

State of California

AIR RESOURCES BOARD

Resolution 76-3

February 19, 1976

WHEREAS, the Air Resources Board, pursuant to Sections 39061 and 43013 of the Health and Safety Code, has the authority to adopt vehicle emission standards for pollutants other than hydrocarbons, carbon monoxide, and oxides of nitrogen;

WHEREAS, the California Supreme Court in *Western Oil and Gas Association vs. Orange County Air Pollution Control District*, decided May 23, 1975, ruled that the Board has the authority to regulate fuel content, including lead content, pursuant to the aforesaid provisions;

WHEREAS, the California ambient air quality standard for lead is exceeded by a wide margin in most urban areas of the State, and most of the lead in the ambient air comes from lead additives in gasoline; and

WHEREAS, the Board has held a public hearing pursuant to the California Administrative Procedure Act;

NOW, THEREFORE, BE IT RESOLVED, that the Board adopts Section 2253 in Title 13 of the California Administrative Code, regulating the lead content of gasoline to be sold in California as follows:

2253. Lead Content. (a) In the manufacture of gasoline to be sold, offered for sale, or delivered for sale at retail in California, no gasoline refiner shall exceed the average lead content per gallon specified below for each 3-month period (January-March, April-June, July-September, October-December):

<u>Effective Date of Limitation</u>	<u>Maximum Lead Content (Grams Per Gallon)</u>
January 1, 1977	1.4
January 1, 1978	1.0
January 1, 1979	0.7
January 1, 1980	0.4

(b) The provisions of paragraph (a) of this section shall not be applicable to any refiner with a gasoline production capacity of less than 20,000 barrels per day. In the manufacture of gasoline to be sold, offered for sale, or delivered for sale at retail in California, such refiners shall not exceed the average lead content per gallon specified below for each 3-month period (January-March, April-June, July-September, October-December):

<u>Effective Date of Limitation</u>	<u>Maximum Lead Content (Grams Per Gallon)</u>
January 1, 1979	1.7
January 1, 1980	1.4

(c) For each 3-month period (January-March, April-June, July-September, October-December) the average lead content per gallon shall be computed by dividing total grams of lead used at a refinery in the manufacture of gasoline by total gallons of gasoline manufactured at such refinery. Appropriate adjustments shall be made for exports and imports of gasoline.

- (d) For each 3-month period (January-March, April-June, July-September, October-December) commencing with the period January 1, 1977 through March 31, 1977, each refiner shall submit to the Executive Officer of the Air Resources Board a report showing for each refinery (i) the total grams of lead in lead additive inventory on the first day of the period, (ii) the total grams of lead received during the period, (iii) the total grams of lead in lead additive inventory on the last day of the period, (iv) the total gallons of gasoline produced by such refinery during the period, (v) the average lead content in each gallon of gasoline produced during the period, and (vi) such other information, including data on gasoline imported to or exported from the State, as may be required by the Board to ascertain the lead content of gasoline to be sold, offered for sale, or delivered for sale at retail in California. Reports shall be submitted within 30 days after the close of the reporting period, on forms supplied by the Executive Officer of the Air Resources Board upon request. Such reports shall be subject to audit, upon request by the Air Resources Board.
- (e) For each 3-month period (January-March, April-June, July-September, October-December) commencing with the period January 1, 1977 through March 31, 1977, each lead additive manufacturer shall submit to the Executive Officer of the Air Resources Board a report showing the total grams of lead shipped to each refinery by such lead additive manufacturer during the period. Reports shall be submitted within 30 days after the close of the reporting period, on forms supplied by the Executive Officer of the Air Resources Board upon request.
- (f) (1) Any refiner who cannot comply with the requirements set forth in subdivisions (a) or (b) of this section because of unreasonable economic hardship, unavailability of equipment or lack of technological feasibility, may apply to the Executive Officer of the Air Resources Board for a variance. The application shall set forth:
- (A) the specific grounds upon which the variance is sought;
 - (B) the proposed date(s) by which compliance with the lead content limitations in subdivision (a) or (b) will be achieved; and
 - (C) a plan reasonably detailing the method by which compliance will be achieved.

- (2) Upon receipt of an application for a variance, the Executive Officer shall hold a hearing to determine whether, and under what conditions and to what extent, a variance from the requirements established by subdivision (a) or (b) of this section is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be published in at least one newspaper of general circulation and shall be sent to every person who requests such notice, not less than 30 days prior to the hearing.
- (3) At least 30 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.
- (4) No variance shall be granted unless all of the following findings are made:
 - (A) that the applicant for the variance is, or will be, in violation of the requirements established by subdivision (a) or (b) of this regulation;
 - (B) that, due to unreasonable economic hardship, unavailability of equipment or lack of technological feasibility beyond the reasonable control of the applicant, requiring compliance would result in either (i) an arbitrary or unreasonable taking of property, or (ii) the practical closing and elimination of a lawful business; and
 - (C) that such taking or closing would be without a corresponding benefit in reducing air contaminants.
- (5) Any variance order shall include the date(s) by which compliance with the lead content limitations in subdivision (a) or (b) will be achieved and any other condition(s) including, where appropriate, increments of progress, that the Executive Officer of the Air Resources Board, as a result of the testimony received at the hearing, finds necessary.

- (6) If the Executive Officer determines that, due to conditions beyond the reasonable control of the applicant, the applicant needs an immediate variance from the requirements established by subdivision (a) or (b) of this section, the Executive Officer may hold a hearing without complying with the provisions of subdivision (f) (2) or subdivision (f) (3) above. No variance granted under the provisions of this paragraph may extend for a period of more than 45 days. The Executive Officer shall maintain a list of persons who in writing have informed the Executive Officer of their desire to be notified by telephone in advance of any hearing held pursuant to this subdivision, and shall provide advance telephone notice to any such person.
- (7) Upon the application of any person, the Executive Officer of the Air Resources Board may review and for good cause modify or revoke a variance from the requirements of subdivision (a) or (b) after holding a hearing in accordance with the provisions of this subdivision.
- (8) Information obtained by the Executive Officer of the Air Resources Board or his representatives pursuant to this part shall be treated, insofar as its confidentiality is concerned, in accordance with the provisions of Part III, Chapter 1, Subchapter 4, Title 17, California Administrative Code (Sections 90500-91022).