

**Suspended by the Board of County Commissioners,**  
**Effective 09/29/09**

**SECTION 54 - CLEANER BURNING GASOLINE (CBG): WINTERTIME PROGRAM**

**DEFINITIONS:**

"**ASTM**" means the American Society for Testing and Materials.

"**Barrel**" means 42 U.S. gallons.

"**Bulk purchaser-consumer**" means a Person that purchases or otherwise obtains Gasoline in bulk and then dispenses it into the fuel tanks or Motor Vehicles owned or operated by the Person.

"**Bulk plant**" means an intermediate Gasoline distribution facility where delivery of Gasoline to and from the facility is solely by truck.

"**Cap**" or absolute limit means a standard that applies to all Gasoline whenever it is sold or supplied throughout the distribution system.

"**CBG or Cleaner Burning Gasoline**" means:

- (A) Gasoline sold, intended for sale, or made available for sale as a Motor Vehicle fuel in Clark County Nevada; and
- (B) Gasoline that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as Gasoline suitable for sale as a Motor Vehicle fuel in Clark County, Nevada.

"**CBGBOB or Cleaner Burning Gasoline blend stock for oxygenate blending**, means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute CBG upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

"**Designated Alternative Limit or DAL**" means an alternative Gasoline specification limit, expressed in the nearest part per million by weight for sulfur content, nearest tenth percent by volume for aromatic hydrocarbon content, which is assigned by a producer or Importer to a final blend of CBG pursuant to Section 54.4.

**"Final blend"** means a distinct quantity of Gasoline or a batch of CBG or CBGBOB at a production facility from which some or all of the quantity or batch is delivered via pipeline to Clark County and/or a distinct quantity of CBG or CBGBOB that is imported into Clark County via either railway tank cars or trucks.

**"Further process"** means to perform any activity on Gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in this section.

**"Gasoline"** means any fuel that is commonly or commercially known, sold or represented as Gasoline.

**"Imported CBG"** means CBG which is transported into Clark County, Nevada via rail car or tank truck or trailer.

**"Import facility"** means the facility at which Imported CBG or CBGBOB is first received in Clark County, Nevada, including, in the case of Gasoline or CBGBOB imported by cargo tank and delivered directly to a facility for dispensing Gasoline into Motor Vehicles, the cargo tank in which the CBG or CBGBOB is imported.

**"Importer of CBG"** means any Person who first accepts delivery in Clark County, Nevada of Imported CBG.

**"Motor vehicle"** has the same meaning as defined in Section 0.

**"Oxygenate"** is any oxygen-containing, ash-less, organic compound, such as an alcohol or ether, which, when added to Gasoline increases the amount of oxygen in Gasoline.

**"Oxygenate blending facility"** means any facility (including a truck) at which oxygenate is added to Gasoline or blend-stock, and at which the quality or quantity of Gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.

**"Oxygenate blender"** means any Person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blend-stock or Gasoline used or the Gasoline produced at an oxygenate blending facility.

**"Produce"** means, except as otherwise provided in section (a) or (b) below, to convert liquid compounds which are not Gasoline into Gasoline. When a Person blends volumes of blend-stocks which are not Gasoline with volumes of gasoline acquired from another Person, and the resulting blend is Gasoline, the Person conducting such blending has produced only the portion of the blend which was not previously Gasoline. When a Person blends Gasoline with other volumes of Gasoline, without the addition of blend-stocks which are not Gasoline, the Person does not produce Gasoline.

- (a) Where a Person supplies Gasoline to a refiner who agrees in writing to further process the Gasoline at the refiner's refinery and to be treated as a producer of the Gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the Gasoline.
- (b) Where a Person blends oxygenates into Gasoline which has already been supplied from a Gasoline production facility or import facility, and does not alter the quality or quantity of the Gasoline in any other way, the Person does not produce Gasoline.

"**Producer**" means any Person who owns, leases, operates, controls or supervises a production facility.

"**Production facility**" means a facility at which CBG or CBGBOB is produced. Upon request of a producer, the department may designate, as part of the producer's production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer and (C) is not used to store or distribute CBG or CBGBOB that is not supplied from the production facility.

"**Refiner**" means any Person who owns, leases, operates, controls or supervises a refinery.

"**Refinery**" means a facility that produces liquid fuels by distilling petroleum.

"**Supply**" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

#### **54.1 Applicability of Standards; Additional Standards; Registration**

54.1.1 All sales, supplies, offer or movements of CBG for use in Clark County, Nevada, including transactions directly involving the fueling of Motor Vehicles at a retail outlet or bulk purchaser consumer facility.

54.1.2 Unless otherwise specifically provided, this section shall apply from November 1, 1999 to March 31, 2000, and each such winter season thereafter.

54.1.3 The standards in subsections 54.2.1 and 54.2.2 shall not apply to:

- (a) transactions directly involving the fueling of Motor Vehicles at a retail outlet or bulk purchaser-consumer facility, where the Person selling, offering, or supplying the Gasoline

demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by Gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to October 15<sup>th</sup>. If a Gasoline storage tank received its last delivery before October 15<sup>th</sup>, Gasoline dispensed from that tank will be exempt from enforcement of subsections 54.2.1, 54.2.2 and 54.5 until the date that the first delivery is made after November 1<sup>st</sup>.

- (b) a sale, offer for sale, or supply of CBG to a refiner if:
  - (1) the refiner further processes the Gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the Gasoline, and
  - (2) in the case of standards applicable only to producers or importers, the refiner to whom the Gasoline is sold or supplied is the producer of the Gasoline pursuant to Section 54.
  
- (c) Gasoline with an octane rating of 98 or greater (R+m)/2, also known as "racing fuel":
  - (1) fuel within this category shall contain the following maximum sulfur and aromatic hydrocarbon content:
    - Sulfur - 10 ppm by weight
    - Aromatic Hydrocarbons - 30% by volume
  - (2) The requirements of the following sections shall not apply to *racing fuel*:
    - Section 54.3: Election of the Averaging Compliance Option for a Gasoline Supplied from a Production or Import Facility;
    - Section 54.4: Designated Alternative Limits;
    - Section 54.5: Election of the Flat Limit Option for a Gasoline Supplied from a Production or Import Facility.

54.1.4 Registration: Each producer and importer Of CBG shall register with the department by August 1, 1999 or in advance of the 1<sup>st</sup> date that such Person will produce or import CBG or CBGBOB. Registration shall be on forms prescribed by the department and shall include a statement of acceptance of the standards and enforcement provisions of this regulation; and shall include a statement of consent by the registrant that the department shall be permitted to collect

samples and access documentation and records. The department shall maintain a listing of all registered suppliers.

## **54.2 Standards**

### **54.2.1 Standards for Sulfur Content**

54.2.1.1 Maximum sulfur standard for all CBG. No Person shall sell, offer for sale, supply, offer for supply, or transport CBG which has a sulfur content exceeding 80 parts per million by weight.

54.2.1.2 Additional flat sulfur standard for producers and Importers. No producer or Importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG which has a sulfur content exceeding 40 parts per million by weight, unless the transaction occurs during a period for which the producer or importer has elected to be subject to subsection 54.2.1.3.

54.2.1.3 Sulfur averaging compliance option for producers and importers. A producer or importer may designate an “averaging compliance” period of any number of days up to the period of November 1 through the following March 31. No producer or importer shall, during such period for which the producer or importer has elected to be subject to this subsection 54.2.1.3, sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG that on average for the period has a sulfur content exceeding 30 parts per million by weight, unless elected:

- (1) A designated alternative limit for sulfur content has been established for the Gasoline in accordance with the requirements of subsection 54.4,
- (2) The sulfur content of the Gasoline does not exceed the designated alternative limit, and
- (3) Where the designated alternative limit exceeds 30 parts per million, the excess sulfur content is fully offset in accordance with subsection 54.4.2.(1).

### **54.2.2 Standards for Aromatic Hydrocarbon Content**

54.2.2.1 Maximum aromatic hydrocarbon standard for all CBG. No Person shall sell, offer for sale, supply, offer for supply, or transport CBG which has an aromatic hydrocarbon content exceeding 30.0 percent by volume.

54.2.2.2 Additional flat aromatic hydrocarbon standard for producers and importers. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG which has an aromatic hydrocarbon content exceeding 25.0 percent by volume, unless the transaction occurs during a period for which the producer or importer has elected to be subject to 54.2.2.3.

54.2.2.3 Aromatic hydrocarbon averaging compliance option for producers and importers. A producer or importer may designate an “averaging compliance” period of any number of days up to the period of November 1 through the following March 31. No producer or importer shall, during such period for which the producer or importer has elected to be subject to this subsection 54.2.2.3, sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG that on average for the period has an aromatic hydrocarbon content exceeding 22.0 percent by volume, unless elected:

- (1) A designated alternative limit for aromatic hydrocarbon content has been established for the Gasoline in accordance with the requirements of subsection 54.4,
- (2) The aromatic hydrocarbon content of the Gasoline does not exceed the designated alternative limit, and
- (3) Where the designated alternative limit exceeds 22.0 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection 54.4.2(2).

### **54.3 Election of the Averaging Compliance Option for a Gasoline Supplied from a Production or Import Facility**

54.3.1 A producer or importer selling or supplying a final blend of Gasoline from its production or import facility may elect pursuant to this subsection 54.3.1 to have the final blend subject to the averaging compliance option for one or more of the following properties: sulfur, aromatic hydrocarbons.

54.3.2 In order to elect to have a final blend subject to the averaging option for a Gasoline property, the producer or importer shall notify the department of such election and of the estimated volume (in barrels), the blend identity, the blend batch number, and location (including tank numbers) of the final blend.

54.3.3 Once a producer or importer has made such an election under this subsection 54.3.3 with respect to a Gasoline property, all final blends

subsequently sold or supplied from the production or import facility shall be subject to the averaging compliance option for that property until the producer or importer elects in accordance with subsection 54.5 to have a final blend at the facility subject to the flat limit compliance option for that property.

#### **54.4 Designated Alternative Limits**

##### **54.4.1 Assignment of a Designated Alternative Limit (DAL).**

- (1) A producer or importer that has elected to be subject to subsections 54.2.1.3 and/or 54.2.2.3 may assign a designated alternative limit (DAL) to a final blend of CBG produced or imported by the producer or importer by satisfying the notification requirements in this subsection 54.4.1. In no case shall a DAL be less than the sulfur or aromatic hydrocarbon content, of the final blend shown by the sample and test conducted pursuant to Section 54.10, as applicable. If a producer or importer intends to assign DALs for more than one Gasoline specification to a given quantity of Gasoline, the party shall identify the same final blend for all DALs for the Gasoline.
- (2) The producer or importer shall notify the department of the estimated volume (in barrels), the designated alternative limit (DAL), the blend identity, the location and the averaging compliance period (if known) of each final blend receiving a DAL. This notification shall be received by the department when starting physical transfer of the Gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer to the common carrier pipeline or commingles the final blend.
- (3) For each final blend receiving a designated alternative limit, the producer or importer shall notify the department with the following information for the final blend; final volume, fuel properties as determined under subsection 54.10.6 and date and time of the completion of physical transfer from the production or import facility. This notification will be provided on the monthly summation report, subsection 54.10.11. A final blend receiving a DAL can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale in Clark County during the period of November 1 through March 31.

- (4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in 54.4.1(2) above, the producer or importer may notify the department of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the department determines that the conditions of this subsection 54.4.1(4) have been met, timely notification shall be deemed to have occurred.
- (5) The department shall maintain an electronic data base for tracking and monitoring blend averages, designated alternative limits, shipment volumes, and other such parameters as deemed necessary. The sole purpose of this data base will be to ensure that the sulfur and aromatic hydrocarbons content of final delivered blends is in compliance with the specifications of this regulation.

54.4.2 Additional prohibitions regarding CBG to which a Designated Alternative Limit has been assigned.

- (1) Offsetting excess sulfur. Before or after the start of physical transfer from a production or import facility of any final blend of CBG to which a producer has assigned a designated alternative limit for sulfur content exceeding 30 parts per million, the producer or importer shall complete physical transfer from the same production or import facility of CBG in sufficient quantity and with a designated alternative limit sufficiently below 30 parts per million to offset the mass of sulfur in excess of a limit of 30 parts per million. Offsetting shipments can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale during the period of November 1 through March 31. Offsetting shipments must be completed by March 31.
- (2) Offsetting excess aromatic hydrocarbons. Before or after the start of physical transfer from a production or import facility of any final blend of CBG to which a producer has assigned a designated alternative limit for aromatic hydrocarbon content exceeding 22.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of CBG in sufficient quantity and with a designated alternative limit sufficiently below 22.0 percent by volume to offset the volume of aromatic hydrocarbons in



excess of a limit of 22.0 percent. Offsetting shipments can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale during the period of November 1 through March 31. Offsetting shipments must be completed by March 31.

#### **54.5 Election of the Flat Limit Option for a Gasoline Supplied from a Production or Import Facility**

54.5.1 A producer or importer selling or supplying a final blend of Gasoline from its production or import facility may elect to have the final blend subject to the flat limit compliance option in accordance with this subsection 54.5.1. No such election may be made if there are outstanding requirements to provide offsets for the Gasoline property at the facility.

54.5.2 A producer or importer shall notify the department when switching from the averaging compliance option to the flat compliance option. This notification shall be received by the department when starting physical transfer of the Gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer to the common carrier pipeline or commingles the final blend. The producer or importer will not be required to make further notifications unless and until they switch to using the averaging option as described in 54.4.1(2).

54.5.3 Once a producer or importer has made an election under this subsection 54.5.3 with respect to a Gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the flat limit compliance option for that property until the producer or importer elects in accordance with Subsection 54.3 to have a final blend at the facility subject to the averaging compliance option for that property.

54.5.4 Once a producer or importer has made an election under this subsection 54.5.4 with respect to a Gasoline property of a final blend at a Production or Import Facility, the Producer or Importer may not use any previously assigned designated alternative limit for that property to provide offsets pursuant to the applicable provision in subsection 54.3 for any final blend sold or supplied from the production or import facility subsequently to the election.

#### **54.6 Gasoline Subject to PM Alternative Specifications Based on the Predictive Model [Reserve]**

#### **54.7 Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emission Testing [Reserve]**

**54.8 Exemptions for Gasoline Used in Test Programs [Reserve]**

**54.9 Liability of Persons Who Commit Violations Involving Gasoline that Has Not Yet Been Sold or Supplied to a Motor Vehicle**

54.9.1 For the purposes of this subsection, each sale of CBG at retail, and each dispensing of CBG into a Motor Vehicle fuel tank, shall also be deemed a sale or supply by any Person who previously sold or supplied such gasoline in violation of this subsection.

**54.10 Sampling, Testing and Recordkeeping**

54.10.1 The requirements of this subsection shall apply to each producer importer, or transporter that has elected to sell, offer for sale, supply, or offer for supply CBG. These requirements apply to CBG which has been produced, imported, or transported conforming with Subsection 54.2.1.2 (Sulfur Flat Standard); Subsection 54.2.1.3 (Sulfur Averaging Compliance Option); Subsection 54.2.2.2 (Aromatic Hydrocarbon Flat Standard); or Subsection 54.2.2.3 (Aromatic Hydrocarbon Averaging Compliance Standard). All records must contain a statement declaring whether the sample conforms to the *Flat Standard* or *Averaging Compliance Option*.

54.10.2 Sampling Procedures - In determining compliance with the standards set forth in subsection 54.2, a sampling methodology acceptable per ASTM standards shall be used.

54.10.3 Test Methods - In determining compliance with the standards set forth in subsection 54.2, the test methods presented in Table 1 shall be used. All identified test methods are incorporated herein by reference.

**TABLE 1**

<b>Subsection</b>	<b>Gasoline Specification</b>	<b>Test Method</b>
54.2.1	Sulfur Content	AS TM D 2622-94 AS TM D 5453-93
54.2.2	Aromatic Hydrocarbon Content	AS TM D 5580-95 or AS TM D 1319

54.10.4 Equivalent Test Methods - Whenever this subsection provides for the use of a specified test method, another test method may be used following a determination by the department that the other method produces results equivalent to the results with the specified method.

- 54.10.5 The department or its designee will consider and allow the appropriate test reproducibility as allowed by ASTM when enforcing these standards. Enforcement of the standards at locations where gasoline is sold, intended for sale, or made available for sale as a Motor Vehicle fuel in Clark County, Nevada will be at the standard defined in subsection 54.2.1.1 for sulfur content and 54.2.2.1 for aromatic hydrocarbon content.
- 54.10.6 Each producer shall sample and test for the sulfur and aromatic hydrocarbon content in each final blend of CBG which the producer has produced, by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodologies specified in subsections 54.10.2 and 54.10.3. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, identity of blend sampled, final blend volume, sulfur, aromatic hydrocarbon content.
- 54.10.7 Determining whether CBGBOB complies with the standards for CBG: If a producer or importer has designated a final blend as CBGBOB the sulfur and aromatic hydrocarbon content properties for compliance with subsections 54.2 and 54.10 for that blend shall be determined by adding the specified type and amount of oxygenate to a representative sample of the final blend of CBGBOB.
- 54.10.8 Each Importer shall sample and test for the sulfur and aromatic hydrocarbon content in each shipment of CBG which the Importer has imported by railway tank-cars, trucks and trailers, by collecting and analyzing a representative sample of the gasoline, using the methodologies specified in subsections 54.10.2 and 54.10.3. The Importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the shipment, sulfur and aromatic hydrocarbon content.
- 54.10.9 A producer or importer shall provide to the department any records required to be maintained by the producer or importer pursuant to this subsection within 20 days of a written request from the department if the request is received before expiration of the period during which the records are required to be maintained.
- 54.10.10 All parties in the distribution chain (producer, importer, terminals, pipelines, truckers, rail carriers, retailers) must maintain transfer documents for a minimum of two (2) years. The records as a minimum must contain the type and date of transfer, blend identity,

blend batch numbers, volume of transfer, container or transport type, test results, and certification that the fuel meets cap standards.

- 54.10.11 Each producer or importer electing to sale, offer for sale, supply, or offer to supply CBG pursuant to this regulation shall provide a monthly summation report to the department no later than the 15<sup>th</sup> of the following month. This report shall provide as a minimum, reconciliation of the month's transactions relative to the requirements of subsection 54.10.6. Updates or revisions to estimated transaction volumes for subsection 54.4.1 (2) shall be included in this report.

#### **54.11 Requirements Pertaining to Cleaner Burning Gasoline Blend-stock for Oxygenate Blending (CBGBOB) and Downstream Blending**

- 54.11.1 Requirements for oxygenate blenders: Whenever an oxygenate blender receives CBGBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CBGBOB, the oxygenate blender must add to the CBGBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CBGBOB.
- 54.11.2 No Person may combine CBG which has been supplied from a production or import facility with any non-oxygenate blend-stock, other than vapor recovery condensate. A Person may combine CBG with other blend-stocks if it can be clearly demonstrated that the resulting gasoline will not be sold in Clark County.
- 54.11.3. Notwithstanding 54.11.2, the department may enter into a written protocol with any Person to identify conditions under which the Person may lawfully blend trans-mix or reprocessed trans-mix into CBG which has been supplied from its production or import facility only if it is determined that the blending will not significantly affect the properties of the CBG.
- 54.11.4. Notwithstanding 54.11.2, a Person may add non-oxygenate blend-stock to CBG that does not comply with one or more of the cap limits contained in sections 54.2.1.1 and 54.2.2.1 where the Person obtains the prior approval of the department based on a demonstration that adding the blend-stock is a reasonable means of bringing the gasoline into compliance with the cap limits.

#### **54.12 Enforcement**

Failure to comply with any section of the Air Quality Regulations is subject to enforcement action, pursuant to subsection 4.7. Penalties of up to

\$10,000 per day per Section violated may be imposed, pursuant to Section 9. Variances can be requested, pursuant to Subsection 7.5.

54.12.1 All Parties in the distribution chain through the retail level must maintain transfer documents as specified in subsection 54.10.10. Any producer, importer, terminal, pipeline operator, trucker, rail carrier, or retailer that fails to test and/or maintain records per Section 54.10; sells gasoline in Clark County not meeting the specifications of this regulation; or allows conventional gasoline to be commingled with Clark County CBG, is liable for violations and may be subject to the maximum penalties of this section.

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