

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE GASOLINE DEPOSIT CONTROL ADDITIVE REGULATION

The California Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the gasoline deposit control additive regulation.

DATE: November 16, 1995

TIME: 9:30 a.m.

LOCATION: California Air Resources Board
2020 L Street
Board Hearing Room, Lower Level
Sacramento, California

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., November 16, 1995, and may continue at 8:30 a.m., November 17, 1995. This item may not be considered until November 17, 1995. Please consult the agenda for the meeting, which will be available at least 10 days before November 16, 1995, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: Proposed amendments to section 2257, title 13, California Code of Regulations, and the following incorporated documents: ARB's "Test Method for Evaluating Port Fuel Injector (PFI) Deposits in Vehicle Engines" and ARB's "BMW - 10,000 Miles Intake Valve Test Procedures."

Plain English Policy Statement Overview

The gasoline deposit control additive regulation -- section 2257, title 13, California Code of Regulations -- was adopted by the Board in 1991. The regulation requires that all commercial gasolines be certified to contain effective levels of detergent additives. The regulation contains specific administrative and performance requirements that a producer, importer, or distributor must meet to obtain certification of a gasoline. As part of the administrative requirements, an

applicant must provide specific information in support of the request for certification. ARB staff uses this information, and other requested information as necessary, to evaluate and process applications for certification of gasolines.

Since adoption of the regulation in 1991, ARB staff has gained experience applying the regulation indicating the need to clarify various provisions of the regulation. For example, the definition of the term "gasoline" will be clarified because the existing definition is unclear.

Another clarification concerns the reporting requirements. The existing recordkeeping provisions of the regulation will be modified to clarify that daily records are required. The existing regulation requires monthly compilation of records to demonstrate compliance with the additization rate established by the certification application. Because the gasoline deposit control additive standard applies to each gallon of California gasoline, however, daily records are necessary to demonstrate compliance. Some certification holders have misinterpreted the monthly compilation requirement. They read the requirement to mean that monthly averaging reports are sufficient, even though daily records are typically prepared as a standard industry practice.

Other minor clarifying amendments are included. None of these clarifying amendments are intended to change the existing regulation. They simply correct language or provisions that could be or have been misunderstood.

Staff proposes three modifications that change the gasoline deposit control additive regulation. First, a proposed amendment to the recordkeeping requirements would provide flexibility by allowing the additization rate to vary as long as it stays within a specified percentage of the required rate.

The second substantive modification affects the requirements for the fuel used in vehicle testing to demonstrate compliance with the additization standards ("certification test fuel"). The existing regulation requires that this fuel be representative of the gasoline produced, imported, or distributed by the applicant ("production gasoline"). A certification test fuel is representative of production gasoline if its properties such as aromatic hydrocarbon, olefin, sulfur and oxygen content, and T90 distillation temperature, are similar.

Under the existing regulation applicants have been allowed to extend the scope of certification to include gasoline formulations with different properties by submitting data from supplemental testing using fuel representative of those properties. When the Phase 2 reformulated gasoline standards go into effect March 1, 1996, there will be much less variation in the properties of production gasolines so these procedures will not be necessary.

Consequently, staff proposes amendments to the regulation to require that the certification test fuel be representative of the gasoline formulation for which certification is requested ("gasoline formulation"). However, because it is difficult to blend the test fuel to exact property specifications, the proposal would allow certification test fuels with properties that are within a specified percentage of the properties of the gasoline formulation for which certification is requested. The proposed revision would minimize the need for supplemental tests.

Third, staff proposes amendments to section 2257(a) that would allow manual correction of underadditized gasoline at the retail or wholesale facility. This amendment would provide additive blenders and distributors with additional operational flexibility. The existing regulation requires that all commercial gasoline be properly additized prior to reaching the retail or wholesale facility (e.g. service station) and does not allow for correction of underadditized gasoline once the gasoline leaves a final distribution facility headed for a retail or wholesale facility.

Finally, staff proposes amendments to require use of revised test procedures for demonstrating compliance with the regulatory standards. Since the adoption of the gasoline deposit control additive regulation, the incorporated test procedures for determining compliance with the keep-clean and clean-up standards have been revised by the American Society for Testing and Materials (ASTM) to include more detailed procedural instructions and improved quality assurance/quality control procedures. This proposal would incorporate the updated and improved test procedures.

Summary of Proposed Changes

Amendments to Clarify the Recordkeeping Requirements of the Gasoline Deposit Control Additive Regulation: Staff proposes amendments to section 2257(d) to clarify that producers, importers, and distributors who have received certification under this regulation must maintain daily records that must be compiled and available for inspection 15 days after the end of the month. In addition the records must be available for inspection by ARB upon request and copies must be provided within 20 days of a written request.

The amendments would further provide that no violation of the applicable additization requirement occurs based on the review of daily records unless the additization rate falls below a specified percentage of the required rate. The monthly average additization rate, based on the monthly compilation of records, however, must demonstrate compliance with the applicable additization rate.

Amendments to Clarify the Use of Certification Test Fuels when Performing Vehicle Tests: Staff proposes amendments to section 2257(c)(2)(D) to specify that certain properties of the fuel used in vehicle testing for certification must be within a specified percentage of the maximum properties of the gasoline formulation for which certification has been requested.

Amendment to Allow for the Manual Correction of Additive Concentration: Staff proposes to add a new provision in section 2257(a) to allow for the manual correction of underadditized gasoline prior to the sale of gasoline at the retail or wholesale facility if certain reporting and recordkeeping requirements are met.

Amendments to Update the Vehicle Test Methods Incorporated in the Gasoline Deposit Control Additive Regulation: Staff proposes amendments to section 2257(c) to replace the currently incorporated test methods for demonstrating the ability of additized gasoline to reduce and prevent port fuel injector (PFI) deposits and for demonstrating the ability of additized gasoline for the control of intake valve deposits with revised ASTM test methods and an ARB test method revised to include fuel specifications for clean-up testing and for consistency with the ASTM PFI test method.

General Amendments to the Gasoline Deposit Control Additive Regulation: Staff proposes additional amendments (1) to clarify application of the unlimited mileage standard for testing the ability of additized gasoline to control intake valve deposits, (2) to require the applicant to report the minimum concentration of additive in a gasoline formulation in terms of gallons of additive per thousand gallons of gasoline and (3) a reproducibility value for the test method to be used to identify and measure additives in gasoline.

Comparable Federal Deposit Control Additive Requirements.

The U.S. EPA is implementing a deposit control additive program in two phases. The initial phase of the program currently in effect consists of interim regulations. (59 Fed. Reg. 54678 (Nov. 1, 1994).) U.S. EPA plans to promulgate final regulations in the summer of 1996. Essentially, the interim regulations require submittal of additive registration under 40 Code of Federal Regulations (CFR) sections 79.6, 79.10, 79.11, 79.20 and 79.21, as applicable.

Under the interim regulations, all gasoline must be additized at or above the lowest additive concentration (LAC) that has been demonstrated to effectively prevent deposits. Records must be kept to show that on a monthly average the additive use rate equaled or exceeded the LAC. The interim regulations also narrow the operating set points of additive injection equipment within a range. The interim program also allows ARB certification to meet the federal certification requirements for California gasoline.

Under the anticipated final regulation, the U.S. EPA will adopt an approach similar to the California additive program by requiring a demonstration to show additive effectiveness through vehicle testing at the recommended LAC.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a staff report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. Copies of the staff report and the express terms of the proposed amendments are available from the Board's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990. The staff has compiled a record which includes all of the information upon which the proposal is based. This material is available for inspection upon request to the contact person identified below.

The ARB has determined that this regulation may affect small businesses. However, it is not feasible to draft the amendments in plain English due to the technical nature of the regulation; therefore, a plain English summary of the regulation is available from the agency contact person identified immediately below.

Further inquiries related to the proposed amendments should be directed to Mr. Dean C. Simeroth, Chief, Criteria Pollutants Branch, Stationary Source Division, P.O. Box 2815, Sacramento, CA 95812, (916) 322-6020.

COST TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed actions are presented below.

The Board's Executive Officer has determined that the proposed action will not create costs or savings, as defined in accordance with Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other nondiscretionary savings to local agencies.

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on large or small businesses, including the ability of California businesses to compete with businesses in other states.

In accordance with Government Code section 11346.3, the Executive Officer has determined that adoption of the proposed regulatory action will not affect the creation or elimination of jobs within California, the creation of new businesses or the elimination of existing businesses in California, or the expansion of businesses currently doing business in California. An assessment of the economic impacts of the proposed regulatory action can be found in the staff report.

The Executive Officer has also determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is being proposed or would be as effective and less burdensome to the affected private persons or businesses than the proposed action.

SUBMITTAL OF COMMENTS

Members of the public may present comments regarding this proposal orally or in writing. To be considered by the Board, written comments must be addressed to, and received by, the Board Secretary, Air Resources Board, P.O. Box 2815, Sacramento, California 95812, no later than 12:00 noon, November 15, 1995, or received by the Board Secretary at the hearing.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

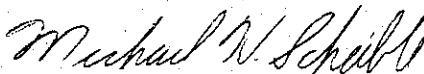
STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in sections 39600, 39601, 43013, 43018, and 43101 of the 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). This action is proposed to implement, interpret and make specific sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43018, and 43101 of the 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).

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD



for James D. Boyd
Executive Officer

Date: September 19, 1995

