygenate,

(B) Identifies the applicable flat limit, PM alternative specification, designated emissions offsetting limit, or TC alternative specification for oxygen, and

(C) Identifies, consistent with the notification made pursuant to section (b), the oxygenate type or types and amount or range of amounts that must be added to the CARBOB to make it comply with the standards for California gasoline. Where the producer or importer of the CARBOB has elected to specify the properties of the oxygenate pursuant to section (b)(1)(D), the document must also prominently identify the maximum permitted sulfur, benzene, olefin and aromatic hydrocarbon contents — not to exceed the maximum levels in the section (b)(1)(D) notification — of the oxygenate to be added to the CARBOB.

(2) *Compliance by pipeline operator.* A pipeline operator may comply with this requirement by the use of standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB is identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB.

(e) *Restrictions on transferring CARBOB.*

(1) *Required agreement by transferee.* No person may transfer ownership or custody of CARBOB to any other person unless the transferee has agreed in writing with the transferor that either:

(A) The transferee is a registered oxygenate blender and will add oxygenate of the type(s) and amount (or within the range of amounts) designated in accordance with section (b) before the CARBOB is transferred from a final distribution facility, or

(B) The transferee will take all reasonably prudent steps necessary to assure that the CARBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in accordance with section (b) to the CARBOB before the CARBOB is transferred from a final distribution facility.

(2) *Prohibited sales of CARBOB from a final distribution facility.* No person may sell or supply CARBOB from a final distribution facility where the type and amount or range of amounts of oxygenate designated in accordance with section (b) has not been added to the CARBOB.

(f) *Restrictions on blending CARBOB with other products.*

(1) *Basic prohibition.* No person may combine any CARBOB that has been supplied from the facility at which it was produced or imported with any other CARBOB, gasoline, blendstock or oxygenate, except:

(A) *The specified oxygenate.*

1. The CARBOB may be blended with oxygenate of the type and amount (or within the range of amounts) specified by the producer or importer at the time the CARBOB was supplied from the production or import facility.

2. Where ethanol is the specified oxygenate and specifications for the ethanol are identified in the product transfer document for the CARBOB pursuant to section 2266.5(d)(1)(C), only ethanol meeting those specifications may be combined with the CARBOB.

3. Where ethanol is the specified oxygenate and specifications for the ethanol are not identified, only ethanol meeting the standards in section 2262.9(a) may be combined with the CARBOB.

(B) *Identically-specified CARBOB.* The CARBOB may be blended with other CARBOB for which the same oxygenate type, and the same amount (or range of amounts) of oxygen, was specified by the producer or importer at the time the CARBOB was supplied from the production or import facility. However, where specifications for the denatured ethanol to be added to the CARBOB have been established pursuant to section 2266.5(a)(2)(D)3, it may only be blended with other CARBOB for which the same denatured ethanol specifications have been set.

(C) *CARBOB specified for different oxygen level.* Where a person is changing from an initial to a new type of CARBOB stored in a storage tank at a terminal or bulk plant, and the conditions below are met; in this case, the CARBOB in the tank after the new type of CARBOB is added will be treated as that new type of CARBOB.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the different types of CARBOB;

2. The initial and new CARBOBs are designated for blending with different amounts (or ranges of amounts) of oxygen, and the change in oxygen content will not exceed 1.1 weight percent of the oxygenated gasoline blend;

3. The volume of the new CARBOB that is added to the tank is at least four times as large as the volume of the initial CARBOB in the tank, and

4. The sulfur content of the new CARBOB added to the tank is no more than 12 parts per million.

(D) *California gasoline not subject to RVP standard.* Where a person is changing from California gasoline to CARBOB as the product stored in a storage tank at a terminal or bulk plant and the conditions below are met; in this case the product in the tank, pipe or manifold after the new product is added will be treated as the new type of product.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the California gasoline and CARBOB and

2. The resulting blend of product in the tank is supplied from the terminal or bulk plant during a time that it is not subject to the standards for Reid vapor pressure under section 2262.4.

(E) *Limited amounts of California gasoline containing ethanol.* A person may add California gasoline containing ethanol to CARBOB at a terminal or bulk plant if all of the following conditions are met, in which case the resulting mixture will continue to be treated as CARBOB.

1. The gasoline is added to the CARBOB for one of the following operational reasons:

a. The gasoline resulted from oxygenating CARBOB at the terminal or bulk plant during calibration of oxygenate blending equipment; or

b. The gasoline resulted from the unintentional over- or under-oxygenation of CARBOB during the loading of a cargo tank truck at the terminal or bulk plant; or

c. The gasoline was pumped out of a gasoline storage tank at a motor vehicle fueling facility for legitimate operational reasons.

2. The non-oxygenate portion of the gasoline complies with the applicable cap limits for CARBOB in section 2266.5(a)(6).

3. The resulting mixture of CARBOB has an oxygen content not exceeding 0.1 percent by weight.

a. The oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the volume of the denatured ethanol in the gasoline being added based on direct calibrated meter readings of the denatured ethanol if available, [iv] calculating weight percent oxygen of the gasoline being added from volume percent denatured ethanol based on the following formula:

$$(\text{wt.}\% \text{ oxygen}) \approx 218.8 / \{ [620 / (\text{vol.}\% \text{ deEtOH})] + 0.40 \},$$

and [v] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

b. If the meter readings described in section 2266.5(f)(1)(E)3.a.[iii] are not available, the oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the oxygen content of the gasoline on weight percent based on sampling and testing of the gasoline for denatured ethanol content in accordance with methods specified in section 2266.5(f)(1)(E)3.a. and [iv] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

c. In making the determination described in section 2266.5(f)(1)(E)3.a. or b., the oxygen content of the mixture shall be calculated based on the following formula:

$$(\text{wt. \% oxygen}) = \frac{[(\text{volume CARBOB}) * (\text{wt. \% oxygen in CARBOB}) + (\text{volume gasoline}) * (\text{wt. \% oxygen in gasoline})]}{[(\text{volume CARBOB}) + (\text{volume gasoline})]}$$

4. Prior to the mixing, the operator of the terminal or bulk plant notifies the executive officer of the following:

a. The identity and location of the facility at which the mixing will take place;

b. The operational reason for adding the gasoline into the CARBOB;

c. The projected percentage oxygen content of the mixture.

5. The terminal or bulk plant operator maintains for two years records documenting the information identified in section 2266.5(f)(1)(E)4, and makes them available to the executive officer upon request.

(2) Protocols.

(A) *Protocols covering the changeover in service of a storage tank.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully combine CARBOB with California gasoline or other CARBOB during a changeover in service of a storage tank for a legitimate operational business reason. The executive officer may only enter into such a protocol if he or she reasonably determines that combining of the two products will be minimized as much as is reasonably practical. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) *Protocols for blending transmix into CARBOB.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into CARBOB which has been supplied from its production or import facility. The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the CARBOB gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(C) *Protocols In Other Situations.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully add California gasoline or other CARBOB to CARBOB in a storage tank at a terminal or bulk plant in situations other than those identified in sections 2266.5(f)(1)(C), (D), or (E), or (f)(2)(A) or (B). The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the activity are not practical and the blending will not significantly affect the properties of the CARBOB into which the gasoline or CARBOB is added. The protocol shall include any of the conditions in section 2266.5(f)(1)(E) that the executive officer determines are necessary and appropriate. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(g) Requirements for oxygenate blenders.

(1) Registration and Certification.

(A) *Registration.* Any oxygen blender must register with the executive officer by March 1, 1996, or at least 20 days before blending oxygenates with CARBOB, whichever occurs later. Thereafter, an oxygenate blender must register with the executive officer annually by January 1. The registration must be addressed to the attention of the Chief, Compliance Division, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

(B) *Required contents of registration.* The registration must include the following:

1. The oxygen blender's contact name, telephone number, principal place of business which shall be a physical address and not a post office box, and any other place of business at which company records are maintained.

2. For each of the oxygen blender's oxygenate blending facilities, the facility name, physical location, contact name, and telephone number.

(C) *Issuance of certificate.* The executive officer shall provide each complying oxygen blender with a certificate of registration compliance no later than June 30. The certification shall be effective from no later than July 1, through June 30 of the following year. The certification shall constitute the oxygen blender's certification pursuant to Health and Safety Code section 43022.

(D) *Submittal of updated information.* Any oxygen blender must submit updated registration information to the executive officer at the address identified in section (g)(1)(A) within 30 days of any occasion when the registration information previously supplied becomes incomplete or inaccurate.

(2) *Requirement to add oxygenate to CARBOB.* Whenever an oxygenate blender receives CARBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CARBOB, the oxygenate blender must add to the CARBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CARBOB. If the documentation identifies the permitted maximum sulfur, benzene, olefin and aromatic hydrocarbon contents of the oxygenate, the oxygenate blender must add an oxygenate that does not exceed the maximum permitted levels.

(3) *Additional requirements for terminal blending.* Any oxygenate blender who makes a final blend of California reformulated gasoline by blending any oxygenate with any CARBOB in any gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bulk purchaser-consumer facilities, shall, for each such final blend, determine the oxygen content and volume of the final blend prior to its leaving the oxygen blending facility, by collecting and analyzing a representative sample of gasoline taken from the final blend, using methodology set forth in section 2263.

(h) Downstream blending of California gasoline with nonoxygenate blendstocks.

(1) *Basic prohibition.* No person may combine California gasoline which has been supplied from a production or import facility with any nonoxygenate blendstock other than vapor recovery condensate, unless the person can affirmatively demonstrate that (1) the blendstock that is added to the California gasoline meets all of the California gasoline standards without regard to the properties of the gasoline to which the blendstock is added, and (2) the person meets with regard to the blendstock all requirements in this subarticle applicable to producers of California gasoline.

(2) Exceptions.

(A) *Protocols.* Notwithstanding section (h)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into California gasoline which has been supplied from its production or import facility. The executive officer may only enter into such a protocol if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the California gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) *Blending to meet a cap limit.* Notwithstanding section (h)(1) or 2262.5(d), a person may add nonoxygenate or oxygenated blendstock to California gasoline that does not comply with one or more of the applicable cap limits contained in section 2262, where the person obtains the

prior approval of the executive officer based on a demonstration that adding the blendstock is a reasonable means of bringing the gasoline into compliance with the cap limits.

(i) *Restrictions during the RVP season on blending gasoline containing ethanol with California gasoline not containing ethanol.*

(1) *Basic prohibition.* Within each air basin during the Reid vapor pressure cap limit periods specified in section 2262.4(a)(2), no person may combine California gasoline produced using ethanol with California gasoline produced without using ethanol, unless the person can affirmatively demonstrate that: (A) the resulting blend complies with the cap limit for Reid vapor pressure set forth in section 2262, or (B) the person has taken reasonably prudent precautions to assure that the gasoline is not subject to the Reid vapor pressure cap limit either because of sections 2261(d) or (f) or 2262.4(c)(1) or (c)(3), or because the gasoline is no longer California gasoline.

(2) *Exception.* Section 2266.5(i)(1) does not apply to combining California gasolines that are in a motor vehicle's fuel tank.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 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, 43013, 43013.1, 43016, 43018, 43021 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).

HISTORY

1. New section filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
2. Editorial correction of subsection (a)(1) (Register 2000, No. 31).

3. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
4. Amendment filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
6. Amendment of subsection (h)(2) and redesignation and amendment of former subsections (h)(2)-(3) to subsections (h)(2)(A)-(B) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
7. Amendment filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).
8. Amendment of table footnotes 1 and 3 filed 9-9-2005 as an emergency; operative 9-9-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-2006 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 9-9-2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting footnotes 1 and 3 of the subsection (a)(6)(A) table identified less stringent limits for RVP during the 2005 Hurricane Katrina RVP relaxation period identified in section 2262.4.
10. Editorial amendment of HISTORY 9 (Register 2006, No. 42).
11. Amendment of subsections (a)(2)(B)1., (a)(2)(C), (a)(5)(C), (a)(6)(A), (b)(1), (b)(1)(E) and (d)(1)(B) filed 8-29-2008; operative 8-29-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 35).

§§ 13-2267—13-2293. [Removed]

HISTORY

1. Removal of sections 13-2267—13-2293 from title 26 filed 3-18-96 pursuant to Cal. Code Regs., tit. 1, section 100. For current versions or prior history, see corresponding section(s) in title 13 (Register 96, No. 12).

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