

PROPOSED REGULATION ORDER

**AMENDMENTS TO THE REGULATIONS FOR THE
CALIFORNIA CLEAN FUELS PROGRAM**

Note: The proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions.

Amend sections 2300-2317, and adopt sections 2303.5 and 2311.5, title 13, California Code of Regulations, to read as follows:

SubChapter 8. Clean Fuels Program

Section 2300. Definitions.

(a) The following definitions apply to SubChapter 8.

- (1) "Affiliate" means any person who owns or controls, is owned or controlled by, or is under common ownership and control with, another person.
- (2) "CEC" means the Energy Resources, Conservation and Development Commission.
- (3) "Clean alternative fuel" means any fuel used as the certification fuel in a low-emission vehicle, other than the primary gasoline or diesel fuel used in exhaust emission certification testing pursuant to the ARB's "California Exhaust Emission Standards and Test ~~p~~Procedures for 1988 and Subsequent Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, or "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1961.
- (4) "CNG" means compressed natural gas.
- (4.3) "Compliance year" means the 12 month period running from May 1 through April 30.
- (4.7) "Dedicated vehicle" means a low-emission vehicle designed and engineered to be operated solely on a clean alternative fuel, and not on gasoline or any mixture of gasoline and the clean alternative fuel.
- (5) "Designated clean fuel" means any clean alternative fuel other than electricity or ~~CNG~~;

~~provided that if CNG is a clean alternative fuel it shall also be a designated clean fuel within this definition after the California Public Utilities Commission certifies to the state board that a practical mechanism exists under which a gasoline retailer may, without being regulated as a public utility, sell CNG for use as a fuel in motor vehicles, and the requirements of section 2301 and 2302 shall be applicable to retail outlets for CNG starting with the first year that commences at least 18 months after such certification.~~

- (6) "Distribute" means to physically transfer from a production or importation facility and irrevocably release into commerce for use as a motor vehicle fuel in California.
- (7) "Distributor" has the same meaning as defined in section 20999 of the Business and Professions Code.
- (8) "Dual-fuel vehicle" means any motor vehicle that is engineered and designed to be capable of operating on gasoline, and on liquefied petroleum gas, CNG or liquefied natural gas.
- (9) "Executive officer" means the executive officer of the Air Resources Board, or his designee.
- (10) "Fleet operator" means, for any given calendar year, the operator in that year of fifteen or more motor vehicles low-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.
- (10.5) "Fleet vehicle" means one of fifteen or more low-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.
- (11) "Flexible-fuel vehicle" means any alcohol-fueled motor vehicle that is engineered and designed to be operated using any gasoline-alcohol mixture or blend.
- (12) "Franchise," "franchisor," and "franchisee" have the same meaning as defined in section 20999 of the Business and Professions Code.
- (13) "Gasoline supplier" means any person, including affiliates of such person, who produces gasoline for use in California or imports gasoline into California.
- (14) "Import" means to bring motor vehicle fuel into California for the first time for use in motor vehicles in California.
- (15) "Liquid designated clean fuel" means any designated clean fuel that is dispensed into motor vehicles in liquid form.

- (16) "Low-emission vehicle" means any vehicle certified to the transitional low-emission vehicle, low-emission vehicle, ultra-low emission vehicle, super ultra-low emission vehicle, or zero-emission vehicle standards established in Title 13, California Code of Regulations, sections 1960.1 or 1961.
- (17) "Major breakdown" means an unforeseeable mechanical or electrical failure of CNG dispensing equipment which cannot in the exercise of reasonable diligence be repaired in 72 hours or less.
- ~~(18) "Major gasoline supplier" means a gasoline supplier who owns or operates a refinery in California with a crude oil capacity of 55,000 barrels per stream day or more, and who is also an owner/lessor of 35 or more operating retail gasoline outlets in the SCAQMD.~~
- (19) "Minor breakdown" means an unforeseeable mechanical or electrical failure of CNG dispensing equipment which can in the exercise of reasonable diligence be repaired in 72 hours or less.
- (20) "Non-retail facility" means any establishment at which a designated clean fuel is supplied or offered for supply to motor vehicles, but is not supplied or offered to the general public.
- (21) "Owner/lessor" means:
- (A) In the case of a retail gasoline outlet which is owned, leased, or controlled by a franchisor, and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale of gasoline, the franchisor.
 - (B) In the case of a retail gasoline outlet which is owned, leased or controlled by a refiner or a distributor, and is operated by the refiner or distributor or his agent, the refiner or distributor.
 - (C) In the case of all other retail gasoline outlets, the owner of the retail gasoline outlet.
- (22) "Primary designated clean fuel" means a designated clean fuel for which a substitute fuel has been proposed or designated pursuant to section 2317.
- (23) "Produce" means, in the case of any liquid motor vehicle fuel, to convert in California liquid compounds which do not constitute the fuel into the fuel.
- (24) "Quarter" means the three month calendar quarters January-March, April-June, July-September, and October-December.

- (25) "Refiner" has the same meaning as defined in section 20999 of the Business and Professions Code.
- (26) "Refinery" means a facility that produces gasoline by means that include distilling petroleum.
- (27) "Selected retail clean fuel outlet" means a specific retail ~~gasoline~~ clean fuel outlet which is equipped to store and dispense a designated clean fuel in order to comply with section ~~2301~~ or 2302.
- (28) "Retail clean fuel outlet" means an establishment which is equipped to dispense a designated clean fuel to motor vehicles and at which the designated clean fuel is sold or offered for sale to the general public for use in motor vehicles without the use of a key or card key and without the need to establish an account.
- (29) "Retail gasoline outlet" means any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles.
- (30) "~~SCAQMD~~" means ~~the South Coast Air Quality Management District~~.
- (31) "Vehicle conversion" means a modification of a gasoline or diesel fueled vehicle, not certified to a low-emission vehicle standard, to a vehicle which uses a designated clean fuel and which is capable of meeting low-emission vehicle exhaust emissions standards as demonstrated either by installation of an ARB-approved conversion system that achieves such low-emission standards or by individual vehicle testing.

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, 39500, 39515, 39516, 39667, 43000, 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).

~~Section 2301. Equipping Retail Gasoline Outlets in the SCAQMD to Dispense Designated Clean Fuels in 1994 Through 1996.~~

- ~~(a) Between January 1, 1994 and December 31, 1996, each major gasoline supplier shall, for each designated clean fuel, equip at least the required minimum number for each year, as determined in accordance with section 2305(c), of the retail gasoline outlets in the SCAQMD of which it is the owner/lessor so that the outlets are retail clean fuel outlets for the designated clean fuel. The required minimum number of retail clean fuel outlets for each year shall apply to the entire year. The requirements of this section shall apply at all times during which a person is a major gasoline supplier. The requirements of this section shall in any case be~~

~~deemed satisfied with regard to a designated clean fuel if all of the operating retail gasoline outlets in the SCAQMD for which the major gasoline supplier is the owner/lessor are equipped as retell outlets for the designated clean fuel.~~

- ~~(b) In the case of any designated clean fuel which is in gaseous form, the dispensing equipment shall be designed for a minimum of four hours of high volume operation per day. For all retail gasoline outlets that are claimed by the owner/lessor to be equipped in order to satisfy the requirements of this section, the owner/lessor shall notify the operator in writing that the outlet is so equipped.~~

~~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, 39500, 39515, 39516, 39667, 43000, 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).~~

Section 2302. Equipping Retail Gasoline Outlets or Other Outlets to Dispense Designated Clean Fuels Starting in 1997.

- (a) ~~Starting January 1, 1997,~~ Any person who is the owner/lessor of an operating retail gasoline outlet shall, for each designated clean fuel, equip at least the required minimum number for each year, as determined in accordance with section 2307(d), of his or her retail gasoline outlets in the state, or of other outlets in the state, so that the outlets are retail clean fuel outlets for the designated clean fuel. The required minimum number of retail clean fuel outlets for each compliance year shall apply to the entire compliance year. The requirements of this section shall apply at all times during which a person is an owner/lessor of an operating retail gasoline outlet. The requirements of this section shall in any case be deemed satisfied with regard to a designated clean fuel if all of the owner/lessor's operating retail gasoline outlets are equipped as retail outlets for the designated clean fuel.
- (b) In the case of any designated clean fuel which is in gaseous form, the dispensing equipment required by this section shall be designed for the minimum of four hours of high volume operation per day. For all retail gasoline outlets or other that are claimed by the owner/lessor to be equipped in order to satisfy the requirements of this section, the owner/lessor shall notify the operator in writing that the outlet is so equipped.

~~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, 39500, 39515, 39516, 39667, 43000, 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).~~

Section 2303. Determination of Total Projected Maximum Volumes of Designated Clean Fuels.

~~For each year starting with 1994, t~~The executive officer shall determine the total projected maximum volume of each designated clean fuel for each year, at least fourteen months before the start of the year, in accordance with this section. ~~The executive officer shall make a preliminary estimate at least eighteen months before the start of the year, and shall make a final estimate at least twelve months before the start of the year.~~

(a) ***Identification of designated clean fuels.*** The executive officer shall determine what designated clean fuels are expected to be used as the certification fuel in low emission vehicles in the year. This determination shall be based on registration records of the Department of Motor Vehicles and projected production estimates submitted by motor vehicle manufacturers to the executive officer pursuant to the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, and the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1961.

(b) ***Estimation of number of designated clean fuel vehicles.***

(1) For each designated clean fuel identified pursuant to section 2303(a), the executive officer shall make ~~preliminary and final~~ an estimates of the number of low-emission vehicles certified on the fuel for each calendar year.

~~(1) For each year and for each designated clean fuel, t~~The preliminary estimate shall be the sum of: [i] the number of low emission vehicles certified on the fuel that vehicle manufacturers have projected to be produced in the corresponding model year and the prior model year for sale in California; [ii] ~~one-half~~ one-sixth of the number of low-emission vehicles certified on the fuel that vehicle manufacturers project to produce for the model year that is two years prior to the year for which the calculations are being made; and [iii] the number of low-emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through ~~March 31~~ July 30 of the year two years prior to the year for which the estimates are being made.

~~(2) For each year and for each designated clean fuel, the final estimate shall be the sum of: [i]~~ the number of low-emission vehicles certified on the fuel that vehicle manufacturers have projected to be produced in the corresponding model year and the prior model year for sale in California; and [ii] the number of low-emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through ~~September 30~~ of the year two

~~years prior to the year for which the estimates are being made.~~

(3)(2) The vehicle manufacturers' projections used for the estimates made under this section 2303(b) shall be the reports of projected production data submitted by motor vehicle manufacturers to the executive officer pursuant to the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, or "California Exhaust Emission Standards and Test procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1961.

(c) ***Determination of total projected maximum volumes of designated clean fuel.*** For each designated clean fuel identified pursuant to section 2303(a), the executive officer shall estimate the total projected maximum volume (TPMV) of the designated clean fuel for the year. The total projected maximum volume for each designated clean fuel shall be the sum of the maximum demand volumes (MXDV) calculated by model year and vehicle class (passenger car, light-duty truck, or medium-duty vehicle).

The following equation shall be used to calculate total projected maximum volumes:

$$\text{TPMV} = \sum_{\substack{\text{model} \\ \text{year (y)}}} \left[\sum_{\substack{\text{vehicle} \\ \text{class (I)}}} \text{MXDV (vehicle class I, model year y)} \right]$$

Where: *TPMV* is the total projected maximum volume (gasoline equivalent gallons per year for a liquid fuel and therms per year for a gaseous fuel) for a particular clean fuel.

MXDV is the maximum demand volume for a particular clean fuel within vehicle class I and model year y as calculated in the next paragraph of text.

Model year y is, in turn, each vehicle model year since and including 1994.

Vehicle class I is, in turn, each of three classes of vehicles — passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Maximum demand volume for a designated clean fuel (for a given model year and vehicle class) shall equal the number of vehicles (as determined in section 2303(b)) in a particular vehicle class certified on a particular fuel, multiplied by the average miles traveled per year per vehicle by those vehicles, divided by the average fuel economy of those vehicles. ~~This value shall then be multiplied by a fuel volume adjustment factor and, for 1994 through 1996 only, by a sc-factor.~~

The following equation shall be used to calculate maximum demand volumes:

$$\begin{aligned}
 &MXDV \\
 &(\text{vehicle class I, model year y}) \\
 &= \\
 &\frac{(\text{number of vehicles certified on fuel}) \times (\text{AMT per vehicle})}{(\text{average fuel economy})} \times \frac{(\text{fuel volume})}{(\text{adjustment factor})} \times (\text{sc-factor})
 \end{aligned}$$

Where: *MXDV* is the maximum demand volume (gasoline equivalent gallons per year for a liquid fuel and therms per year for a gaseous fuel) for a particular clean fuel within vehicle class I and model year y.

Vehicle class I is one of three possible classes of vehicles — passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Model year y is, in turn, each vehicle model year since and including 1994.

Number of vehicles certified on fuel shall be determined pursuant to section 2303(b), and shall be calculated separately for vehicles of the same model year and vehicle class (PC, LDT, MDV).

AMT per vehicle is the average vehicle miles traveled per year per low-emission vehicle, based on annual mileage accrual rates for motor vehicles for a specific model year and vehicle class derived from the current version of the ARB's EMFAC emission inventory model and other reasonably available relevant information.

Average fuel economy represents the estimated fuel economy in miles per gasoline equivalent gallon (mpg) (or miles per therm in the case of gaseous fuels) of low-emission vehicles of the same model year and vehicle class. The average fuel economy estimates shall be determined by the executive officer based on the fuel economy estimates provided by the vehicle manufacturers pursuant to the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" and the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," which are incorporated by reference in Title 13, California Code of Regulations, sections 1960.1 and 1961, and on other reasonably available relevant information.

Fuel volume adjustment factor for a designated clean fuel shall be as set forth in the following table, depending on the year in which retail clean fuel outlets for the fuel are first required pursuant to section 2304(a)(1); provided that the following table

~~notwithstanding, the fuel volume adjustment factor in 1997 and subsequent years shall be 0.90:~~

<u>Applicability of Retail Outlet Requirement</u>	<u>Fuel Volume Adjustment Factor</u>
1st year	0.75
2nd year	0.75
3rd and subsequent years	0.90

~~SC-factor is the fraction of new vehicles expected to be sold in the SCAQMD. The value of the SCAQMD factor shall be 0.50 and shall be multiplied by the maximum designated clean fuel demand estimates for 1994, 1995 and 1996 only.~~

- (d) ***Characterization of certain dual-fuel or flexible-fuel vehicles.*** Any dual-fuel or flexible-fuel vehicle which is certified to meet, while operated on gasoline or diesel fuel, low-emission vehicle standards at least as stringent as the most stringent low-emission vehicle standards to which the vehicle is certified while operated on a fuel other than gasoline shall not be included in the determination pursuant to section 2303(b) of the number of low-emission vehicles certified on a designated clean fuel.

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, 39500, 39515, 39516, 39667, 43000, 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)

Section 2303.5. Identification of Designated Clean Fuels Projected to Reach the Trigger Level In A Particular Year.

(a) **The trigger level requirement.**

(1) **Number of designated clean fuel vehicles necessary to trigger a retail clean fuel outlet requirement.** There shall be no retail clean fuel outlets for a designated clean fuel required in a year unless the statewide number of low-emission vehicles projected by the executive officer for that fuel in accordance with section 2303(b) is 20,000 or greater, after discounting the number of fleet vehicles by 75 percent or a smaller discount factor determined in accordance with section 2303.5(a)(2).

(2) **Reducing the discount factor for fleet vehicles.** The discount factor for fleet vehicles is intended to reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets in the year for which the

trigger determination is being made. If the executive officer determines, based on the reports filed pursuant to section 2313 and on any other relevant reasonably available information, that a specified lower percentage of the clean fuel dispensed to the fleet vehicles will likely be dispensed from facilities other than retail clean fuel outlets, the executive officer shall discount the number of fleet vehicles by that specified lower percentage.

(b) *Yearly projections regarding the trigger level.* For each year, the executive officer shall identify any designated clean fuels he or she projects will for the first time be the fuel for a sufficient number of low-emission vehicles to reach the trigger level set forth in section 2303.5(a). At least sixteen months before the start of the year, the executive officer shall notify interested parties of the fuel or fuels identified, and shall make available a summary of the information and analysis relied upon, including the fleet discount factor applied. The notification shall also identify any other designated clean fuel that the executive officer projects will miss the trigger level by no more than 30 percent, with the information and analysis relied upon being made available. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(c) *Requests to revise trigger level projections.* Any interested party may request in writing that the executive officer revise the trigger determination or fleet discount factor for any designated clean fuel, and may submit any relevant information supporting a revised determination. In order to be considered by the executive officer, the written request and supporting information must be received no more than 30 days after issuance of the notice. The executive officer shall consider any requests that are timely submitted, and shall issue his or her final trigger determination and fleet discount factor no less than fourteen months before the start of the year in question.

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2304. Determination of Total and Additional Number of Retail Clean Fuel Outlets Required For Each Designated Clean Fuel In Each Year Starting in 1994.

~~For each year starting with 1994,~~ The executive officer shall, for each designated clean fuel, determine the total number of retail clean fuel outlets required for the each year, and the total number of additional retail clean fuel outlets required for the first time in the year, in accordance with this section. The executive officer shall make preliminary-estimated the determinations of

these figures at least ~~eighteen~~ fourteen months before the start of the year, and final determinations at least twelve months before the start of the year.

(a) **Determination of total number of retail clean fuel outlets required for each designated clean fuel in each year.** For each year starting with 1994, ~~the~~ executive officer shall determine for each designated clean fuel the total number of retail clean fuel outlets that shall be required for that designated fuel in the each year, calculated as follows:

~~(1) **Number of designated clean fuel vehicles necessary to trigger a retail clean fuel outlet requirement.** There shall be no required number of retail clean fuel outlets for a designated clean fuel in a year unless the number of vehicles estimated by the executive officer for that fuel in accordance with section 2303(b) is 20,000 or greater statewide, notwithstanding sections 2304(a)(2), (3) and (4).~~

~~(2) **Minimum numbers of retail liquid clean fuel outlets required in 1994-1996 in the SCAQMD.**~~

~~(A) For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets in 1994, the required number of retail clean fuel outlets for 1994, 1995, and 1996 respectively shall be determined in accordance with sections 2304(a)(2)(B),(C), and (D), respectively. For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets for the first time in 1995, the required number of retail clean fuel outlets for 1995 and 1996 respectively shall be determined in accordance with sections 2304(a)(2)(B) and (C) respectively. For any liquid designated clean fuel that pursuant to section 2304(a)(1) will have a required number of outlets for the first time in 1996, the required number of retail clean fuel outlets for 1996 shall be determined in accordance with section 2304(a)(2)(B).~~

~~(B) **First year (1994, 1996 or 1996).** The required number of retail clean fuel outlets for a liquid designated clean fuel subject to this subsection shall be the greater of 90 or the number determined pursuant to section 2304(a)(4).~~

~~(C) **Second year (1995 or 1996).** The required number of retail clean fuel outlets for a liquid designated clean fuel subject to this subsection shall be the greater of 200 or the number determined pursuant to section 2304(a)(4).~~

~~(D) **Third year (1996).** For any liquid designated clean fuel subject to this subsection, if the total number of vehicles estimated by the executive officer pursuant to section 2303(b) for 1996 is 200,000 or more statewide, the required number of retail clean fuel outlets for the liquid designated clean fuel in 1996 shall be the greater of 400 or the number determined pursuant to section 2304(a)(4). If the estimated number of~~

vehicles is less than 200,000 statewide, the required number of retail clean fuel outlets for the liquid designated clean fuel in 1996 shall be the greater of 200 or the number determined pursuant to section 2304(a)(4).

(3) ~~Minimum numbers of liquid clean fuel outlets required in 1997.~~ The required number of retail clean fuel outlets for a liquid designated clean fuel in 1997 in the state shall be the greater of [i] twice the required number of retail clean fuel outlets for the fuel in 1996 as determined pursuant to section 2304(a)(2), or [ii] the number of clean fuel outlets for the fuel in 1997 as determined pursuant to section 2304(a)(4).

(4) (1) *Formula for calculating required number of clean fuel outlets.* Except as otherwise provided in this section 2304(a), the total number of clean fuel outlets that shall be required for each designated clean fuel for each year shall be calculated as follows:

$$\begin{array}{rcccl}
 \text{Required} & & & \text{Discounted Clean Fuel} & \\
 \text{Clean Fuel} & = & \text{Total} & \text{Volume for Low-} & \text{Total Clean} \\
 \text{Outlets} & & \text{Projected} & \text{Emission Fleet} & \text{Fuel Volume} \\
 & & \text{Maximum Clean} & \text{Vehicles at} & \text{From Vehicle} \\
 & & \text{Fuel Volume} & \text{Non-Retail Facilities} & \text{Conversions} \\
 & & \hline
 & & \text{Clean Fuel Throughput Volume per Station} & &
 \end{array}$$

Where: *Total Projected Maximum Clean Fuel Volume* shall be determined in accordance with the procedures set forth in section 2303(c).

Discounted Clean Fuel Volume for Low-Emission Fleet Vehicles at Non-Retail Facilities means the total volume of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) estimated to be dispensed into low-emission used in fleet vehicles at nonretail facilities during the year, multiplied by the discount factor determined pursuant to section 2303.5(a) for the designated clean fuel for the year in which the retail clean fuel outlet trigger was reached. This figure shall be determined by the executive officer based on using the methodology in section 2303(c), the reports filed pursuant to section 2313 and on any other relevant reasonably available information. For 1994, 1995 and 1996, the volume shall be based on facilities in the SCAQMD only.

Total Clean Fuel Volume from Vehicle Conversions means the total amount of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) for each vehicle class from conversions. This figure shall be determined by the executive officer based on information provided by the Department of Motor Vehicles and on any other relevant reasonably available information. For 1994, 1995 and 1996, the volume shall be based on conversions in the SCAQMD only.

Clean Fuel Throughput Volume Per Station for liquid fuel shall be 300,000 gasoline equivalent gallons per year for each designated clean fuel, except that once more than five percent of all retail gasoline outlets are required to be equipped to dispense a particular liquid clean fuel, the clean fuel throughput volume per station shall be 600,000 gasoline equivalent gallons for purposes of calculating the number of required retail clean fuel outlets in excess of five percent of all retail gasoline outlets. for the years 1994-1996, and as 600,000 gasoline equivalent gallons per year for each designated clean fuel starting in 1997. For gaseous fuel, the clean fuel throughput volume per station shall be 400,000 therms per year.

(5) Special provisions for determining required number of clean fuel outlets for CNG.

- (A) For each year starting with 1994, the executive officer shall determine the number of retail CNG outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2301(b), [iii] were installed in the SCAQMD by November 30, 1992, and [iv] are operating is of thirteen months before the start of the year for which the determination is being made:
- (B) For each year starting with 1997, the executive officer shall determine the number of retail CNG outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2302(b), [iii] were installed in the state outside the SCAQMD by November 30, 1995, and [iv] are operating as of thirteen months before the start of the year for which the determination is being made:
- (C) The executive officer shall reduce the total number of clean fuel outlets required for CNG in each year, as determined pursuant to section 2304(a)(4), by the number of retail CNG outlets determined in accordance with section 2304(a)(5)(A) and (B). The executive officer shall notify the owner/lessor of each retail CNG outlet included in the determinations made pursuant to this section 2304(a)(5), and no such outlet may be constructively allocated pursuant to section 2308:

(2) Reducing the number of required retail clean fuel outlets to reflect certain preexisting outlets.

- (A) For each year, the executive officer shall determine for each designated clean fuel the number of retail clean fuel outlets that [i] are owned or leased by persons who are not owner/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2302(b) where applicable, [iii] satisfy the provisions of section 2309(b), and [iv] are operating as of fifteen months before the start of the year for which the determination is being made.

(B) For each year, the executive officer shall reduce the total number of required clean fuel outlets required for each designated clean fuel, as determined pursuant to section 2304(a)(1), by the number of retail clean fuel outlets determined in accordance with section 2304(a)(2)(A). The executive officer shall notify the owner/lessor of each retail clean fuel outlet included in the determinations made pursuant to this section 2304(a)(2), and no such outlet may be constructively allocated pursuant to section 2308.

(3) Executive officer determinations to adjust the number of required retail clean fuel outlets.

(A) Permitted adjustments. The executive officer may adjust the number of retail clean fuel outlets otherwise required for a given year pursuant to this section 2304(a) based on the likelihood of vehicles to use the particular clean fuel, the fueling patterns of fleet vehicles, the potential for the operational range of fleet vehicles to be expanded by use of retail clean fuel outlets, and related factors. The maximum permitted upward adjustment would require the number of outlets resulting from the formula in section 2304(a)(1) without subtracting the discounted clean fuel volume for fleet vehicles. The maximum permitted downward adjustment would require the number of stations equal to the total projected clean fuel volume for dedicated non-fleet vehicles only.

(B) Notification regarding any adjustment. If the executive officer makes an adjustment pursuant to section 2304(a)(3) for a given year, he or she shall notify interested parties of the adjustment and the underlying basis for the adjustment, at least fourteen months before the start of the year. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(C) Requests to revise the executive officer's adjustment. Any interested party may request in writing that the executive officer revise the adjustment, and may submit any relevant information supporting a revised determination. In order to be considered by the executive officer, the written request and supporting information must be received no more than 30 days after issuance of the notice. The executive officer shall consider any requests that are timely submitted, and shall issue his or her final determination no less than twelve months before the start of the year in question. At the same time, the executive officer shall make any resulting modifications to the determinations and notifications made pursuant to sections 2304(b), 2306 and 2307.

(b) Determination of total number of additional clean fuel outlets required each year for each designated clean fuel. For each year starting with 1994, the executive officer shall determine, for each designated clean fuel, the total number of additional retail clean fuel outlets required for the first time to be in place in that year. This figure shall be determined by subtracting the

total number of required retail clean fuel outlets determined in accordance with section 2304(a) for the previous year, from the total number of required clean fuel outlets determined in accordance with 2304(a) for the year for which the calculations are being made.

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, 39500, 39515, 39516, 39667, 43000, 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).

~~Section 2305. Allocation Among Major Gasoline Suppliers of Additional and Total Number of Retail Clean Fuel Outlets in the SCAQMD Required For Each Designated Clean Fuel in Each Year From 1994 Through 1996.~~

~~For each of the years 1994, 1995 and 1996, the executive officer shall, for each designated clean fuel, make the determinations set forth in this section. The executive officer shall make preliminary estimates of the determinations at least eighteen months before the start of the year, and shall make final determinations at least twelve months before the start of the year.~~

~~(a) Determination of each major gasoline supplier's market share factor for 1994-1996.~~

~~(1) For each of the years 1994, 1995 and 1996, the executive officer shall determine, for the last four quarters for which data are available, the total volume of gasoline distributed by each major gasoline supplier for use in motor vehicles in California, and the total volume of gasoline distributed by all major gasoline suppliers for use in motor vehicles in California. The determinations shall be based on taxable distributions of gasoline as reported to the State Board of Equalization pursuant to Revenue and Taxation Code sections 7301 et seq. The executive officer shall calculate the market share factor of each major gasoline supplier for the year as the ratio of the volume of gasoline sold by each major gasoline supplier for use in motor vehicles in California as determined in accordance with this section 2305(a), to the total volume of gasoline sold by all major gasoline suppliers for use in motor vehicles in California as determined in accordance with this section 2305(a).~~

~~(2) Whenever a major gasoline supplier acquires a gasoline production facility or gasoline importation facility from another gasoline supplier and uses it to produce or import gasoline, the volume of gasoline which was distributed by the transferring gasoline supplier and was attributable to the transferred gasoline production facility or gasoline importation facility shall be deemed, for the purposes of this subsection 2305(a), to have been distributed by the acquiring person.~~

~~(b) Allocation among major gasoline suppliers of the number of additional clean fuel outlets for each year.~~ For each of the years 1994, 1995 and 1996, the executive officer shall

determine the number of additional retail clean fuel outlets each mayor gasoline supplier is required for the first time to have in place in the SCAQMD for each designated clean fuel. This number shall be calculated, for each designated clean fuel, by multiplying the total number of additional retail clean fuel outlets required for the year (determined in accordance with section 2304(b)), by the most recent market share factor for the major gasoline supplier determined in accordance with section 2305(a).

(c) ***Determination of each major gasoline supplier's total required minimum number of retail clean fuel outlets for each clean fuel.*** For each of the years 1994, 1995 and 1996, each major gasoline supplier's required minimum number of retail clean fuel outlets for each designated clean fuel in the SCAQMD shall consist of the number of additional retail clean fuel outlets the major gasoline supplier is required for the first time to have in place in the year as determined in accordance with section 2305(b), added to the sum of the numbers of additional retail clean fuel outlets required of the major gasoline supplier for the first time in each of the previous years as determined in accordance with section 2305(b). The required minimum number of a mayor gasoline retailer's retail clean fuel outlets for each designated clean fuel in a year shall not be less than the required minimum number of such outlets for the previous year, except that there shall be no required minimum number outlets for a designated clean fuel in any year for which the number of vehicles estimated by the executive office pursuant to section 2303(b) is less than 20,000.

(d) ***Notification of Estimated and Final Determinations:***

(1) Eighteen months before the start of each of the years 1994, 1995 and 1996, the executive officer shall notify each major gasoline supplier in writing of the preliminary estimate of the gasoline supplier's required minimum number of clean fuel outlets for each designated clean fuel for the year as determined pursuant to section 2305(c). The written notification shall include a detailed analysis of how the preliminary estimated numbers were derived.

(2) Twelve months before the start of each of the years 1994, 1995 and 1996, the executive officer shall notify each mayor gasoline supplier in writing of the final determination of the gasoline supplier's required minimum number of clean fuel outlets for each designated clean fuel for the year. The written notification shall include a detailed analysis of how the number was derived.

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, 39500, 39515, 39516, 39667, 43000, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Assn. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

Section 2306. Identification of Affected Owner/Lessors Required to Equip Additional

Retail Clean Fuel Outlets Each Year Starting in 1997.

For each year, ~~beginning with 1997~~, at least fourteen months before the start of the year, the executive officer shall identify for each designated clean fuel the affected retail gasoline outlet owner/lessors who will be required to equip retail gasoline outlets or other retail outlets to dispense that fuel. An affected station owner/lessor is any person who is the owner/lessor of a number of retail gasoline outlets equal to or greater than the minimum ownership level (MOL) for the year, calculated as follows:

$$\text{Minimum Ownership Level (MOL)} = \frac{\text{Number of Non-Clean Fuel Retail Outlets}}{\text{Sum of the Numbers of Additional Retail ~~Gasoline~~ Clean Fuel Outlets for All Designated Clean Fuels}}$$

Where: *Number of Non-Clean Fuel Retail Outlets* is calculated by subtracting the sum of the required retail clean fuel outlets determined in accordance with section 2304(a) for all designated clean fuels for the previous year, from the total number of retail gasoline outlets statewide estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.

Sum of the Numbers of Additional Retail ~~Gasoline~~ Clean Fuel Outlets for All Designated Clean Fuels is the sum of the total additional number of clean fuel outlets calculated for the year for each designated clean fuel in accordance with section 2304(b).

The executive officer shall round the result of the calculation for minimum ownership level to the nearest integer.

~~The executive officer shall make preliminary estimates of the identities of affected owner/lessors at least eighteen months before the start of the year, and shall make final determinations of the identities at least twelve months before the start of the year.~~

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2307. Allocation Along Affected Owner/Lessors of the Total Number of Retail Clean Fuel Outlets Starting in 1997.

For each year, ~~beginning with 1997~~, the executive officer shall, for each designated clean fuel,

make the determinations set forth in this section. ~~The executive officer shall make preliminary estimates of the determinations at least eighteen months before the start of the year, and shall make final determinations at last twelve months before the start of the year.~~

- (a) ***Allocation among affected owner/lessors of the number of additional retail clean fuel outlets for each year.*** For each year, ~~beginning with 1997~~, the executive officer shall determine the number of additional retail clean fuel outlets that each affected owner/lessor of retail gasoline outlets is required for the first time to have in place in the state. This number shall be calculated, for each designated clean fuel, by multiplying the owner/lessor's number of non-clean fuel retail gasoline outlets (determined in accordance with section 2307(b)) by the clean fuel fraction (determined in accordance with section 2307(c)), rounded to the nearest integer using conventional rounding. If the resulting number is less than zero, the number shall be adjusted to zero.
- (b) ***Determination of an owner/lessor's number of non-clean fuel retail gasoline outlets.*** The executive officer shall determine an owner/lessor's number of non-clean fuel retail gasoline outlets by subtracting the sum of the owner/lessor's total required minimum number of retail clean fuel outlets for all designated clean fuels in the preceding year as determined pursuant to section 2307(d), from the owner/lessor's total number of retail gasoline outlets (based on reports submitted pursuant to section 2312 and other reasonably available relevant information).
- (c) ***Determination of clean fuel fraction.*** For each designated clean fuel, the executive officer shall calculate the clean fuel fraction for each designated clean fuel as follows:

Clean Fuel Fraction =

$$\frac{\text{Total Additional Number of Retail Clean Fuel Outlets}}{\text{Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors}}$$

Where: *Total Additional Number of Retail Clean Fuel Outlets* is the total number of additional retail clean fuel outlets required for the year for the particular clean fuel in accordance with section 2304(b).

Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors is calculated by subtracting the sum of the required retail outlets determined in accordance with section 2304(a) for all clean fuels from the sum of the number of retail gasoline outlets owned or leased by all of the affected owners and lessors estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.

- (d) ***Determination of each owner/lessor's total required minimum number of retail clean fuel***

~~outlets for each clean fuel for each year starting with 1997.~~ For 1997 and each subsequent year, each owner/lessor's required minimum number of retail clean fuel outlets for each designated clean fuel in the state shall consist of the number of additional retail clean fuel outlets that the owner/lessor is required for the first time to have in place in the year as determined in accordance with section 2307(a), added to the sum of the numbers of additional retail clean fuel outlets required of the owner/lessor for the first time in each of the previous years as determined in accordance with section 2307(a) ~~and 2305(b)~~. The required minimum number of an owner/lessor's retail clean fuel outlets for each designated clean fuel in a year shall not be less than the required minimum number of such outlets for the previous year, except that there shall be no required minimum number outlets for a designated clean fuel in any year for which the number of vehicles estimated by the executive officer pursuant to section 2303(b) is less than 20,000.

(e) ***Notification of estimated and final determinations owner/ lessors.***

(1) ~~Eighteen months before the start of each year beginning with 1997, the executive officer shall notify each affected owner/lessor in writing of the preliminary estimate of the owner/lessor's required minimum number of clean fuel outlets for each designated clean fuel for the year as determined pursuant to section 2307(d). The written notification shall include a detailed analysis of how the preliminary estimated numbers were derived.~~

(2) ~~Twelve~~ At least fourteen months before the start of ~~1997~~ and each subsequent year, the executive officer shall notify each affected owner/lessor in writing of the ~~final determination of the~~ owner/lessor's required minimum number of clean fuel outlets for each designated clean fuel for the year. The written notification shall include a detailed analysis of how the number was derived.

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2308. Constructive Allocation of Retail Clean Fuel Outlets.

(a) Any owner/lessor of a retail gasoline outlet, and any person who is the owner/lessor of a retail clean fuel outlet which is not a retail gasoline outlet, may constructively allocate one or more retail clean fuel outlets to ~~a major gasoline supplier, or to the owner/lessor of a retail gasoline outlet, for purposes of demonstrating compliance with the requirements in sections 2301 or 2302, as long as the requirements of this section are met.~~

(b) Any agreement to constructively allocate a retail clean fuel outlet pursuant to this section shall be in writing. The constructive allocation shall be in calendar year increments, and shall not

cover less than one calendar year. The agreement shall be executed before the start of the first year of constructive allocation covered by the agreement.

- (c) A retail clean fuel outlet may not be constructively allocated unless it meets any applicable dispensing capacity requirements set forth in sections ~~2301(b)~~ and 2302(b).
- (d) If the retail clean fuel outlet being constructively allocated is not a retail gasoline outlet, the person making the constructive allocation shall obtain prior approval from the executive officer. The executive officer shall approve the constructive allocation if s/he determines that the facility is adequately accessible for fueling of motor vehicles by the general public with the designated clean fuel.
- (e) Any person who constructively allocates a retail clean fuel ~~retail~~ outlet for a designated clean fuel shall be deemed to be the owner/lessor of that retail clean fuel outlet and shall be subject to the requirements of section 2309(b) and (c)(1) during the period covered by the constructive allocation agreement.
- (f) The owner/lessor of any retail clean fuel ~~retail~~ outlet which is constructively allocated shall notify the operator in writing that it is claimed to be equipped in order to satisfy the requirements of sections ~~2301~~ or 2302, as applicable.
- (g) Any person who constructively allocates a retail clean fuel outlet to an major gasoline supplier ~~or~~ owner/lessor shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information.
 - (1) The name, address and telephone number of the person making the constructive allocation.
 - (2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, the business interest in the outlet of the person making the constructive allocation, and the brand, trade, or other name under which the business at the outlet is conducted.
 - (3) For each constructively allocated retail clean fuel outlet, the name and address of the ~~major gasoline supplier~~ or owner/lessor to whom the outlet was constructively allocated, and the starting and ending dates of the constructive allocation.
 - (4) The name of the operator of the retail clean fuel outlet.
- (h) Any ~~major gasoline supplier~~ or owner/lessor who receives a constructive allocation of a retail clean fuel outlet shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The report shall be executed in California

under penalty of perjury and shall contain the following information.

- (1) The name, address and telephone number of the ~~major gasoline supplier~~ or owner/lessor.
- (2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, and the brand, trade, or other name under which the business at the outlet is conducted.
- (3) For each constructively allocated retail clean fuel outlet, the name and address of the person constructively allocating the outlet, and the starting and ending dates of the constructive allocation.
- (4) A copy of the executed constructive allocation agreement.

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, 39500, 39515, 39516, 39667, 43000, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Assn. v. Orange County Air Pollution Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

Section 2309. Responsibilities of Owner/Lessors of Selected Retail Clean Fuel Outlets.

(a) *Locations of required clean fuel outlets.*

- (1) For each designated clean fuel, in determining the locations of required retail clean fuel outlets, an owner/lessor shall provide a reasonable geographical dispersion of the outlets and place the outlets in locations that are reasonably near the existing and anticipated areas of operation convenient to drivers of low emission vehicles that operate on the designated clean fuel, and are convenient to drivers of such vehicles. Any retail clean fuel outlet that was equipped to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy these criteria.
- (2) At least ~~15~~ eight months before the start of each year ~~commencing with 1994~~ (by April 30 of the previous year), each owner/lessor who has received a ~~preliminary estimate notification~~ pursuant to sections ~~2305(d)(1) or 2307(d)(1)(e)~~ indicating that s/he will be required to have in place additional retail clean fuel outlets for that year shall submit to the executive officer proposed locations for such outlets and optional locations equal to at least 20 percent of the proposed locations, identified by street address, ZIP code, and Universal Transverse Mercator (UTM) coordinates. The submittal shall include any outlets that are or may be constructively allocated to the owner/lessor pursuant to section 2308. Following submittal, the owner/lessor shall consult with designees of the executive officer, and with the CEC's executive officer or his or her designees, on the optimal

locations for new retail clean fuel outlets.

- (3) The owner/lessor shall notify the executive officer of the final locations of all new retail clean fuel outlets for the year, no later than ~~six~~ five months before the start of the year (by July 31).

(b) ***Requirements regarding facilities at selected clean fuel outlets at retail gasoline outlets.***

Each owner/lessor of a selected retail clean fuel outlet at a retail gasoline outlet shall, with respect to each such outlet:

- (1) Locate the designated clean fuel dispenser(s) in a location substantially as accessible and visible to a customer entering the station as are the gasoline dispensers, and providing substantially the same convenience of ingress and egress as exists for the gasoline dispensers at the outlet; provided that any dispenser equipped prior to January 1, 1993 to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy this criterion.
- (2) Ensure that the designated clean fuel dispensers are substantially as well-marked and as clearly identified as the gasoline dispensers with regard to the type of fuel.
- (3) Maintain lighting which keeps the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area when the outlet operates at night.
- (4) Ensure that customers using designated clean fuel dispensers will have, within the same service mode (e.g. self serve or full serve), substantially the same access to services and facilities such as canopy coverage, air and water, vending, and restrooms as do customers purchasing gasoline, unless the owner/lessor has, in the preceding 12 months, demonstrated to the satisfaction of the executive officer that providing such a service or facility is prohibited by local ordinance or applicable safety codes.
- (5) ~~If the owner/lessor is a refiner or distributor, either [i] offer a training program for attendants at the retail clean fuel outlet that instructs them to be able to respond to customers' questions about the designated clean fuel dispensed at the outlet, including performance characteristics of the fuel, the type of vehicles capable of using the fuel, and appropriate safety and handling considerations; or [ii] administer a program which the executive officer has found to be substantially as effective as the training program described in [i] above in assuring that customers at the outlet will be informed about the designated clean fuel. Prominently display directions on use of the clean fuel dispensing equipment.~~
- (6) Maintain the designated clean fuel dispensing equipment in good operating condition.

(c) Requirements regarding facilities at selected clean fuel outlets at which gasoline is not offered to the public. Each owner/lessor of a selected retail clean fuel outlet at which gasoline is not offered to the public shall, with respect to each such outlet:

- (1) Locate the designated clean fuel dispenser(s) in a location that is readily accessible from main streets and highways.
- (2) Ensure that the designated clean fuel dispensers are available for public use during normal business hours without the use of a key or cardkey.
- (3) Ensure that a customer is able to pay for his or her fuel purchase without establishment of an account with the outlet owner or operator.
- (4) If the outlet is operated after dark, maintain commercially reasonable lighting levels to provide user safety.
- (5) Prominently display directions on use of the clean fuel dispensing equipment.

(c) (d) Requirements regarding supply of designated clean fuels to selected retail clean fuel outlets.

(1) Whenever the operator of a selected retail clean fuel outlet requests that the owner/lessor of the outlet provide for the delivery, within a specified time not less than 72 hours from the request, of specified commercially reasonable quantities of the designated clean fuel to the outlet on commercially reasonable terms, the owner/lessor shall be jointly liable with the operator for any violations at the outlet of section 2310(a)(1) starting with the requested time of delivery and ending with the next delivery of commercially reasonable quantities of the clean fuel to the outlet, unless the owner/lessor does one of the following:

- [i] supplies the specified quantity of designated clean fuel to the outlet, within the specified time, on commercially reasonable terms, or
- [ii] identifies a third party willing to supply, within the specified time, the specified quantity of designated clean fuel to the outlet on commercially reasonable terms.

However, an owner/lessor's failure to satisfy the conditions set forth in [i] and [ii] shall not result in liability under this section if the owner/lessor demonstrates that s/he was prevented from satisfying the conditions by a natural disaster such as an earthquake or flood, an act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.

(2) Whenever an owner/lessor is required to submit a notification regarding final outlet

locations to the executive officer pursuant to section 2309(a)(3), the notification shall include a description of the means by which the owner/lessor intends to comply with section 2309(c)(1). The description shall include, but need not be limited to, [i] a description of any facility that is or will be owned or leased by the owner/lessor for the production or importation of the designated clean fuel, including the throughput capacity of such facility; [ii] the identities of any third parties with whom the owner/lessor has or plans to have contracts to supply the designated clean fuel, and the minimum volumes of the designated clean fuel subject to such contracts; [iii] if the owner/lessor will not have a designated clean fuel production or import facility, or a contract for supply of the fuel, a description of the manner in which supply of the designated clean fuel will be arranged; [iv] a description, including location and capacity, of any facilities that are or will be owned or leased by the owner/lessor for the loading of the designated clean fuel into tank cars, vessels, or tank trucks; and [v] the identities of any parties with whom the owner/lessor has, or plans to have, contracts for the delivery of the designated class fuel to the retail clean fuel outlets, and the facilities from which such parties will make such deliveries.

(d) *Annual reports regarding compliance with sections ~~2301~~ and 2302.*

(1) ~~Each major gasoline supplier shall for each of the calendar years 1994, 1995 and 1996 submit to the executive officer by January 10 of the year a report containing the information set forth below regarding compliance with section 2301. For each calendar year starting with 1997, each owner/lessor who is required to equip one or more retail gasoline outlets as a retail clean fuel shall submit to the executive officer by January 10 of the year a report containing the information set forth below regarding compliance with section 2302. The information shall be categorized by each designated clean fuel. The reports shall be escheated in California under penalty of perjury.~~

(A) ~~The street address of each of the major gasoline supplier's or owner/lessor's retail gasoline outlets claimed to be equipped as a retail clean fuel outlet to satisfy the requirements of section ~~2301~~ or 2302.~~

(B) ~~For each such outlet, the type of designated clean fuel dispensed at the outlet, the brand, trade, or other name under which the business at the outlet is conducted, and the name of the operator of the outlet.~~

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2310. Responsibilities of Operators of Selected Retail Clean Fuel Outlets.

- (a) ~~Starting January 1, 1994,~~ The operator of a selected retail clean fuel outlet equipped to dispense gasoline shall, whenever gasoline is offered for sale at the outlet, do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:
- (1) Store a commercially reasonable quantity of the designated clean fuel at the outlet and offer the fuel for sale to the public, during the same hours that gasoline is offered for sale. However, an operator shall not be liable for failure to comply with this section 2310(a)(1) if the operator demonstrates s/he was unable to comply because of a natural disaster such as an earthquake or flood, an act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.
 - (2) Maintain the designated clean fuel dispensing equipment in good operating condition.
 - (3) Keep the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area during nighttime operation.
 - (4) Keep the designated clean fuel dispenser area and pad substantially as clean as the gasoline dispenser area and pad.
- (b) The operator of a selected retail clean fuel outlet not equipped to dispense gasoline to the general public shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:
- (1) Maintain reasonable access to the clean fuel dispensing equipment.
 - (2) Maintain the designated clean fuel dispensing equipment in good operating condition.
 - (3) Provide a payment option that does not require the purchaser to establish an account with the operator.
- (c) The operator of any selected retail clean fuel outlet shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:
- (1) If the designated clean fuel dispensers are at any time used in a consumer self-service mode, post at all times in a conspicuous and convenient location directions illustrating the use of the dispensing equipment.
 - (5) ~~If the owner/lessor of the outlet is a refiner or distributor, either [i] have present during the hours the designated clean fuel is offered for sale, at least one attendant who has been trained in a program offered pursuant to section 2309(b)(5), or [ii] provide an alternative~~

~~means for informing customers about the designated clean fuel which the executive officer has found is substantially as effective as compliance with [i] above.~~

- (6) (2) Display on the premises a sign which discloses that the clean fuel outlet offers the designated clean fuel for sale, and which is clearly visible from the street or highway adjacent to the outlet, provided that the operator shall not be required to display a sign in a manner inconsistent with applicable local ordinances.
- (7) (3) Conspicuously post, on the designated clean fuel dispenser, the price of the clean fuel volume that provides the energy provided by a gallon of gasoline. This price shall be calculated for liquid fuels by multiplying the price of a volumetric gallon of the fuel by the values in the table below. In the case of CNG, the price shall be posted as 1.18 multiplied by the price of one therm of compressed natural gas.

<i>Fuel</i>	<i>Price Multiplier</i>
Gasoline	1.00
LPG	1.27
Methanol (M100)	2.08
M85	1.79
Ethanol (E100)	1.54
E85	1.43

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2311. Relief from Liability Caused by Breakdowns of CNG Dispensing Equipment.

- (a) An owner/lessor or operator of a selected clean fuel outlet equipped to dispense CNG shall not be liable for violations of sections ~~2301~~, 2302, 2309(b) or 2310(a) resulting from a minor breakdown if:
- (1) The owner/lessor or operator reports the breakdown to the executive officer within 4 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;
 - (2) The equipment is repaired as quickly as possible in the exercise of reasonable diligence, in no case in more than 72 hours;

- (3) Within 12 hours of repair of the equipment, the owner/lessor or operator reports to the executive officer that the repairs have been completed, and describes the corrective measures, if any, taken to avoid breakdowns in the future; and
 - (4) The owner/lessor or operator is able to demonstrate that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the control of the owner/lessor or operator.
- (b) An owner/lessor or operator of a selected clean fuel outlet equipped to dispense CNG shall not be liable for violations of sections ~~2301~~, 2302, 2309(b) or 2310(a) resulting from a mayor breakdown if the owner/lessor or operator:
- (1) Reports the breakdown to the executive officer within 4 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;
 - (2) Within 7 days of the breakdown, submits to the executive officer in writing a report that:
 - (A) Demonstrates to the reasonable satisfaction of the executive officer that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the reasonable control of the owner/lessor or operator; and
 - (B) Identifies a plan reasonably detailing how the CNG dispensing equipment will be repaired or replaced as soon as possible with the exercise of reasonable diligence, including a final completion date no later than six months following the date of the breakdown; and
 - (3) Completes the repair or replacement [i] by the final completion date identified in the submitted plan, or [ii] by such earlier completion date designated by the executive officer, within 14 days of receipt of the plan, as reasonably feasible based on review of the plan.

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, 39500, 39515, 39516, 39667, 43000, 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)

Section 2311.5. Notification by Executive Officer of Reporting Obligations.

For each year starting with 2002, the executive officer shall determine whether there is a substantial possibility that the 20,000 vehicle trigger level in section 2304(a)(1) will for the first time be reached for one or more designated clean fuels. The executive officer shall identify any

such designated clean fuel at least 22 months before the start of the year. The executive officer shall then take prompt and reasonable steps to provide notice of the identified fuel and applicable reporting obligations to: (1) all owner/lessors of retail gasoline outlets, (2) all fleet operators, and (3) all persons engaged in the business of distributing the identified fuel for 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, 39500, 39515, 39516, 39667, 43000, 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)

Section 2312. Reports by Owner/Lessors of Retail Gasoline Outlets.

- (a) Once the executive officer has identified a designated clean fuel under section 2311.5, by ~~By March 1, 1992,~~ July 31 of the year the identification was made and by ~~March 1~~ July 31 of every year thereafter, each owner/lessor of a retail gasoline outlet shall report to the executive officer the total number of retail gasoline outlets in the state of which the person is the owner/lessor, the street address of the retail gasoline outlet, and the owner/lessor's business interest in the outlet.

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2313. Reports by Fleet Operators.

- (a) Once the executive officer has identified a particular designated clean fuel under section 2311.5, Eevery fleet operator shall, for any year starting with 1994 in which the fleet operator reasonably expects to operate fleet vehicles certified on a designated clean fuel, supply the following information to the executive officer, at least fifteen eighteen months (by June 30) before the start of the year:

- (1) The expected number of low-emission vehicles in the fleet to be operated in the year that will be certified on a designated clean fuel, categorized by designated clean fuel.
- (2) The total volume of each designated clean fuel expected to be used by the vehicles in the year.
- (3) The total volume of designated clean fuel expected to be supplied to the fleet operator's low-emission vehicles during the year from the fleet operator's own dispensing facilities

and from facilities that are not retail clean fuel outlets.

- (4) The actual vehicle miles traveled for the prior 12 month period and the estimated vehicle miles traveled for the year in question.

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2314. Reporting Requirements for Persons who Distribute Designated Clean Fuels for Use in Motor Vehicles.

For each quarter starting with the first quarter of 1994, Starting the with the beginning of the year after the Executive Officer the executive officer identifies a particular designated clean fuel under section 2311.5, each person who in ~~the~~ a quarter distributes a designated clean fuel for use in motor vehicles shall, within 45 days after the end of the quarter, submit to the executive officer a report containing the following information for each designated clean fuel:

- (1) The volume of the designated clean fuel that was produced by the person and that was distributed in the quarter for use in motor vehicles.
- (2) The volume of the designated clean fuel that was imported by the person and that was distributed in the quarter for 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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2315. Determination of Violations

- (a) *Violations of sections ~~2301 and~~ 2302.* At any time that an owner/lessor fails to have equipped the number of retail gasoline outlets required by sections ~~2301 or~~ 2302 to be equipped to be a retail clean fuel outlet for a designated clean fuel, the owner/lessor shall be deemed to have sold or supplied gasoline to motor vehicles in violation of these regulations. For each day that the owner/lessor violates section ~~2301 or~~ 2302, the first ten motor vehicles fueled at one of the owner/lessor's retail gasoline outlets shall be deemed to have been unlawfully fueled for each retail gasoline outlet not equipped as required. If an owner/lessor claims to comply with the requirements of sections ~~2301 or~~ 2302 on the basis of retail clean

fuel outlets constructively allocated pursuant to section 2308, such facilities shall not satisfy the owner/lessor's obligations if the requirements in section 2308 for constructive allocation are not met.

(b) **Violations of section 2309(b).** Whenever the owner/lessor of a selected retail clean fuel outlet violates section 2309(b) with respect to the outlet, the gasoline sold or supplied at the outlet shall be deemed to have been sold or supplied by the owner/lessor in violation of these regulations. For each day that the owner/lessor violates section 2309(b) with respect to a selected retail clean fuel outlet, the first five motor vehicles fueled that day at the outlet with gasoline shall be deemed to have been unlawfully fueled by the owner/lessor.

(c) **Violations of section 2310.** Whenever the operator of a selected retail class fuel outlet violates section 2310 with respect to the outlet, the gasoline sold or supplied at the outlet shall be deemed to have been sold or supplied by the operator in violation of these regulations. For each day that the operator violates section 2310, the first five motor vehicles fueled that day with gasoline at the outlet shall be deemed to have been unlawfully fueled by the operator.

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, 39500, 39515, 39516, 39667, 43000, 43013, 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).

Section 2316. Determinations of Energy Equivalency of Fuels.

Whenever implementation of this subchapter requires values for the energy contents of fuels, the lower heating values in the following table shall be used.

VOLUMETRIC ENERGY CONTENTS

<i>Fuel</i>	<i>BTUs per gallon</i>
Gasoline	116,500
LPG	91,500
Methanol(M100)	56,500
M85	65,000
Ethanol (E100)	75,700
E85	81,800
CNG	1000 BTU/scf

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, 39500, 39515, 39516, 39667, 43000, 43013, 43018, and 43101, Health and Safety Code; and Western Oil and Gas Ass'n. v. Orange County Air Pollution Control

Section 2317. Satisfaction of Designated Clean Fuel Requirements with A Substitute Fuel.

- (a) Any person may petition the state board to designate by regulation a substitute fuel which may be used instead of a primary designated clean fuel to satisfy any requirements in this subchapter pertaining to a designated clean fuel. The state board shall designate such a substitute fuel if it is satisfied that the petitioner has demonstrated all of the following:
- (1) That use of the fuel in low-emission vehicles certified on the primary designated clean fuel will result in emissions of NMOG (on a reactivity-adjusted basis), NO_x, and CO no greater than the corresponding emissions from such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedures for Evaluating Substitute Fuels and New Clean Fuels", as adopted November 2, 1993, which is incorporated herein by reference.
 - (2) That use of the fuel in low-emission vehicles certified on the primary designated class fuel will result in potential health risks from exposure to benzene, 1,3-butadiene, formaldehyde, and acetaldehyde in the aggregate no greater than the corresponding potential health risks for such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedures for Evaluating Substitute Fuels and New Clean Fuels", as adopted November 2, 1993, which is incorporated herein by reference.
 - (3) That if the proposed substitute fuel may be used to fuel any motor vehicles other than low-emission vehicles certified on the primary designated class fuel:
 - (A) Use of the substitute fuel in such other motor vehicles would not increase emissions of NMOG (on a reactivity-adjusted basis), NO_x, and CO as determined pursuant to the procedures set forth in the "California Test Procedures for Evaluating Substitute Fuels and New Clean Fuels", as adopted November 2, 1993, which is incorporated herein by reference; and
 - (B) Use of the substitute fuel in such other motor vehicles would result in potential health risks from exposure to benzene, 1,3 butadiene, formaldehyde, and acetaldehyde in the aggregate no greater than the corresponding potential health risk from the emissions from such vehicles when operating on their customary fuel, as determined pursuant to the procedures set forth in the "California Test Procedures for Evaluating Substitute Fuels and New Clean Fuels", as adopted November 2, 1993, which is incorporated herein by reference; and
 - (C) Use of the substitute fuel in such other motor vehicles would not result in increased

deterioration of the emission control system on the vehicle and would not void the warranties of any such vehicles.

- (b) Whenever the state board designates a substitute fuel pursuant to this section, the state board shall also establish by regulation required specifications for the substitute fuel.
- (c) Commencing with the effective date of a regulatory action of the state board designating a substitute fuel pursuant to this section, any person may satisfy his or her obligations under this subchapter pertaining to a primary designated clean fuel, in whole or in part, by substituting the substitute fuel in place of the primary designated clean fuel.

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, 39500, 39515, 39516, 39667, 43000, 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).

Section 2317. Sunset for Particular Designated Clean Fuels.

This Chapter 8. shall cease to apply to a particular designated clean fuel once the number of retail clean fuel outlets offering the designated clean fuel represent at least ten percent of all retail gasoline outlets.

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, 39500, 39515, 39516, 39667, 43000, 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).