

Modifications to the Proposed Regulation Order Portable Fuel Container Regulation

NOTE: At the September 15, 2005 hearing on this matter, the Air Resources Board (ARB or Board) separated out and formally adopted the originally proposed amendments to title 13, California Code of Regulations (CCR) sections 2467 and 2467.1, which made kerosene containers and utility jugs (large capacity plastic containers) subject to the Portable Fuel Container regulation. Those amendments (with some nonsubstantial modifications) were subsequently approved by the Office of Administrative Law and became effective on February 12, 2006. At the hearing the Board approved the remaining proposed amendments with some modifications, and directed the Executive Officer to make the modified text available for a supplemental 15-day comment period prior to considering formal adoption of the modified amendments.

In the text below, any originally proposed amendments not yet finalized are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions, compared to the preexisting regulatory language. The proposed modifications to the original proposal are shown in double underline to indicate additions and ~~bold double strike-out~~ to indicate deletions. The only regulatory section that contains proposed modifications to the original proposal is section 2467.1, so only that section is shown below. As noted above, section 2467.1 was also amended in the portion of the rulemaking that has already been completed. Since they are now part of the CCR, those amendments – which affected amended subsections (a)(6) (added definition of “kerosene”), (a)(12) (amended definition of “portable fuel container”), (a)(17) (amended definition of “spill proof spout”) and (a)(18) (definition of “spill-proof system”) – have been incorporated into the preexisting text shown below.

Article 6 Portable Fuel Containers and Spouts

2467.1. Definitions.

- (a) The definitions in Section 1900(b), Title 13 of the California Code of Regulations apply with the following additions:
- (1) “ASTM” means the American Society for Testing and Materials.
 - (2) “Automatic closure” means a device or mechanism that causes a spill-proof system or spout to close, seal and remain completely closed when not dispensing fuel.
 - (3) “Automatically close” means closure occurs through the activation of a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.
 - ~~(2)~~(4) “Consumer” means the first person who in good faith purchases a new portable fuel container or spout or both portable fuel container and

spout for purposes other than resale, including but not limited to personal, family, household, or institutional use.

- ~~(3)~~(5) “Distributor” means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purposes of resale or distribution in commerce. Manufacturers, retailers, and consumers are not distributors.
- ~~(4)~~(6) “Executive Officer” means the Executive Officer of the Air Resources Board, or his or her designee.
- ~~(5)~~(7) “Fuel” means all fuels subject to any provision of Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250 - 2298, except for Sections 2292.5, 2292.6, and 2292.7.
- ~~(6)~~(8) “Kerosene” means any light petroleum distillate that is commonly or commercially known, sold or represented as kerosene, that is used in space heating, cook stoves, and water heaters, and is suitable for use as a light source when burned in wick-fed lamps.
- ~~(7)~~(9) “Manufacturer” means any person who imports, manufactures, assembles, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.
- ~~(8)~~(10) “Nominal Capacity” means the volume indicated by the manufacturer that represents the maximum recommended filling level.
- ~~(9)~~(11) “Outboard Engine” means a spark-ignition marine engine that, when properly mounted on a marine water-craft in the position to operate, houses the engine and drive unit external to the hull of the marine water-craft.
- ~~(10)~~(12) “Permeation” means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.
- ~~(11)~~(13) “Person” has the same meaning as defined in Health and Safety Code Section 39047.
- ~~(12)~~(14) “Portable Fuel Container” means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed, used, sold, advertised or offered for sale for receiving, transporting, storing, and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as described in 49 Code of Federal Regulation Section 172.407(a), as it existed on September 15, 2005, with

language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.

- ~~(13)~~(15) “Product Category” means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the Executive Officer.
- ~~(14)~~(16) “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.
- ~~(15)~~(17) “Retail Outlet” means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.
- ~~(16)~~(18) “ROG” (Reactive Organic Gas) means a reactive chemical gas, composed of hydrocarbons that may contribute to the formation of smog. ROG is sometimes referred to as Non-Methane Organic Compounds (NMOC’s).
- ~~(17)~~(19) “Spill Proof Spout” means any spout that complies with all of the performance standards specified in Section 2467.2(b) and with the requirements in Section 2467.5.
- ~~(18)~~(20) “Spill-Proof System” means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in Section 2467.2(a) and with the requirements in Section 2467.5.
- ~~(19)~~(21) “Spout” means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed, not including a device that can be used to lengthen the spout to accommodate necessary applications.
- ~~(20)~~(22) “Target Fuel Tank” means any receptacle that receives fuel from a portable fuel container.

NOTE:

Authority: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass’n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).
Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass’n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).