

ATTACHMENT B

ARB STAFF'S SUGGESTED MODIFICATIONS TO THE PROPOSED AMENDMENTS TO THE CARFG3 REGULATIONS

A. CHANGES PERTAINING TO THE REDUCTION OF THE CaRFG3 SULFUR CAP LIMIT FROM 60 PPM TO 30 PPM

This modification postpones, by one year, the date for the reduction of the CaRFG3 sulfur content cap limit from 60 parts per million (ppm) to 30 ppm to make it consistent with the proposed one-year delay for implementation of the other CaRFG3 gasoline specifications. Staff had intended to propose a one-year postponement of the applicable dates of all CaRFG3 cap limit compliance requirements to be consistent with the proposed one-year delay of the prohibition of MTBE. However, due to an oversight, the date for the reduction of the sulfur cap limit from 60 ppm to 30 ppm was left unchanged in the proposed regulation text.

B. CHANGES TO START OF THE RVP REGULATORY CONTROL PERIOD FOR PRODUCTION AND IMPORT FACILITIES IN THE SOUTH COAST FOR THE INITIAL TRANSITION FROM MTBE TO ETHANOL GASOLINE

The current CaRFG3 regulations delay the start of the 2003 RVP regulatory control season in the South Coast by one month to allow production and import facilities flexibility to make the transition from MTBE gasoline to ethanol gasoline and comply with RVP standards. In the proposed amendments to the CaRFG3 regulations, staff proposed to postpone the applicability of this one-time delay to 2004 to maintain that flexibility and make the date consistent with the one-year postponement of the MTBE phase-out. With this modification, staff is proposing to provide this flexibility to production and import facilities that comply with the original phase-out schedule.

C. CHANGE TO THE WINTERTIME OXYGEN REQUIREMENT FOR THE SOUTH COAST

In the CaRFG3 rulemaking, the ARB eliminated the October oxygen requirement in the South Coast area after 2002 based on a demonstration that by that time the requirement would no longer be needed to assure that attainment of the federal carbon monoxide standard is maintained in that month. October is the one month in which the summertime Reid vapor pressure standards and the wintertime oxygen requirements have overlapped. While it is less important to avoid this overlap if there is not yet an effective ethanol mandate, retaining the original phase-out of the October oxygen requirement after 2002 will provide useful flexibility for refiners, especially those who have decided to stop using MTBE sooner than will be required under the proposed amendments in this rulemaking. After the April 24, 2002 workshop, staff had intended to propose no change to the phase-out of the October oxygen requirement in the

preexisting regulations, but left the date change in the proposed regulation text due to an oversight.

**ARB STAFF'S SUGGESTED MODIFICATIONS TO THE
PROPOSED REGULATION ORDER**

**AMENDMENTS TO THE CALIFORNIA REFORMULATED GASOLINE
REGULATIONS TO POSTPONE IMPOSITION OF THE CaRFG3 STANDARDS AND
THE PROHIBITION OF MTBE AND OXYGENATES OTHER THAN ETHANOL IN
CALIFORNIA GASOLINE FROM DECEMBER 31, 2002 TO DECEMBER 31, 2003**

Note: The preexisting regulation text is set forth below in normal type. The originally proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The subsequent modifications proposed by staff are shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. Only the text containing proposed modifications is shown. Subsection headings in italics and bold are to be italicized when printed in Barclays California Code of Regulations. Commentaries explaining the rationale for modifications are shown in bracketed italics; they are not part of the regulations.

Amend title 13, California Code of Regulations, sections 2261, 2262, 2262.4, 2262.5, 2262.6, 2262.9, 2266.5, 2269, 2271, 2272, and 2296 to read as follows.

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Section 2261. Applicability of Standards; Additional Standards.

(a) Applicability of the CaRFG Phase 2 Standards.

(1) (A) Unless otherwise specifically provided, the CaRFG Phase 2 cap limit standards set forth in section 2262, and the CaRFG Phase 2 cap limit compliance requirements in sections 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply:

1. starting April 15, 1996 to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:
 - a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility,
or
 - b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and
2. starting June 1, 1996 to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(B) The remaining CaRFG Phase 2 standards and requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after March 1, 1996.

(2) The CaRFG Phase 2 cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to April 15, 1996, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to June 1, 1996.

(b) *Applicability of the CaRFG Phase 3 Standards.*

(1) (A) Unless otherwise specifically provided, the CaRFG Phase 3 cap limit standards set forth in section 2262, and the CaRFG Phase 3 cap limit compliance requirements in 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply starting December 31, ~~2002~~ 2003. The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262, and the CaRFG Phase 3 benzene and sulfur content cap limit compliance requirements in 2262.3(a), shall apply:

1. starting December 31, ~~2002~~ 2003 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and December 31, ~~2004~~ 2005 (for the 30 parts per million sulfur content cap limit), to all sales, supplies or offers of California gasoline from the production facility or import facility at which it was produced or imported.
2. starting February 14, ~~2003~~ 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and February 14, ~~2005~~ 2006 (for the 30 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:
 - a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or
 - b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and
3. starting March 31, ~~2003~~ 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and March 31, ~~2005~~ 2006 (for the 30 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(B) The remaining CaRFG Phase 3 standards and compliance requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after December 31, ~~2002~~ 2003.

(2) The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to February 14, ~~2003~~ 2004 (for the benzene content limit and the 60 parts per million sulfur content limit) or February 14, ~~2005~~ 2006 (for the 30 parts per million sulfur content limit) or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to March 31, ~~2003~~ 2004 (for the benzene content limit and the 60 parts per million sulfur content limit) or March 31, ~~2005~~ 2006 (for the 30 parts per million sulfur content limit).

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[Commentary: This modification postpones, by one year, the date for the reduction of the CaRFG3 sulfur content cap limit from 60 parts per million (ppm) to 30 ppm to make it consistent with the proposed one-year delay for implementation of the other CaRFG3 gasoline specifications. Staff had intended to propose a one-year postponement of the applicable dates of all CaRFG3 cap limit compliance requirements to be consistent with the proposed one-year delay of the prohibition of MTBE. However, due to an oversight, the date for the reduction of the sulfur cap limit from 60 ppm to 30 ppm was left unchanged in the proposed regulation text].

Section 2262. The California Reformulated Gasoline Phase 2 and Phase 3 Standards.

The CaRFG Phase 2 and CaRFG Phase 3 standards are set forth in the following table. For all properties but Reid vapor pressure (cap limit only) and oxygen content, the value of the regulated property must be less than or equal to the specified limit. With respect to The Reid vapor pressure cap limit and the oxygen content flat and cap limit, the limits are expressed as a range, and the Reid vapor pressure and oxygen content must be less than or equal to the upper limit, and more than or equal to the lower limit. A qualifying small refiner may comply with the small refiner CaRFG Phase 3 standards, in place of the CaRFG Phase 3 standards in this section, in accordance with section 2272.

The California Reformulated Gasoline Phase 2 and Phase 3 Standards

<i>Property</i>	<i>Flat Limits</i>		<i>Averaging Limits</i>		<i>Cap Limits</i>	
	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>	<i>CaRFG Phase 2</i>	<i>CaRFG Phase 3</i>
Reid Vapor Pressure ¹ (pounds per square inch)	7.00	7.00 or 6.90 ²	Not Applicable	Not Applicable	7.00 ³	6.40 - 7.20
Sulfur Content (parts per million by weight)	40	20	30	15	80	60 ⁴
						30 ⁴
Benzene Content (percent by volume)	1.00	0.80	0.80	0.70	1.20	1.10
Aromatics Content (percent by volume)	25.0	25.0	22.0	22.0	30.0 ³	35.0
Olefins Content (percent by volume)	6.0	6.0	4.0	4.0	10.0	10.0
T50 (degrees Fahrenheit)	210	213	200	203	220	220
T90 (degrees Fahrenheit)	300	305	290 ⁵	295	330	330
Oxygen Content (percent by weight)	1.8 - 2.2	1.8 - 2.2	Not Applicable	Not Applicable	1.8 ⁶ - 3.5	1.8 ⁶ -3.5 ⁷
					0 ⁶ - 3.5	0 ⁶ - 3.5 ⁷
Methyl tertiary-butyl ether (MTBE) and oxygenates other than ethanol	Not Applicable	Prohibited as provided in § 2262.6	Not Applicable	Not Applicable	Not Applicable	Prohibited as provided in § 2262.6

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

² The 6.90 pounds per square inch (psi) standard flat limit applies only when a producer or importer is using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model, in which case all predictions for evaporative emissions increases or decreases made using the evaporative emissions model are made relative to 6.90 psi and the gasoline may not exceed the maximum RVP cap limit of 7.2 psi. Where the evaporative emissions model element of the CaRFG Phase 3 Predictive Model is not used, the RVP of gasoline sold or supplied from the production or import facility may not exceed 7.0 psi.

³ For sales, supplies, or offers of California gasoline downstream of the production or import facility starting on the date on which early compliance with the CaRFG Phase 3 standards is permitted by the executive officer under Modifications as of July 24, 2002

section 2261(b)(3), the CaRFG Phase 2 cap limits for Reid vapor pressure and aromatics content shall be 7.20 psi and 35.0 percent by volume respectively.

4 The CaRFG Phase 3 sulfur content cap limits of 60 and 30 parts per million are phased in starting December 31, ~~2002~~ 2003, and December 31, ~~2004~~ 2005, respectively, in accordance with section 2261(b)(1)(A).

5 Designated alternative limit may not exceed 310.

6 The 1.8 percent by weight minimum oxygen content cap only applies during specified winter months in the areas identified in section 2262.5(a).

7 If the gasoline contains more than 3.5 percent by weight oxygen but no more than 10 volume percent ethanol, the maximum oxygen content cap is 3.7 percent by weight.

NOTE: Authority cited: sections 39600, 39601, 43013, 43013.1, 43018, 43101, and 43830, 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, 43101, 43830, and 43830.8, 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).

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[Commentary: The modification of the starting date for the phase-in of the 30 ppm sulfur cap limit reflects the modifications in section 2261(b)(1) and 2261(b)(2).]

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Section 2262.4. Compliance With the CaRFG Phase 2 and CaRFG Phase 3 Standards for Reid Vapor Pressure.

(a) *Compliance with the cap limits for Reid vapor pressure.*

(1) No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which exceeds the applicable cap limit for Reid vapor pressure within each of the air basins during the regulatory period set forth in section (a)(2).

(2) *Regulatory Control Periods.*

(A) *April 1 through October 31 (May 1 through October 31 in ~~2003~~ 2003 and 2004):*

South Coast Air Basin and Ventura County

San Diego Air Basin

Mojave Desert Air Basin

Salton Sea Air Basin

(B) *May 1 through September 30:*

Great Basin Valley Air Basin

(C) *May 1 through October 31:*
San Francisco Bay Area Air Basin
San Joaquin Valley Air Basin
Sacramento Valley Air Basin
Mountain Counties Air Basin
Lake Tahoe Air Basin

(D) *June 1 through September 30:*
North Coast Air Basin
Lake County Air Basin
Northeast Plateau Air Basin

(E) *June 1 through October 31:*
North Central Coast Air Basin
South Central Coast Air Basin (Excluding Ventura County)

(b) *Compliance by producers and importers with the flat limit for Reid vapor pressure.*

(1) ***Reid vapor pressure standard for producers and imports.*** In an air basin during the regulatory control periods specified in section (b)(2), no producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has a Reid vapor pressure exceeding the applicable flat limit set forth in section 2262 unless the gasoline is supplied from the production or import facility on or after March 1, ~~2003~~ 2004 and has been reported as a PM alternative gasoline formulation pursuant to section 2265(a).

(2) ***Regulatory control periods for production and import facilities.***

(A) *March 1 through October 31 (April 1 through October 31 in 2003, for early compliance with the Phase 3 Standards before December 31, 2003 under section 2261(b)(3); April 1 through October 31 in 2003 2004 only for compliance with the December 31, 2003 deadline):*
South Coast Air Basin and Ventura County
San Diego Air Basin
Mojave Desert Air Basin
Salton Sea Air Basin

(B) *April 1 through September 30:*
Great Basin Valley Air Basin

(C) *April 1 through October 31:*
San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin
Sacramento Valley Air Basin
Mountain Counties Air Basin
Lake Tahoe Air Basin

(D) *May 1 through September 30:*

North Coast Air Basin
~~North Central Coast Air Basin~~
Lake County Air Basin
Northeast Plateau Air Basin

(E) *May 1 through October 31:*

North Central Coast Air Basin
South Central Coast Air Basin (Excluding Ventura County)
~~North Coast Air Basin~~

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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, 43101, 43830, and 43830.8, 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).

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[Commentary: The current CaRFG3 regulations delay the start of the 2003 RVP regulatory control season in the South Coast by one month to allow production and import facilities flexibility to make the transition from MTBE gasoline to ethanol gasoline and comply with RVP standards. In the proposed amendments to the CaRFG3 regulations, staff proposed to postpone the applicability of this one-time delay to 2004 to maintain that flexibility and make the date consistent with the one-year postponement of the MTBE phase-out. With this modification, staff is proposing to provide this flexibility to production and import facilities that comply with the original phase-out schedule.]

Section 2262.5. Compliance With the Standards for Oxygen Content.

(a) *Compliance with the minimum oxygen content cap limit standard in specified areas in the wintertime.*

(1) Within the areas and periods set forth in section (a)(2), no person shall sell, offer for sale, supply, offer for supply, or transport California gasoline unless it has an oxygen content of not less than the minimum oxygen content cap limit in section 2262.

(2) (A) *November 1 through February 29:*

South Coast Area

Imperial County

(B) *October 1 through October 31, (1996 through ~~2002~~ ~~2003~~ 2002 only):*

South Coast Area

* * * *

[Commentary: In the CaRFG3 rulemaking, the ARB eliminated the October oxygen requirement in the South Coast area after 2002 based on a demonstration that by that time the requirement would no longer be needed to assure that attainment of the federal carbon monoxide standard is maintained in that month. October is the one month in which the summertime Reid vapor pressure standards and the wintertime oxygen requirements have overlapped. While it is less important to avoid this overlap if there is not yet an effective ethanol mandate, retaining the original phase-out of the October oxygen requirement after 2002 will provide useful flexibility for refiners, especially those who have decided to stop using MTBE sooner than will be required under the proposed amendments in this rulemaking. After the April 24, 2002 workshop, staff had intended to propose no change to the phase-out of the October oxygen requirement in the preexisting regulations, but left the date change in the proposed regulation text due to an oversight.]