

State of California  
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,  
Including Summary of Comments and Agency Response**

PUBLIC HEARING TO CONSIDER AMENDING THE TEST METHODS DESIGNATED  
FOR DETERMINING OLEFIN CONTENT AND DISTILLATION TEMPERATURES OF  
GASOLINE

Public Hearing Date: November 16, 2000  
Agenda Item No.: 00-11-5

I. GENERAL

On November 16, 2000 the Air Resources Board (the "Board" or "ARB") conducted a public hearing to consider amending its designations of the test methods used to measure the amount of olefins in and the distillation temperatures of California reformulated gasoline (CaRFG). These designations are in section 2263(b), title 13, California Code of Regulations (CCR). A Staff Report: Initial Statement Of Reasons for Proposed Rulemaking (referred to as the Staff Report) was prepared and made available to the public for review and comment starting September 29, 2000, and was posted on the ARB's Internet site for this rulemaking: <http://www.arb.ca/regact/crfgtm00/crfgtm00.htm>. The Staff Report, which is incorporated by reference herein, contained an extensive description of the rationale for the proposal and included the proposed regulatory language as an attachment. This Final Statement Of Reasons (FSOR) updates the Staff Report by identifying and explaining the modifications that were made to the original proposal. The FSOR also summarizes the written and oral comments received during the rulemaking process, and contains the ARB's responses to those comments.

At the hearing the Board adopted Resolution 00-41, in which the Board approved the proposed amendments to the test method designations. The approved amendments included a modification to the originally proposed language, to establish January 1, 2002 as the applicable date for the use of modified American Society of Testing and Materials (ASTM) D6550-00 for the measurement of olefins in gasoline.

In accordance with Government Code section 11346.8(c), Resolution 00-41 directed the Executive Officer to adopt the modified amendments after making the modified regulatory language available for a supplemental public comment period of at least 15 days. He was then directed either to adopt the amendments with such additional modifications as may be appropriate in light of the comments received, or to present the regulations to the Board for further consideration if warranted in light of the comments. A "Notice of Public Availability of Modified Text," together with a copy of the full text of the modified regulatory language, with the modifications clearly indicated, was made available to the public for a 15-day comment period from January 23, 2001 through

February 7, 2001. No public comments were received, and the Executive Officer then issued an Executive Order adopting the modified amendments.

**Documents Incorporated by Reference.** The amended regulation, section 2263(b), title 13, CCR, designates and incorporates by reference several ASTM test methods, which are identified by name and date. These test method documents are readily available from the ARB upon request and were made available in the context of this rulemaking in the manner specified in Government Code section 11346.5(b). The test methods are also published by ASTM, a well-established and prominent organization in the standards-setting field, and are therefore reasonably available to the affected public from a commonly known source. The documents are incorporated into the CCR by reference because it would be cumbersome, unduly expensive and otherwise impractical to publish them in the Code. It has been the longstanding and accepted practice for the ARB to incorporate ASTM test methods into the CCR by reference (see, e.g., §§ 2281(c), 2282(c), and 2291.1-2291.7). As the interested audience for the test methods is small and is generally accustomed to following ASTM test methods, distribution to all recipients of the CCR is unnecessary.

**Fiscal Impacts.** The ARB has determined that this regulatory action will not result in a mandate to any local agency or school district, the costs of which are or are not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

**Consideration of Alternatives.** The ARB has determined that no alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons that the action taken by ARB.

## II. MODIFICATIONS TO THE ORIGINAL PROPOSAL

The Board modified the originally proposed regulatory language to reflect the staff's original intent – expressed in both the hearing notice and the Staff Report – that the new designated method for measuring olefins in gasoline would become applicable starting January 1, 2002 rather than on the effective date of the amendments. This will provide the affected public appropriate lead time to acquire new equipment if necessary. The new method is modified ASTM D6550-00.

## III. SUMMARY OF COMMENTS AND AGENCY RESPONSES

During the 45-day comment period for this regulatory action one written comment was received, from the Regulation Review Unit of the California Trade and Commerce Agency (Trade and Commerce Agency). At the hearing, oral testimony was presented by one person, Don Crider of Analytical Controls, who supported the proposal. Set forth below is the one comment received involving an objection or recommendation

specifically directed to the proposed amendments or to the procedures used by the ARB in proposing or adopting the amendments, together with the agency response.

**Comments Submitted by the Office of Small Business Advocate and the Trade and Commerce Agency**

Comment: The Staff Report states on page 6 that, “Staff recommends a start date of January 1, 2002” for the new olefin content test method. However, there is no language in the proposed regulation text to incorporate the staff recommended start date, or any other start date. A modification to reflect the staff’s recommended start date is necessary to clarify the regulation and minimize unnecessary cost impacts on affected regulated parties. (Trade and Commerce Agency).

Agency Response: The Trade and Commerce Agency’s comments are correct, and we appreciate having this oversight brought to our attention. The regulatory language has been changed to include the January 1, 2002 start date for the new olefin content test method.