ATTACHMENT A:

FINAL REGULATION ORDER

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FINAL REGULATION ORDER

REGULATION ON COMMERCIALIZATION OF ALTERNATIVE DIESEL FUELS

Amend sections 2290, 2291, and 2293; renumber sections 2293 and 2293.5; adopt new sections 2293, 2293.1, 2293.2, 2293.3, 2293.4, 2293.5, 2293.6, 2293.7, 2293.8, 2293.9, and Appendix 1; and create new subarticles 1, 2, and 3, in title 13, chapter 5, article 3, California Code of Regulations, to read as follows:

[Note: The entire text of sections 2293, 2293.1, 2293.2, 2293.3, 2293.4, 2293.5, 2293.6, 2293.7, 2293.8, 2293.9, and Appendix 1 is new language. Existing sections 2290, 2291, 2292.1, 2292.2, 2292.3, 2292.4, 2292.5, 2292.6, and 2292.7 would be grouped as indicated under new subarticle 1 (Specifications for Current Alternative Motor Vehicle Fuels) and sections 2290 and 2291 would be revised as indicated. Existing sections 2293 and 2293.5 would be revised as indicated, renumbered to 2294 and 2295, and grouped as indicated under new subarticle 3 (Ancillary Provisions). The new and revised regulatory text is shown in underline to indicate addition to existing regulations and ~~strikeout~~ to show deletions from existing regulations. Sections within the article that are unchanged are shown with the symbol *****.]

Chapter 5. Standards for Motor Vehicle Fuels

Article 3. Specifications for Alternative Motor Vehicle Fuels

Subarticle 1. Specifications for Alternative Motor Vehicle Fuels

§2290. Definitions.

(a) For the purposes of this ~~article~~subarticle, the following definitions apply:

(1) "Alternative fuel" means any fuel which is commonly or commercially known or sold as one of the following: M-100 fuel methanol, M-85 fuel methanol, E-100 fuel ethanol, E-85 fuel ethanol, compressed natural gas, liquefied petroleum gas, or hydrogen.
(2) "ASTM" means the American Society for Testing Materials.
(3) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.
(4) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2291. Basic Prohibitions.

(a) Starting January 1, 1993, no person shall sell, offer for sale or supply an alternative fuel intended for use in motor vehicles in California unless it conforms with the applicable specifications set forth in this ~~article 3~~subarticle.

(b) An alternative fuel shall be deemed to be intended for use in motor vehicles in California if it is:

(1) stored at a facility which is equipped and used to dispense that type of alternative fuel to motor vehicles, or

(2) delivered or intended for delivery to a facility which is equipped and used to dispense that type of alternative fuel to motor vehicles, or

(3) sold, offered for sale or supplied to a person engaged in the distribution of motor vehicle fuels to motor vehicle fueling facilities, unless the person selling, offering or supplying the fuel demonstrates that he or she has taken reasonably prudent precautions to assure that the fuel will not be used as a motor vehicle fuel in California.

(c) For the purposes of this section, each retail sale of alternative fuel for use in a motor vehicle, and each supply of alternative fuel into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such alternative fuel in violation of this section.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.1 Fuels Specifications for M100 Fuel Methanol.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.2 Specifications for M-85 Fuel Methanol.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.3 Specifications for E-100 Fuel Ethanol.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.4 Specifications for E-85 Fuel Ethanol.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.5 Specifications for Compressed Natural Gas.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.6 Specifications for Liquefied Petroleum Gas.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§2292.7 Specifications for Hydrogen.

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Note: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

Subarticle 2. Commercialization of Alternative Diesel Fuels

§2293. Purpose.

The purpose of this regulation is to establish a comprehensive, multi-stage process governing the commercialization of alternative diesel fuels (ADF) in California, ranging from the initial limited sales of an ADF while it undergoes a screening evaluation; through expanded sales governed by enhanced monitoring, testing, and multimedia evaluations; and ending with full-scale commercial sales as warranted. This regulation is intended to foster the introduction and use of innovative ADFs in California while preserving or enhancing public health, the environment and the emissions benefits of the existing motor vehicle diesel fuel regulations.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, 43865, 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).

§2293.1. Basic Prohibitions.

(a) Starting January 1, 2016, no person shall sell, offer for sale or supply an ADF for use in California unless that person is in compliance with this subarticle and with the terms of any approved and current Executive Order issued under section 2293.5 that is applicable to the person or the ADF.

(b) For the purposes of this subarticle, each retail sale of ADF for use in a motor vehicle and each supply of ADF into a motor vehicle fuel tank constitutes a separate sale or supply by each and every person who previously sold or supplied such ADF in violation of this subarticle.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018 and 43101, 43865, 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).

§ 2293.2. Definitions.

(a) For the purposes of this subarticle, the definitions in Health and Safety Code sections 39010 through 39060 shall apply, except as otherwise specified in this subarticle. The following definitions shall also apply to this subarticle:

(1) "Alternative Diesel Fuel" or "ADF" means any fuel used in a compression ignition engine that is not petroleum-based, does not consist solely of hydrocarbons, and is not subject to a specification under subarticle 1 of this article.

(2) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats that is 99-100 percent biodiesel by volume (B100 or B99) and meets the specifications set forth by ASTM International in the latest version of *Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels* D6751 contained in the ASTM publication entitled: Annual Book of ASTM Standards, Section 5, as defined in California Code of Regulations, title 4, section 4140(a), which is hereby incorporated by reference.

(3) "Biodiesel Blend" means biodiesel blended with CARB diesel.

(4) "Blend Level" means the ratio of an ADF to the CARB diesel it is blended with, expressed as a percent by volume. The blend level may also be expressed as "AXX," where "A" represents the particular ADF and "XX" represents the percent by volume that ADF is present in the blend with CARB diesel (e.g., a 20 percent by volume biodiesel/CARB diesel blend is denoted as "B20").

(5) "Blendstock" means a component that is either used alone or is blended with another component(s) to produce a finished fuel used in a motor vehicle. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.

(6) "B5" means a biodiesel blend containing no more than five percent biodiesel by volume.

(7) “B20” means a biodiesel blend containing more than five and no more than 20 percent biodiesel by volume.

(8) “Candidate ADF” means a fuel that is in the Stage 1 or Stage 2 evaluation process in this subarticle.

(9) “CARB Diesel” means a light or middle distillate fuel that may be comingled with up to five (5) volume percent biodiesel and meets the definition and requirements for “diesel fuel” or “California nonvehicular diesel fuel” as specified in California Code of Regulations, title 13, section 2281 et seq. “CARB diesel” may include: renewable hydrocarbon diesel; gas-to-liquid fuels; Fischer-Tropsch diesel; diesel fuel produced from renewable crude; CARB diesel blended with additives specifically formulated to reduce emissions of one or more criteria or toxic air contaminants relative to reference CARB diesel; and CARB diesel specifically formulated to reduce emissions of one or more criteria or toxic air contaminants relative to reference CARB diesel.

(10) “Criteria Pollutant” means any air pollutant for which a California ambient air quality standard (CAAQS) or a national ambient air quality standard (NAAQS) has been established.

(11) “Executive Officer” means the Executive Officer of the Air Resources Board, or his or her designee.

(12) “Executive Order” or “EO” means a document signed by the Executive Officer or his or her designee under this subarticle that: a) provides an exemption from in-use requirements, b) approves a formulation under the certification procedures as an equivalent CARB diesel formulation, or c) specifies the stage at which a regulated party(ies) for an ADF or candidate ADF is or will be operating under. An Executive Order includes any enforceable terms, conditions, and requirements that the regulated party(ies) must meet in order to sell, offer for sale, or supply that ADF or candidate ADF for use in California.

(13) “Finished Fuel” means a fuel that is used directly in a vehicle for transportation purposes without requiring additional chemical or physical processing.

(14) “Fuel Blender” means any person who blends an ADF with another fuel.

(15) “Hydrocarbon” means any homogeneous mixture with elemental composition primarily of hydrogen and carbon that may contain residual impurities.

(16) “Importer” has the same meaning as defined in the Low Carbon Fuel Standard regulation at California Code of Regulations, title 17, section 95481(a).

(17) “Multimedia Evaluation” has the same meaning as defined in California Health and Safety Code section 43830.8(b).

(18) “New Technology Diesel Engine” or “NTDE” means a diesel engine that meets at least one of the following criteria:

(A) Meets 2010 ARB emission standards for on-road heavy duty diesel engines under section 1956.8.

(B) Meets Tier 4 emission standards for non-road compression ignition engines under sections 2421, 2423, 2424, 2425, 2425.1, 2426, and 2427.

(C) Is equipped with or employs a Diesel Emissions Control Strategy (DECS), verified by ARB pursuant to section 2700 et seq., which uses selective catalytic reduction to control Oxides of Nitrogen (NOx).

(19) “Offsetting Factors” means any factors in the commercial market that serve to offset the emissions of a pollutant from the use of an ADF. Offsetting factors may include, but are not limited to, the use of:

(A) Specific vehicle technologies such as NTDEs that have been proven to reduce emissions of the pollutant;

(B) Fuels that reduce emissions of the pollutant; and

(C) Feedstocks that have been shown to reduce or eliminate increases in the pollutant.

(20) “Person” has the same meaning as defined in California Health and Safety Code section 39047 and includes, but is not limited to, ADF producers, importers, marketers and blenders. “Person” includes the plural when two or more persons are subject to an Executive Order executed or an interim or final fuel specification issued pursuant to the requirements of this subarticle.

(21) “Pollutant Control Level” means a blend level of an ADF above which per gallon in-use requirements have been established by regulation to ensure there will be no increases in one or more criteria pollutants when compared to emissions from Reference CARB Diesel.

(22) “Potential Adverse Emissions Impacts” means for any given ADF or ADF blend, any criteria pollutant for which testing during a multimedia evaluation results in statistically significant increases of that criteria pollutant above an appropriate baseline for that ADF.

(23) “Producer” has the same meaning as defined in the Low Carbon Fuel Standard regulation at California Code of Regulations, title 17, section 95481(a).

(24) "Reference CARB Diesel" means "reference fuel" as defined in section 2282(g)(3).

(25) "Renewable hydrocarbon diesel" means a diesel fuel that is produced from nonpetroleum renewable resources but is not a mono-alkyl ester and which is registered as a motor vehicle fuel or fuel additive under 40 Code of Federal Regulations part 79.

(26) "Toxic Air Contaminant" means any substance identified or designated by the Air Resources Board as a toxic air contaminant pursuant to California Health and Safety Code section 39657, or is designated as a hazardous air pollutant under section 112 of the federal Clean Air Act (42 U.S.C. § 7412).

(27) "Trade Secret" has the same meaning as defined in California Government Code section 6254.7.

(b) List of Acronyms and Abbreviations

AAQS	Ambient Air Quality Standards
ADF	Alternative Diesel Fuel or Fuels
API	American Petroleum Institute
ARB or Board	California Air Resources Board
ASTM	ASTM International formerly known as American Society for Testing and Materials
CCR	California Code of Regulations
CI	Carbon Intensity
EO	Executive Order
EmFAC	ARB's Emission (Em) Factors (FAC) Model
FAME	Fatty Acid Methyl Esters
GVWR	Gross Vehicle Weight Rating
H&SC	California Health and Safety Code
LRT	Low Carbon Fuel Standard Reporting Tool
MMWG	Multimedia Working Group
NOx	Oxides of Nitrogen
NTDE	New technology diesel engines
PM	Particulate Matter
ppm	Parts per Million
U.S. EPA	U.S. Environmental Protection Agency

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121

Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018 and 43101, 43830.8, 43865, 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).

§2293.3. Exemptions.

This subarticle does not apply to any of the following, as specified:

(a) Fuels that have a specification under subarticle 1 of this article (commencing with section 2292);

(b) CARB diesel blends comprised solely of CARB diesel and one or more diesel additives comprising in the aggregate no more than 1.0 percent by volume of the CARB diesel blend. This exemption does not apply to additives used pursuant to the in use requirements specified in Appendix 1;

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, 43865, 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).

§2293.4. General Requirements Applicable to All ADFs.

Starting January 1, 2016, any person who sells, offers for sale or supplies an ADF for use in motor vehicles in California must first meet the requirements in this subarticle and must also:

(a) Have the ADF registered with U.S. EPA under 40 Code of Federal Regulations part 79.

(b) Meet all applicable regulatory requirements of the California Department of Food and Agriculture (including, but not limited to, those in Cal. Code Regs., tit. 4, §§ 4140—4148, 4200, and 4202—4205).

(c) Meet all other applicable local, State, and federal requirements.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, 43865, 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).

§2293.5. Phase-In Requirements.

[Note: The goal of this comprehensive process is to foster the introduction of new, lower polluting ADF fuels by allowing the limited sales of innovative ADFs in stages while emissions, performance, and environmental impacts testing is conducted. This testing is intended to develop the necessary real-world information to quantify the environmental and human health benefits from using new ADFs, determine whether these fuels have adverse environmental impacts relative to conventional CARB diesel, and identify any vehicle/engine performance issues such fuels may have.]

An ADF that has not been approved for commercialized sales under subsection (c) for Stage 3A fuels or subsection (d) for Stage 3B fuels may only be sold, offered for sale, or supplied for use in motor vehicles in California pursuant to an approved Executive Order (EO) for candidate ADF issued under subsection (a) for a Stage 1 pilot program or under subsection (b) for a Stage 2 ADF.

(a) Stage 1: Pilot Program.

[Note: The purpose of this stage is to allow limited, small fleet use of innovative fuels while requiring screening tests and assessments to quickly determine whether there will be unreasonable potential impacts on air quality, the environment and vehicular performance. Such data will help inform more extensive testing and analysis to be conducted in Stage 2. This Stage 1 is modeled after the existing ARB regulation that provides limited, fuel test program exemptions under 13 CCR 2259.]

(1) Stage 1 Application.

A person seeking a Stage 1 Executive Order (EO) for an ADF must submit an application to the Executive Officer that includes all the following information:

(A) Expected program duration, not to exceed one year except as provided in section 2293.5(a)(4) below;

(B) An estimate of the maximum number of vehicles or engines, engine certification levels, and vehicle types (e.g. urban bus, refuse hauler, line haul truck) involved in the program;

(C) The estimated mileage duration per vehicle involved in this stage;

(D) The quantity of fuel expected to be used in the pilot program, not to exceed the energy equivalent of one million gallons (approximately 35 million megajoules) of diesel fuel per year, per ADF total;

(E) The site(s) in which the testing during this stage will be conducted (including the street address, city, county, and zip code);

(F) The manner in which the distribution pumps will be labeled to ensure proper use of the test fuel and meet California's fuel labeling requirement in accordance with California Business and Professions Code, section 13480(a);

(G) The name, address, telephone number, title of the person(s) and the name of the company or organization requesting entry into a Stage 1 pilot program; and

(H) If different from the information in (G) above, the name, address, telephone number and title of the person(s) and the name of the company or organization responsible for recording and making the information specified above available to the Executive Officer and the location in which such information will be maintained.

(I) Chemical and physical properties of the candidate ADF: complete chemical speciation, Chemical Abstract Services (CAS) numbers (if available), density, energy content, vapor pressure, oxidative potential, distillation curve, log K_{ow} (water-octanol partition coefficient), and Henry's law coefficient.

(J) Environmental information about the ADF: Material Safety Data Sheet(s) (MSDS) for all components of the candidate ADF, production process diagram, identification of potential human health or environmental effects, lifecycle flow diagram (including all stages of the process-raw material extraction, manufacturing, distribution, use and disposal including all intervening transportation steps), and potential release scenarios during production (including by-products), transportation and use.

(K) A statement whether the fuel will be blended with diesel, whether it can be used as a neat fuel, or whether it can be used either way.

(L) Plan for commercialization under this regulation.

(M) Emissions testing completed on criteria pollutants.

(N) Attestation that the vehicles to be used in the pilot program are owned by the applicant or the applicant has received written consent from their owners.

(O) The vehicle identification number (VIN) of each vehicle participating in the pilot program, if known.

(P) Affirmative statement that the owner(s) of all vehicles to be used in the applicant's pilot program are aware of any possible warranty issues that may arise from the use of the candidate ADF or candidate ADF/CARB diesel blend in their engines.

(Q) One of the following:

1. A declaration that a fuel standard has been approved for the ADF pursuant to Chapter 14 of the Business and Professions Code (section 13400 et seq.); or if no such standard exists,

2. A copy of the developmental fuel variance application that the applicant has submitted to the California Department of Food and Agriculture pursuant to Business and Professions Code section 13405 and proof of its approval, and a declaration that,

a. The requirements of Business and Profession Code sections 12001– 13800 other than those pertaining to fuel quality have been met, and

b. The California Department of Food and Agriculture received a copy of the application required to be submitted under 13 CCR 2293.5.

(R) Proof that the candidate fuel complies with the U.S. Environmental Protection Agency requirements at 40 CFR 79.

(S) It is the responsibility of the applicant to identify any specific portion of the information submitted above as trade secret. Any such trade secret information identified by the applicant shall be treated pursuant to 17 CCR 91000—91022 and the California Public Records Act (Government Code section 6250 et seq.).

(2) Stage 1 Application Completeness Determination.

(A) After receiving a pilot program application, the Executive Officer shall advise the applicant in writing within 30 business days either that the application is complete or that specified additional information is required to make it complete.

(B) After receiving the additional information required under (A), the Executive Officer shall advise the applicant in writing within 15 business days either that the application is complete or that specified additional information is still required to make it complete.

(C) If additional information is required and not received within 60 business days the application will be deemed incomplete.

(3) Public Comment and Final Action on a Stage 1 Application.

(A) After deeming an application complete, the Executive Officer shall post the application on ARB's internet web site for 30 business days for public

comments. Only comments related to potential factual or methodological errors or the candidate ADF's impacts to public health or the environment may be considered by the Executive Officer. Within 30 business days, the applicant shall either make revisions to its application and submit those revisions to the Executive Officer, or submit a detailed written response to the Executive Officer explaining why no revisions are necessary.

(B) Within 30 business days of receiving the applicant's response to the public comments under (A), the Executive Officer shall either approve or disapprove the pilot program. The Executive Officer shall notify the applicant of his/her decision in writing and provide, if the application is denied, the reasons for the denial.

(C) The Executive Officer shall disapprove a proposed pilot program if he/she determines the use of the candidate ADF, under the terms and conditions of the pilot program as proposed, poses substantial risk to the community in which the pilot program is proposed to be conducted, presents risks that substantially outweigh the putative benefits of using the candidate ADF, or may cause a significant adverse impact on the environment.

(D) No approval of a pilot program shall be effective without an approved Executive Order (EO) executed between the Executive Officer and the applicant(s). The EO shall include terms and conditions that the applicant must meet in order to provide the candidate ADF fuel in California during the term of the EO. The terms and conditions shall be based on the information specified in section 2293.5(a) above, as well as the following:

1. Any additional information the Executive Officer determines is necessary to fill in data gaps that may have been identified during the application process;

2. Additional toxicity and other testing the Executive Officer determines is necessary and appropriate to better characterize any substance in the candidate ADF;

3. Evidence of substantial progress in working in good faith with the original equipment/engine manufacturers of the engines involved in the EO, consensus standards organizations (e.g., ASTM), regulatory agencies, and other interested parties toward developing a consensus set of fuel specifications for the candidate ADF; and

4. The use of adequate controls to ensure appropriate fuel quality and performance in consideration of vehicle performance, impact on the environment and fuel production. Appropriate controls include but are not limited to the use of interim fuel specifications and consensus standards.

(4) Operation under a Stage 1 EO.

(A) For the duration of the EO, the applicant must meet all the terms and conditions specified therein;

(B) The Executive Officer may terminate or modify a EO, with 30 business days written notice to the applicant(s), for failure of the applicant(s) to comply with any of the terms and conditions of the EO, failure to comply with any other applicable provision in this subarticle, or for good cause. Good cause includes, but is not limited to, a determination by the Executive Officer that the information submitted in the application was inaccurate or incomplete or that the use of the ADF, under the terms and conditions of the approved pilot program, may pose an unacceptable risk to the community in which the pilot program is being conducted, or its risks substantially outweigh the putative benefits of using the candidate ADF;

(C) The Executive Officer shall not revoke or modify an approved Stage 1 EO without first affording the applicant an opportunity for a hearing in accordance with 17 CCR 60040 et seq., but the Executive Officer may temporarily suspend an EO without a hearing and prior to revocation or modification if the Executive Officer determines that continued operations under the EO may adversely affect human health;

(D) In the event an applicant cannot complete an approved pilot program within the allotted time, the applicant(s) may request a six month extension, renewable up to three times; and

(E) Upon successful completion of the pilot program, the applicant(s) may submit an application for a Stage 2 EO, as specified in section 2293.5(b) below.

(b) Stage 2: Development of Fuel Specification.

[Note: The purpose of this stage is to allow limited but expanded fleet use of an ADF that has successfully undergone the Stage 1 pilot program. Stage 2 candidate ADFs undergo additional emissions and performance testing to better characterize potential impacts on air quality, the environment and vehicular performance. This testing and assessment will be conducted pursuant to a formal multimedia evaluation leading to the development of a fuel specification, as appropriate. Further, the multimedia evaluation will be the basis for determining whether the candidate ADF has potential adverse emissions impacts. The determination of potential adverse emissions impacts determines whether the candidate ADF can proceed to Stage 3A or Stage 3B.]

A person who has successfully completed a Stage 1 pilot program for a candidate ADF under subsection (a) may apply for a Stage 2 EO for that candidate ADF.

(1) Stage 2 Application.

An applicant for Stage 2 must submit an application to the Executive Officer that includes all the following information:

(A) Planned duration for this stage, not to exceed one year, renewable up to four times or as otherwise provided in section 2293.5(b)(4);

(B) An estimate of the maximum number of vehicles or engines, engine certification levels, and vehicle types (e.g. urban bus, refuse hauler, line haul truck) involved in this stage along with a description of the emissions control technology;

(C) The estimated mileage duration per vehicle involved in this stage;

(D) The quantity of the candidate ADF fuel expected to be used in this stage, not to exceed the energy equivalent of 30 million gallons of diesel fuel per year;

(E) The site(s) in which the testing during this stage will be conducted (including the street address, city, county, and zip code);

(F) Any changes or updates to the information submitted under section 2293.5(a)(1)(F)—(S) to reflect the expanded scope of vehicles, locations, fuel volume, timeframe, and other aspects of operation under Stage 2. For each of these items, the applicant must specify whether there has been no change or update, or if there has been a change or update, what that change or update is; and

(G) Identification of the test lab and principal investigator, including his/her curriculum vitae, who will be conducting the multimedia evaluation for the candidate ADF.

(H) It is the responsibility of the applicant to identify any specific portion of the information submitted above as trade secret. Any such trade secret information identified by the applicant shall be treated pursuant to 17 CCR 91000—91022 and the California Public Records Act (Government Code section 6250 et seq.).

(2) Stage 2 Application Completeness Determination

(A) After receiving a Stage 2 application, the Executive Officer shall advise the applicant in writing within 30 business days either that the application is complete or that specified additional information is required to make it complete;

(B) After receiving the additional information required under (A), the Executive Officer shall advise the applicant in writing within 15 business days either that

the application is now complete or that specified additional information is still required to make it complete.

(C) If additional information is required and not received within 60 business days the application will be deemed incomplete.

(3) Public Comment and Final Action on a Stage 2 Application

(A) After deeming an application complete, the Executive Officer shall post the application on ARB's internet web site for 30 business days for public comments. Only comments related to potential factual or methodological errors or information regarding vehicle performance or the candidate ADF's impacts to public health or the environment may be considered by the Executive Officer. Within 30 business days, the applicant shall either make revisions to its application and submit those revisions to the Executive Officer, or submit a detailed written response to the Executive Officer explaining why no revisions are necessary;

(B) Within 30 business days of receiving the applicant's response to the public comments under (A), the Executive Officer shall either approve or disapprove the Stage 2 application. The Executive Officer shall notify the applicant of his/her decision in writing and provide, if the application is denied, the reasons for the denial;

(C) The Executive Officer shall disapprove a proposed pilot program if he/she determines the use of the ADF, under the terms and conditions of the Stage 2 program as proposed, poses substantial risk to the community(ies) in which the program is proposed to be conducted, presents risks that substantially outweigh the putative benefits of using the ADF, or may cause a significant adverse impact on the environment;

(D) No approval of a Stage 2 program shall be effective without an approved Executive Order (EO) executed between the Executive Officer and the applicant(s). The EO shall include terms and conditions that the applicant must meet in order to provide the ADF fuel in California during the term of the EO. The terms and conditions shall be based on the information specified in section 2293.5(b)(1) above, as well as the following:

1. Any additional information requested in writing by the Executive Officer to fill in data gaps that may have been identified during the application process;

2. Additional toxicity and other testing the Executive Officer determines is necessary and appropriate to better characterize any substance in the ADF;

3. Substantial progress in working in good faith with the original equipment/engine manufacturers of the engines involved in the EO, consensus standards organizations (e.g., ASTM), regulatory agencies, and other interested parties toward developing a consensus set of fuel specifications for the ADF. These efforts must culminate in adoption of consensus standards by the end of the Stage 2 EO.

(4) Operation under a Stage 2 EO

(A) For the duration of the EO, the applicant must meet all the terms and conditions specified therein;

(B) The Executive Officer may terminate or modify a EO, with 30 business days written notice to the applicant(s), for failure of the applicant(s) to comply with any of the terms and conditions of the EO, failure to comply with any other applicable provision in this subarticle, or for good cause. Good cause includes, but is not limited to, a determination by the Executive Officer that the information submitted in the application was inaccurate or incomplete or that the use of the ADF, under the terms and conditions of the approved Stage 2 program, may pose an unacceptable risk to the community in which the Stage 2 program is being conducted, or its risks substantially outweigh the putative benefits of using the ADF;

(C) In the event an applicant cannot complete an approved Stage 2 program within the allotted time, the applicant(s) may request a 1 year extension, renewable up to four times. The Executive Officer may provide additional extensions due to delays in completion of a multimedia evaluation, adoption of the applicable consensus standards, or for other good cause;

(D) Upon successful completion of the Stage 2 program, the applicant(s) may sell, offer for sale, or supply an ADF intended for use in motor vehicles in California pursuant to either Stage 3A or 3B, whichever applies, as specified in section 2293.5(c) or (d) below.

(5) Multimedia Evaluation and Determination of Potential Adverse Impacts

(A) All applicants with an approved Stage 2 EO shall conduct a multimedia evaluation of the ADF that complies with Health and Safety Code section 43830.8 and all requirements of this subsection. Each applicant shall;

1. Submit and obtain Executive Officer approval of a Tier I Report that provides all available background information on the fuel and identifies potential adverse impacts to public health or the environment, key risk assessment elements, and key knowledge gaps pertaining to impacts from the production, use, or disposal of the fuel;

2. If one or more key knowledge gaps are identified in the Tier I Report, submit and obtain Executive Officer approval of a Tier II Report that provides the risk assessment design, including experimental test protocols and documents, to address the key knowledge gaps;

3. Complete the risk assessment and submit and obtain Executive Officer approval of a Tier III Report that includes the results of the assessment, an analysis of any significant adverse impacts on public health or the environment, and conclusions; and

4. Provide any additional information or analysis that the Executive Officer determines is necessary to address comments or concerns raised by the multimedia working group comprised of agencies described in Health and Safety Code section 43830.8(g), by peer reviewers asked to review the multimedia evaluation, or by the California Environmental Policy Council established pursuant to the Public Resources Code section 71017(b).

(B) The multimedia evaluation shall identify and evaluate any significant adverse impact on public health or the environment, including air, water, or soil, that may result from the production, use, or disposal of the ADF, under Stage 2, Stage 3A, or Stage 3B, relative to an appropriate baseline identified by the Executive Officer in consultation with the multimedia working group. The evaluation shall address all impacts listed in Health and Safety Code section 43830.8(c); any other impacts specified by the Executive Officer; and any additional impacts identified during preparation of Tier I, Tier II, or Tier III reports.

(C) In addition to determining any significant impacts, the multimedia assessment shall also include an evaluation of potential strategies that may reduce or eliminate each of the significant impacts identified;

(D) If the findings from the multimedia evaluation show a statistically significant increase in any criteria, toxic, or other air pollutant from the use of an ADF in motor vehicles, compared to the baseline, the Executive Officer shall determine whether there is a level below which the use of a candidate ADF or a candidate ADF blend would avoid a detrimental impact on ambient air quality.

(6) Completion of Stage 2

A person operating under a Stage 2 EO may qualify for commercial sales of the ADF under section 2293.5(c) for Stage 3A or section 2293.5(d) for Stage 3B if the Executive Officer determines in writing that the person has successfully completed the requirements of Stage 2.

(A) To successfully complete Stage 2, the applicant must meet all the following requirements:

1. Comply with all requirements specified in the approved Stage 2 EO;

2. Adopt consensus standards applicable to the ADF;

3. Obtain approval of at least 75 percent of compression ignition engine original equipment manufacturers for which the ADF is expected or intended to be used. Such approval must represent approval of the ADF blend levels expected or intended to be used in those engines;

4. Identify appropriate fuel specifications or in-use requirements for the ADF identified as part of the multimedia evaluation conducted according to the provisions of this article;

5. Upon request, provide additional information or data necessary for ARB to review the potential environmental effects of Stage 3A or 3B commercial sales that may be required under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) or other laws; and

6. Obtain a written determination by the Executive Officer that all the above requirements have been met.

(B) In the event the Executive Officer makes a determination of potential adverse emissions impacts under section 2293.5(b)(5)(D), the Executive Officer shall post notice on the ARB website of his/her intent to initiate an evaluation to determine whether the use of a candidate ADF or candidate ADF blend~~s~~ would lead to adverse emissions impacts considering the existence of offsetting factors, and if such impacts are found, to develop and establish appropriate fuel specifications and/or in-use requirements to be added to section 2293.6 or 2293.7, as appropriate.

(c) Stage 3 Evaluation: Commercial Sales

In the event the Executive Officer determines that a candidate ADF or candidate ADF blend has potential adverse emissions impacts, the Executive Officer shall direct ARB staff to conduct an evaluation to consider the effects of offsetting factors and the resultant impact that the use of the candidate ADF will have on criteria, toxic, or other air pollutants and resultant effect on air quality.

(1) If the Executive Officer determines that no adverse emissions impact will occur as a result of the use of a candidate ADF or candidate ADF blend when considering offsetting factors, the candidate ADF or ADF blend shall then be subject to the provisions of Stage 3B in section 2293.5(d).

(2) If the Executive Officer finds that after considering offsetting factors, the use of a candidate ADF or candidate ADF blend would result in adverse emissions impacts, then the fuel must be considered under Stage 3A and the Executive Officer shall determine conditions of ADF use including, but not limited to, appropriate fuel specifications and/or in-use requirements to preclude adverse emission impacts. Conditions of use may consider, but are not limited to, the effect of ADF feedstocks, the region of ADF use, or any seasonal effects relative to emissions impacts on air quality mandates.

(3) If the Executive Officer finds appropriate fuel specifications and/or in-use requirements that would eliminate or reduce the adverse air quality impacts found in 2293.5(c)(2), then the Executive Officer will direct staff to initiate a rulemaking process to establish those standards under this subarticle.

(d) Stage 3B: Commercial Sales Not Subject to In-use Requirements

If the Executive Officer determines that there are no potential adverse emissions impacts in accordance with 2293.5(b)(5)(D), or that there would be no adverse emissions impacts in accordance with 2293.5(c)(1) for a candidate ADF or candidate ADF blend, no in-use requirements are required for the fuel. The applicant may apply to the Executive Officer, and the Executive Officer may approve, a Stage 3B EO for commercial sales of the ADF or the ADF blend without amendment of this subarticle. Stage 3B activities are subject to the reporting and recordkeeping provisions specified in section 2293.8 and any conditions or limitations that the Executive Officer includes in the Stage 3B EO to ensure commercial sales meet any applicable standards and avoid any significant impact to public health or the environment.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018, 43026, 43101, 43830.8, and 43865, 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).

§2293.6. In-use Requirements for Specific ADFs subject to Stage 3A.

The following in-use requirements apply to the specified ADFs that are sold, offered for sale, supplied for use in California, or produced in or imported into California:

(a) Biodiesel Provisions for Blends of B20 and Below

This section includes specific provisions applicable to the use of biodiesel in the State,

(1) Phase-in period for biodiesel

(A) Starting January 1, 2016, any person who produces, imports, blends, sells, or offers for sale or supply any biodiesel or biodiesel blends, shall be subject to the reporting requirements of Stage 3A, pursuant to 2293.8.

(B) Starting January 1, 2018 any person who produces, imports, blends, sells, or offers for sale or supply any biodiesel or biodiesel blends in California, shall be subject to pollutant control levels under section 2293.6(a)(2).

(2) Pollutant Control Level

Table A.1 below shows fuel quality requirements for biodiesel blends depending on feedstock saturation and time of year. Biodiesel blends above the pollutant control level for NOx emissions are required to employ one of the in-use requirements for biodiesel listed in Appendix 1 of this subarticle.

Table A.1. Pollutant Control Level for NOx

Feedstock Saturation	Time of Year	NOx Control Level
Low Saturation	Apr 1 to Oct 31	B5, 5 volume percent biodiesel
	Nov 1 to Mar 31	B10, 10 volume percent biodiesel
High Saturation	Jan 1 to Dec 31	B10, 10 volume percent biodiesel

(3) Biodiesel saturation level:

Table A.2 below shows the requirements for determination of saturation level for biodiesel feedstocks. The following documents are hereby incorporated by reference:

(A) ASTM D613-14, "Standard Test Method for Cetane Number of Diesel Fuel Oil (2010)."

(B) ASTM D6890-13be1, "Standard Test Method for Determination of Ignition Delay and Derived Cetane Number (DCN) of Diesel Fuel Oils by Combustion in a Constant Volume Chamber (2013)."

(C) ASTM D7170-14, "Standard Test Method for Determination of Derived Cetane Number (DCN) of Diesel Fuel Oils—Fixed Range Injection Period, Constant Volume Combustion Chamber Method."

(D) ASTM D7668-14a, Standard Test Method for Determination of Derived Cetane Number (DCN) of Diesel Fuel Oils—Ignition Delay and Combustion Delay Using a Constant Volume Combustion Chamber Method.

Table A.2 Biodiesel Saturation Level

Biodiesel Saturation Level	Unadditized Cetane Number	Test Method
Low Saturation	<56	ASTM D613-14; ASTM D6890-13be1; ASTM D7170-14; or ASTM D7668-14a
High Saturation	≥56	ASTM D613-14; ASTM D6890-13be1; ASTM

		D7170-14; or ASTM D7668-14a

(4) Sunset of Biodiesel In-use Requirements

NOx Control requirements under 2293.6(a)(2) for biodiesel blends up to B20 will no longer be in effect when the following occur:

(A) When the vehicle miles travelled (VMT) by NTDE heavy-duty vehicles in California reaches 90 percent of total VMT by the California heavy-duty diesel vehicle fleet. The portion of VMT in California represented by NTDEs shall be determined using the most current ARB mobile source emission inventory based on EmFAC.

(B) The Executive Officer issues an Executive Order certifying that the conditions in section 2293.6(a)(4)(A) have been met and that as a consequence, the provisions of section 2293.6(a)(2) are no longer in effect. The Executive Order will be posted on the ARB website and ARB will initiate a rulemaking process to remove the requirement from the regulation.

(5) Exemption from In-Use Requirements

(A) Fleet Exemption

The Executive Officer shall grant a fleet an exemption from the requirements of section 2293.6(a)(2) if the fleet owner or operator can demonstrate that least 90 percent of the fleet consists of a combination of light and medium duty vehicles and heavy duty vehicles with NTDEs, as calculated pursuant to section 2293.6(a)(5)(A)2, and that any biodiesel above the pollutant control level will only be used in the exempted fleet. The application must provide sufficient documentation to demonstrate that the fleet meets all requirements for the fleet exemption. At a minimum, the applicant must provide documentation to demonstrate each of the following:

1. The fleet fueling facility has a centralized, secure fueling area, or uses another secure method of fueling.

2. The fleet consists of at least 90 percent in aggregate of light and medium duty diesel vehicles (GVWR ≤14,500lbs) and heavy duty diesel vehicles equipped with NTDEs. The aggregation shall be weighted according to each vehicle's rated maximum horsepower.

3. The fleet fueling facility has procedures or protocols in place to reasonably preclude fueling of vehicles that were not included in the aggregate calculation in section 2293.6(a)(5)(A)2.

(B) Retail Fueling Station Exemption

The Executive Officer shall grant a retail fueling station an exemption from the requirements of section 2293.6(a)(2) if the retail fueling station owner can demonstrate that at least 90 percent of all sales at the station of biodiesel blends above the pollutant control level, are to a combination of light and medium duty vehicles (GVWR ≤14,500lbs) and heavy duty vehicles with NTDEs. The applicant must provide sufficient information, including data, surveys, or other proof, to demonstrate that the station meets all requirements for the retail fueling station exemption.

(C) Limited Producer/Importer Exemption

The Executive Officer shall grant a producer or importer of biodiesel an exemption from the requirements of section 2293.6(a)(2) for sales to fleets identified in the application if the producer or importer can meet the requirements specified below. The applicant must submit an application by January 1, 2017 and include all documentation to support the exemption claim, including information, data, surveys, or other proof. At a minimum the applicant must provide:

1. Documentation to demonstrate that the producer or importer had sales in California of at least 750,000 gallons of biodiesel in 2014, and that at least 40 percent of those sales was ultimately sold as B6-B20.

2. A list of all fleets that will potentially receive biodiesel under the exemption and a description of the equipment types in each fleet. The description of equipment types shall include proportions of the fleet that are light and medium duty vehicles (GVWR ≤14,500lbs), heavy duty vehicles with NTDE, and heavy duty vehicles without NTDE, as well as a description of the duties and typical work patterns of the heavy-duty vehicles.

3. An attestation from the owner or operator of each fleet that may buy the exempted fuel that: (1) the exempted fuel will be used only in light duty, medium duty, or heavy duty NTDE vehicles, or (2) that any non-NTDE heavy duty vehicle that uses the exempted fuel will not enter the South Coast or San Joaquin Air Basins for any purpose other than a declared state of emergency.

(D) In order for an exemption to be granted, the applicant must submit an application containing the following:

1. The name, title, address and telephone number of the person(s) requesting an exemption from whom further information may be requested;

2. Whether the application is for an exemption for a fleet, a retail fueling station, or a producer or importer; and

3. The additional information and demonstrations required under section 2293.6(a)(5)(A), (B), and (C).

(E) Within 20 business days after receipt of an application, the Executive Officer shall advise the applicant in writing either that the application is complete or that specified additional information is required to make it complete. Within 15 business days of submittal of additional information, the Executive Officer shall advise the applicant in writing that the information submitted makes the application complete or that specified additional information is still required to make the application complete. Within 20 business days after an application has been deemed complete, the Executive Officer shall grant or deny an application.

(F) The Executive Officer shall grant an exemption if the Executive Officer determines the applicant has satisfied all requirements of this section 2293.6(a)(5), while considering the impact on air quality. The Executive Officer may request any additional information reasonably necessary to determine the applicant's eligibility for an exemption. The exemption shall be granted in the form of an executive order which shall automatically terminate effective upon a sunset of the in-use requirements in accordance with 2293.6(a)(4). The executive order shall contain such terms and conditions that the Executive Officer believes are needed to ensure the exempted activities continue to meet the requirements of this section 2293.6(a)(5), including but not limited to a requirement for periodic updates on the composition of fleets under an exemption or updates to fleet attestations. Failure to comply with all terms and conditions in an executive order are grounds for the Executive Officer to revoke the exemption.

If ARB observes or obtains information that a fleet vehicle using exempt fuel is operating in the South Coast or San Joaquin Air Basins, ARB may conduct fuel testing to determine whether that vehicle is operating within the conditions of the exemption, and may use such information to revoke an exemption.

(G) An exemption granted to a producer or importer of biodiesel under section 2293.6(a)(5)(C) shall be limited to the producer's 2014 volume of biodiesel ultimately sold as B6-B20 in California.

(6) In-Use Requirement Program Review

(A) On or before December 31, 2019, ARB staff will conduct a program review of biodiesel in-use requirements to determine the efficacy of in-use requirements under section 2293.6(a)(2). In conducting the program review, staff will consider the effects of offsetting factors, in addition to any other factors that may affect NOx emissions stemming from biodiesel use in motor vehicles.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018, 43026, 43101, and 43865, 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).

§2293.7. Specifications for Alternative Diesel Fuels

The following minimum specifications apply to the specified ADFs that are sold, offered for sale, supplied for use in California, or produced in or imported into California:

(a) Specifications for Biodiesel.

(1) Biodiesel Blendstock or Neat Fuel (B100).

(A) The following documents are hereby incorporated by reference:

1. ASTM D287-12b, "Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method) (2012)."

2. ASTM D5453-93, "Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence (1993)."

Table A.3. Fuel Specifications for B100 Blendstock

Property	Value	Test Method
Unadditized Cetane Number	≥47	ASTM D613-14, ASTM D6890-13be1, ASTM D7170-14; or ASTM D7668-14a
API Gravity	≥27 degrees API	ASTM D287-12b
Sulfur	≤15 ppm	ASTM D5453-93

(2) *Biodiesel Blends.* The fuel specifications promulgated by the California Department of Food and Agriculture in 4 CCR sections 4140-4148, 4200, and 4202-4205 shall apply to any biodiesel blend.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000,

43016, 43018, 43026, 43101, 43865, 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).

§2293.8. Reporting and Recordkeeping.

(a) General Reporting Requirements

(1) Reporting periods are as follows: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31. Reports must be submitted to the Executive Officer by the end of the subsequent reporting period.

(2) Reports must include the following information: year, reporting period, company name, address, contact name, phone, and email.

(b) Stage Specific Reporting Requirements

(1) For Stages 1 and 2

A person operating under a Stage 1 or Stage 2 EO must submit quarterly reports to the Executive Officer throughout the term of the EO. Each report shall include the following:

(A) The volume of ADF and ADF blend offered, supplied, or sold during each month by facility;

(B) Any information specified under the terms of the EO;

(C) Progress made toward completing the terms of the EO;

(D) Any changes or updates to information submitted during the application process regarding the beneficial or adverse impacts of the ADF in California.

(2) For Stage 3A

Quarterly reports must be submitted by producers, importers, and blenders for fuels under Stage 3A to the Executive Officer. Each report shall include the following:

(A) Producers-

1. Monthly volume of neat ADF produced by feedstock and supplied to California by facility;

2. Monthly volume of neat ADF sold, the date of sale, and the following purchaser information: company name, contact name, and contact information; and

3. Monthly volume of neat ADF used at the production facility to make a blended ADF, if applicable. Producers that also blend ADFs must also fulfill the blender reporting requirements in (C).

(B) Importers

1. Monthly volume of neat ADF and ADF blend by feedstock or source, if known, imported into California;

2. Monthly volume of neat ADF and ADF blend sold, the date of sale, and the following purchaser information: company name, contact name, and contact information;

3. Monthly volume of neat ADF used by the importer to make a blended ADF, if applicable. Importers that also blend ADFs must also fulfill the blender reporting requirements in (C); and

4. Additional biodiesel specific reporting requirement: On or after January 1, 2018, monthly volume of biodiesel blends up to B20 imported into California by feedstock or source in accordance with in-use requirements in Appendix 1 of this Article including method of NOx control.

(C) Blenders

1. Monthly volume of neat ADF purchased or obtained by feedstock and the following supplier information: company name, contact name, and contact information;

2. Monthly volume of blended fuel and the blend level produced;

3. The volume of ADF blend offered, supplied, or sold during each month;

4. Additional biodiesel specific reporting requirements on or after January 1, 2018:

a. Monthly volume, blend level, method of NOx control, and transaction date for biodiesel sold with NOx control in accordance with the in-use requirements in Appendix 1 of this Article and the following purchaser information: company name, contact name, and contact information; and

b. Monthly volume, blend level, and transaction date for biodiesel sold without NOx control in accordance with the in-use requirements in Appendix 1 of this Article, and the following purchaser information: company name, contact name, and contact information.

(3) For Stage 3B

Quarterly reports must be submitted by producers, importers, and blenders for fuels under Stage 3B to the Executive Officer. The required information may be submitted to ARB through the Low Carbon Fuel Standards Reporting Tool (LRT) to fulfill this requirement. The producer, importer, or blender must provide notice to ARB of their intent to use the LRT prior to report submittal. Each report shall include the following:

(A) The volume of ADF blendstock sold, supplied, or offered for sale in California during each quarter;

(B) The volume of ADF neat fuel, if applicable; and

(C) The volume of ADF/CARB diesel blend, if applicable.

(c) Recordkeeping

(1) General Recordkeeping Requirements

(A) Records must be made available to ARB or its designee within 15 business days of any request for the records; and

(B) Quarterly reports and all substantiating documentation must be maintained for the term specified in the stage specific reporting requirements in (2), (3), and (4) below.

(2) For Stages 1, 2, and 3B

A person operating under a Stage 1, Stage 2, or Stage 3B EO must maintain records for a minimum of two years including quarterly reports, substantiating documentation, and the following:

(A) Product transfer documentation including volume sold, if applicable;

(B) Transaction invoices provided to downstream customers, including direct sales to fleets, if applicable; and

(C) Any information specified under the terms of the EO.

(3) For Stage 3A

(A) Producers shall maintain records for a minimum of 5 years including quarterly reports, substantiating documentation, and the following:

1. Product transfer documentation of neat ADF including volume sold, CI pathway;

2. Transaction invoices provided to downstream customers, including direct sales to fleets; and

3. Additional biodiesel specific reporting requirements:

a. Volume of biodiesel or biodiesel blends sold under exemption from in-use requirements pursuant to 2293.6(a)(5);

b. Test records that the fuel meets the specifications defined in section 2293.7; and

c. On or after January 1, 2018, monthly volume of B100 that has been produced or supplied to California in accordance with in-use requirements in Appendix 1 of this Article including method of NOx control.

(B) Importers shall maintain records for a minimum of 5 years including quarterly reports, substantiating documentation, and the following:

1. Product transfer documentation for neat ADF and ADF blends including volume sold, CI pathway;

2. Transaction invoices provided to downstream customers, including direct sales to fleets; and

3. Additional biodiesel specific reporting requirements:

a. Volume of biodiesel or biodiesel blends sold under exemption from in-use requirements pursuant to 2293.6(a)(5); and

b. On or after January 1, 2018, monthly volume of B100 or biodiesel blends imported into California by source in accordance with in-use requirements in Appendix 1 of this Article including method of NOx control.

(C) Blenders shall maintain records for a minimum of 5 years including quarterly reports, substantiating documentation, and the following:

1. Product transfer documentation for ADF blends including volume sold, CI pathway;

2. Transaction invoices provided to downstream customers, including direct sales to fleets; and

3. Additional biodiesel specific reporting requirements:

a. Volume of each biodiesel blend level recorded as either high saturation or low saturation; any mix of both high and low saturation will be recorded as low saturation;

b. Volume of B5 blend level including any blend between B1 to B5;

c. On or after January 1, 2018, monthly volume, blend level, method of NOx control, and transaction date for biodiesel sold with NOx control and without NOx control in accordance with the in-use requirements in Appendix 1 of this Article and the following purchaser information: company name, contact name, and contact information; and

d. On or after January 1, 2018, statements on invoices indicating NOx control for each transaction of B100 or biodiesel blend as described in Appendix 1.

(D) Distributors shall maintain records for a minimum of 5 years including:

1. Product transfer documentation which indicates volume sold, CI pathway,

2. Additional biodiesel specific reporting requirements on or after January 1, 2018: Statements on invoices indicating that B100 or biodiesel blend contains NOx control and the type of NOx control, as described in Appendix 1.

(E) Retailers shall maintain records for a minimum of 5 years including:

1. Product transfer documentation which indicates volume sold, CI pathway; and

2. Additional biodiesel specific reporting requirements:

a. Copy of any exemptions provided pursuant to subparagraph 2293.6(a)(5); and

b. On or after January 1, 2018: Statements on invoices indicating that B100 or biodiesel blend contains NOx control and the type of NOx control, as described in Appendix 1.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 40000, 43000, 43016, 43018, 43026, 43101, and 43865, 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).

§2293.9. Severability.

Each part of this subarticle shall be deemed severable, and in the event that any part of this subarticle is held to be invalid, the remainder of this subarticle shall continue in full force and effect.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018, 43101, and 43865, 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).

Appendix 1 of Subarticle 2. In-use Requirements for Pollutant Emissions Control

A person subject to the Stage 3A in-use requirements (section 2293.5(c)) may meet the in-use requirements imposed above the Pollutant Control Trigger Level by implementing any of the following in-use requirements as applicable, either alone or in combination:

Additives approved for NOx emission control purposes, an ADF-CARB diesel blend certified as emissions equivalent to CARB diesel or better, a neat ADF finished fuel certified as emissions equivalent to CARB diesel or better, or other options certified by the Executive Officer for this purpose.

(a) Biodiesel:

(1) Approved Emissions Equivalent Additives:

The following list shows the additive and required amounts by saturation and blend level:

(A) Di-tert-butyl peroxide (DTBP): Biodiesel blends above the NOx emission control trigger level that contain DTBP by volume in the amounts specified in the table below meet the in-use requirements for biodiesel.

Table A.5: DTBP NOx Control Blend Level

Biodiesel Saturation Level	**Biodiesel Blend Level**	**Required level of DTBP (volume percent of blend)**
Low Saturation	>B5 to <B10	0.5 minimum
	B10 to <B15	0.75 minimum
	B15 to B20	1.0 minimum
High Saturation	B10 to <B15	0.25 minimum
	B15 to B20	0.5 minimum

(B) [Reserved]

(2) Certification of Alternative Diesel Fuels Resulting in Emissions Equivalence with Diesel

(A) The Executive Officer, upon application of any producer or importer, may certify alternative diesel fuel formulations or additives in accordance with (a)(2) of this appendix.

1. The applicant shall initially submit a proposed test protocol to the Executive Officer. The proposed test protocol shall include:

a. The identity of the entity proposed to conduct the tests described in (a)(2)(F) of this appendix;

b. Test procedures consistent with the requirements of (a)(2) of this appendix;

c. Test data showing that the fuel to be used as the Reference CARB Diesel satisfies the specifications identified in (a)(2)(E) of this appendix;

d. Reasonably adequate quality assurance and quality control procedures; and

e. Notification of any outlier identification and exclusion procedure that will be used, and a demonstration that any such procedure meets generally accepted statistical principles.

2. Within 20 business days of receipt of a proposed test protocol, the Executive Officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 business days of submittal of additional information, the Executive Officer shall advise the applicant in writing either that the information submitted makes the proposed test protocol complete or that specified additional information is still required to make it complete. Within 20 business days after the proposed test protocol is deemed complete, the Executive Officer shall either approve the test protocol as consistent with this (a)(2) of this appendix or advise the applicant in writing of the changes necessary to make the test protocol consistent with (a)(2) of this appendix. Any notification of approval of the test protocol shall include the name, telephone number, and address of the Executive Officer's designee to receive notifications pursuant to (a)(2)(F) of this appendix. The tests shall not be conducted until the protocol is approved by the Executive Officer.

3. Upon completion of the tests, the applicant may submit an application for certification to the Executive Officer. The application shall include the approved test protocol, all of the test data, a copy of the complete test log prepared in accordance with (a)(2)(F) of this appendix, a demonstration that the candidate fuel meets the requirements for

certification set forth in (a)(2)(C) of this appendix, and such other information as the Executive Officer may reasonably require.

4. Within 20 business days of receipt of an application, the Executive Officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 business days of submittal of additional information, the Executive Officer shall advise the applicant in writing either that the information submitted makes the application complete or that specified additional information is still required to make it complete. Within 20 business days after the application is deemed complete, the Executive Officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(B) The candidate fuel.

The candidate fuel to be used in the comparative testing described in (a)(2)(F) of this appendix shall be one of the following:

1. ADF formulation: The candidate fuel shall be the fuel blendstock or fuel blend that the applicant is attempting to certify. If the applicant is attempting to certify a fuel blend such as a biodiesel with a heightened fuel specification or biodiesel produced utilizing a specified production technology, that blend shall consist of the fuel blendstock blended to 20 percent with the Reference CARB Diesel. The applicant shall report all of the candidate fuel properties under (a)(2)(D) of this appendix for the candidate fuel.

2. Biodiesel additives: The candidate fuel shall be a mixture of the additive to be certified at the concentration specified by the applicant and the biodiesel additive certification fuel blendstock properties specified in (a)(2)(D) of this appendix. If the additive to be certified is meant to be used in B20 fuel blends, the candidate fuel shall be a mixture of the additive to be certified at the concentration specified by the applicant and the biodiesel additive certification fuel specified in (a)(2)(D) of this appendix blended to 20 volume percent biodiesel content with the Reference CARB Diesel. The applicant shall report all of the candidate fuel properties under (a)(2)(C) of this appendix for both the certification fuel without the additive, and the candidate fuel.

(C) Candidate fuel properties.

1. The applicant shall report all of the properties listed below for the candidate fuel. The candidate fuel shall be representative of the fuel that the applicant will produce commercially, and shall not contain streams or feedstocks that will not be used in the commercial fuel that the applicant

intends to sell. If the executive officer determines that the candidate fuel contains streams or feedstocks that will not be used in the commercial fuel, this will be grounds for rejection of the application.

2. The following documents are incorporated by reference:

a. ASTM D5186-03, "Standard Test Method for Determination of the Aromatic Content and Polynuclear Aromatic Content of Diesel Fuels and Aviation Turbine Fuels By Supercritical Fluid Chromatography (2009)."

b. ASTM D4629-12, "Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons by Syringe/Inlet Oxidative Combustion and Chemiluminescence Detection (2012)."

c. ASTM D445-14e2, "Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity) (2012)."

d. ASTM D93-13e1, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester (2013)."

e. ASTM D86-12, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure (2012)."

f. EN 14103:2011, "Fat and oil derivatives. Fatty acid methyl esters (FAME). Determination of ester and linolenic acid methyl ester contents (2011)."

Table A.7: Candidate fuel properties

Property	**Test Method**
Sulfur Content	ASTM D5453-93
Aromatic Hydrocarbon Content, Volume %	ASTM D5186-03(2009)
Polycyclic Aromatic Content, Weight %	ASTM D5186-03(2009)
Nitrogen Content	ASTM D4629-12
Unadditized Cetane Number	ASTM D613-14, ASTM D6890-13be1, ASTM D7170-14; or ASTM D7668-14a
API Gravity	ASTM D287-12b
Viscosity at 40°C, cSt	ASTM D445-14e2
Flash Point, °F, minimum	ASTM D93-13e1
Distillation, °F	ASTM D86-12
Initial Boiling Point	
10 % Recovered	
50 % Recovered	
90 % Recovered	
End Point	
FAME Content %	EN14103:2011

(D) *Biodiesel additive certification fuel.*

The biodiesel additive certification fuel shall be a biodiesel (fatty acid methyl ester) produced by transesterification of low saturation feedstock with the following properties.

Table A.8: Additive certification fuel blendstock properties

Property	Test Method	Fuel Specifications
Sulfur Content	ASTM D5453-93	15 ppm maximum
Nitrogen Content	ASTM D4629-12	10 ppm maximum
Unadditized Cetane Number	ASTM D613-14, ASTM D6890-13be1, ASTM D7170-14; or ASTM D7668-14a	47-50
API Gravity	ASTM D287-12b	27 – 33
Viscosity at 40°C, cSt	ASTM D445-14e2	2.0 – 4.1
Flash Point, °F, minimum	ASTM D93-13e1	266
Distillation, °F	ASTM D86-12	
90 % Recovered		620-680
FAME Content %	EN 14103:2011	Report

(E) *The Reference CARB Diesel.*

The Reference CARB Diesel used in the comparative testing described in (a)(2)(F) of this appendix shall be produced from straight-run California diesel fuel by a hydrodearomatization process and shall have the characteristics set forth below under “Reference Fuel Specifications” (the listed ASTM methods are incorporated herein by reference):

Table A.9: Reference Fuel Specifications

Property	Test Method	Fuel Specifications
Sulfur Content	ASTM D5453-93	15 ppm maximum
Aromatic Hydrocarbon Content, Volume %	ASTM D5186-03(2009)	10 % maximum
Polycyclic Aromatic Content, Weight %	ASTM D5186-03(2009)	10 % maximum
Nitrogen Content	ASTM D4629-12	10 ppm maximum
Unadditized Cetane Number	ASTM D613-14, ASTM D6890-13be1, ASTM D7170-14; or ASTM D7668-14a	48 minimum
API Gravity	ASTM D287-12b	33 – 39
Viscosity at 40°C, cSt	ASTM D445-14e2	2.0 – 4.1
Flash Point, °F, minimum	ASTM D93-13e1	130
Distillation, °F	ASTM D86-12	
Initial Boiling Point		340 – 420
10 % Recovered		400 – 490
50 % Recovered		470 – 560
90 % Recovered		550 – 610
End Point		580 – 660

(F) *Emissions testing.*

1. Exhaust emission tests using the candidate fuel and the reference fuel shall be conducted in accordance with the "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel-Powered Engines and Vehicles," as incorporated by reference in Title 13, California Code of Regulations, Section 1956.8(b). The tests shall be performed using a Detroit Diesel Corporation Series 60 engine, through December 31, 2017, or a 2004-2006 model-year, Cummins ISM370 engine having a nominal torque rating of 1450 ft-lb and a nominal power output of 360 to 380 hp, and produced between January 2004 and December 2006, inclusive, starting January 1, 2015, or, if the Executive Officer determines that the 2004-2006 Cummins ISM370 is no longer representative of the pre-2007 model-year, heavy duty diesel engine fleet, another engine found by the Executive Officer to be representative of such engines. A determination by the Executive Officer that an engine is no longer representative shall not affect the certification of a diesel fuel formulation based on prior tests using that engine pursuant to a protocol approved by the Executive Officer.

2. The comparative testing shall be conducted by a party or parties that are mutually agreed upon by the Executive Officer and the applicant. The applicant shall be responsible for all costs of the comparative testing.

3. The applicant shall use one of the following test sequences:

a. If both cold start and hot start exhaust emission tests are conducted, a minimum of five exhaust emission tests shall be performed on the engine with each fuel, using either of the following sequences, where "R" is the Reference CARB Diesel and "C" is the candidate fuel: RC RC RC RC RC (and continuing in the same order). or RC CR RC CR RC (and continuing in the same order).

The engine mapping procedures and a conditioning transient cycle shall be conducted with the Reference CARB Diesel before each cold start procedure using the Reference CARB Diesel. The reference cycle used for the candidate fuel shall be the same cycle as that used for the fuel preceding it.

b. If only hot start exhaust emission tests are conducted, one of the following test sequences shall be used throughout the testing, where “R” is the Reference CARB Diesel and “C” is the candidate fuel:

Alternative 1: RC CR RC CR (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 2: RR CC RR CC (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 3: RRR CCC RRR CCC (continuing in the same order for a given calendar day; a minimum of twenty-one individual exhaust emission tests must be completed with each fuel)

For all alternatives, an equal number of tests shall be conducted using the Reference CARB Diesel and the candidate fuel on any given calendar day. At the beginning of each calendar day, the sequence of testing shall begin with the fuel that was tested at the end of the preceding day. The engine mapping procedures and a conditioning transient cycle shall be conducted after every fuel change and/or at the beginning of each day. The reference cycle generated from the Reference CARB Diesel for the first test shall be used for all subsequent tests.

For alternatives 2 and 3, each paired or triplicate series of individual tests shall be averaged to obtain a single value which would be used in the calculations conducted pursuant to (a)(3)(G) of this appendix.

4. The applicant shall submit a test schedule to the Executive Officer at least one week prior to commencement of the tests. The test schedule shall identify the days on which the tests will be conducted, and shall provide for conducting the test consecutively without substantial interruptions other than those resulting from the normal hours of operations at the test facility. The Executive Officer shall be permitted to observe any tests. The party conducting the testing shall maintain a test log which identifies all tests conducted, all engine mapping procedures, all physical modifications to or operational tests of the engine, all recalibrations or other changes to the test instruments, and all interruptions between tests and the reason for each such interruption. The party conducting the tests or the applicant shall notify the Executive Officer by telephone and in writing of any unscheduled interruption resulting in a test delay of 48 hours or more, and of the reason for such delay. Prior to restarting the test, the applicant or person conducting the tests shall provide the Executive Officer with a revised schedule for the remaining tests. All tests conducted in accordance with the test schedule, other than any tests rejected in accordance with an outlier identification and exclusion procedure included in the approved test protocol, shall be included in the comparison of emissions pursuant to (a)(3)(G) of this appendix.

5. In each test of a fuel, exhaust emissions of oxides of nitrogen (NOx) and particulate matter (PM) shall be measured.

(G) The average emissions during testing with the candidate fuel shall be compared to the average emissions during testing with the Reference CARB Diesel, applying one-sided Student's t statistics as set forth in Snedecor and Cochran, *Statistical Methods* (7th ed.), page 91, Iowa State University Press, 1980, which is incorporated herein by reference. The Executive Officer shall issue a certification pursuant to this paragraph only if he or she makes all of the determinations set forth in (a)(3)(G) below, after applying the criteria of (a)(3)(G) of this appendix.

1. The average individual emissions of NOx and PM, respectively, during testing with the candidate fuel do not exceed the average individual emissions of NOx and PM, respectively, during testing with the Reference CARB Diesel.

2. Use of any additive identified pursuant to (a)(2)(B) of this appendix in heavy-duty engines will not increase emissions of noxious or toxic

substances which would not be emitted by such engines operating without the additive. In addition, cellular tests on the particulate emissions from heavy-duty engines will not show greater harm for mutagenicity, inflammation, DNA damage, or oxidative stress with the use of any such additive than would occur with such engines operating without the additive.

3. In order for the determinations of (a)(2)(G) of this appendix to be made, for each referenced pollutant the candidate fuel shall satisfy the following relationship:

$$\bar{x}_C < \bar{x}_R + \delta - S_p \times \sqrt{\frac{2}{n}} \times t(a, 2n-2)$$

Where:

$\bar{x}_C$ = Average emissions during testing with the candidate fuel

$\bar{x}_R$ = Average emissions during testing with the Reference CARB Diesel

δ = tolerance level equal to 1 percent of $\bar{x}_R$ NOx, 2 percent of $\bar{x}_R$ for PM.

S_p = Pooled standard deviation

t (a, 2n-2) = The one-sided upper percentage point of t distribution with a = 0.15 and 2n-2 degrees of freedom

n = Number of tests of candidate fuel and Reference CARB Diesel

(H) If the Executive Officer finds that a candidate fuel has been properly tested in accordance with (a)(2)(F) of this appendix, and makes the determinations specified in (a)(2)(G) of this appendix, then he or she shall issue an Executive Order certifying the alternative diesel fuel or additive formulation represented by the candidate fuel. The Executive Order shall identify all of the characteristics of the candidate fuel determined pursuant to (a)(2)(C) of this appendix. The Executive Order shall provide that the certified alternative diesel fuel formulation has the following specifications: [1] a sulfur content, total aromatic hydrocarbon content, polycyclic aromatic hydrocarbon content, and nitrogen content not exceeding that of the candidate fuel, [2] a cetane number and API gravity not less than that of the candidate fuel, [3] any additional fuel

specification required under (a)(2)(C) of this appendix, and [4] presence of all additives that were contained in the candidate fuel, in a concentration not less than in the candidate fuel, except for an additive demonstrated by the applicant to have the sole effect of increasing cetane number. Additionally the Executive Order shall contain a table mirroring Table A.5 in Appendix 1 (a)(1)(A) listing the required concentration of additive at each 5 percent interval of blend level, if applicable. All such characteristics shall be determined in accordance with the test methods identified in (a)(2)(C) of this appendix. The Executive Order shall assign an identification name to the specific certified biodiesel fuel formulation.

(I) In-use testing.

1. If the executive officer determines that a commercially available biodiesel fuel blend meets all of the specifications of a certified biodiesel fuel formulation set forth in an Executive Order issued pursuant to (a)(2)(H) of this appendix, but does not meet the criteria of (a)(2)(G) of this appendix when tested in accordance with (a)(2)(F), the Executive Officer shall modify the Executive Order as is necessary to assure that biodiesel fuel blends sold commercially pursuant to the certification will meet the criteria set forth in (a)(2)(G). The modifications to the order may include additional specifications or conditions, or a provision making the order inapplicable to specified biodiesel fuel producers.

2. The Executive Officer shall not modify a prior Executive Order without the consent of the applicant and of the producer of the commercially available biodiesel fuel blend found not to meet the criteria, unless the applicant and producer are first afforded an opportunity for a hearing in accordance with Title 17, California Code of Regulations, Part III, Chapter 1, Subchapter 1, Article 4 (commencing with Section 60040). If the Executive Officer determines that a producer would be unable to comply with this regulation as a direct result of an order modification pursuant to this subsection, the Executive Officer may delay the effective date of such modification for such period of time as is necessary to permit the producer to come into compliance in the exercise of all reasonable diligence.

(b) [Reserved]

Subarticle 3. Ancillary Provisions

§~~2293~~2294. Equivalent Test Methods.

~~(a)~~ Whenever ~~sections 2292.1 thru 2292.7 provide for~~ this article requires the use of a specified test method, another test method may be used following a determination by the Executive Officer that the other test method produces results equivalent to the results obtained with the specified method.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).

§~~2293.5~~2295. Exemptions for Alternative Motor Vehicle Fuel Used in Test Programs.

The E~~e~~xecutive ~~o~~Officer shall consider and grant test program exemptions from the requirements of this Article in accordance with section 2259.

Note: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 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).