

State of California
AIR RESOURCES BOARD

**Supplement to the
Final Statement of Reasons for Rulemaking**

AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF
GREENHOUSE GAS EMISSIONS AND CONFORMING AMENDMENTS TO THE
DEFINITION SECTIONS OF THE AB 32 COST OF IMPLEMENTATION FEE
REGULATION AND THE CAP-AND-TRADE REGULATION

Public Hearing Date: September 20, 2012
Agenda Item No.: 12-6-2
Addendum Prepared: December 19, 2012

As part of the Office of Administrative Law's (OAL) review of the Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emission, title 17, California Code of Regulations, sections 95100-95158 (Reporting Regulation), and conforming amendments to the definition sections of the AB 32 Cost of Implementation Fee Regulation, title 17, California Code of Regulations, sections 95200-95207 (Fee Regulation), and the Cap-and-Trade Regulation, title 17, California Code of Regulations, sections 95800-96022 (Cap-and-Trade Regulation), OAL requested further explanation from the Air Resources Board (ARB).

ARB is submitting this supplement to the Final Statement of Reasons (FSOR) to OAL on December 19, 2012, for inclusion in OAL Regulatory Action File Number 2012-1102-03S.

Nonsubstantial Changes Made to the Final Regulation Order

ARB has authorized OAL to make several nonsubstantial changes to the final regulation orders to correct erroneous citations, other typographical errors, and make other minor changes in the regulatory text. The changes made do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provisions. The following is a summary of the corrections made:

1. **Numbering of Definitions.** The numbering of several definitions in section 95102(a) of the Reporting Regulation, section 95202(a) of the Fee Regulation, and section 95802(a) of the Cap-and-Trade Regulation were not in the correct order. These definition sections have been renumbered accordingly to ensure chronological numbering. This renumbering does not affect any other provision or cross-reference in the regulations.

2. **Underline-Strikeout Formatting.** In the Reporting Regulation, some of the underline-strikeout formatting from the original 45-day and 15-day packages was left in the final regulation order when it should have been removed or modified. Examples of this include:

Section 95103(a)(8): This section has been renumbered as (a)(9).

Section 95103(k)(6)(A)(1): The space between “differential devices” should not have been underlined and has been corrected.

Section 95103(k)(10): The phrase “Ithe verifier” was previously listed as “the verifier” and has been changed back to the original formatting.

Section 95115(c)(4): The word “and” between “gas” and “fuel” should have been underlined, and the final regulation order has been corrected to reflect this formatting.

Section 95121(a)(2): The phrase “Table 2” should have been shown as “Tables 2,” and has been corrected.

Section 95121(d)(3): The phrase “fuel listed” has been corrected to read “fuel_listed.”

Section 95131(b)(12)(A): In the final line of this section, the word “equation” has been corrected to read “equations” as the section includes two new equations. These two equations have also been corrected to be shown in an underlined format.

Section 95131(i)(c)(3)(B): The “2” in CO₂ should not have been underlined. This formatting has been corrected.

Section 95133(e)(1): The phrase “~~its~~ners, or any...” has been corrected to read “its partners, or any...”

Section 95133(e)(1)(B): The phrase “provide a description of such services and” should have been underlined and has been corrected.

Section 95133(e)(1)(C): The comma after “nature” should have shown as being underlined, and the comma after “California” should not have been included. These have been corrected.

Section 95153(v): ARB has adopted a new section 95153(v), which was properly noticed, underlined, and commented upon. However, the previous version of 95153(v) should have been shown in the strikeout portion of section 95153. All other revised sections were included, and the previous version of (v) was somehow

not shown. This has been corrected by inserting the previous version of (v) in the section and showing it as stricken.

Section 95156(a)(7): This section, formerly section 95156(a)(3), should have shown the comma after “recovery” as stricken through. This has been corrected.

Section 95156(a)(8): This section, formerly section 95156(a)(4), should have shown the comma after “recovery” as stricken through. This has been corrected.

3. **Other Formatting and Cross-References.** In the Reporting Regulation, an occasional cross-reference to another section of the regulation was incorrect, or a regulatory term was mistakenly substituted where no substitution was intended, or the formatting of a word or phrase was incorrectly shown as either italicized or non-italicized. For instance,

Section 95112(b)(8): The phrase “Other ~~steam-used~~heat input for electricity generation.” should have been italicized, and has been corrected as such.

Section 95115(h): The term “subarticle” was mistakenly substituted for the previously existing term “subpart.” This has been corrected.

Section 95131(a): The phrase “Notice of Verification Services” was italicized in the previously existing text, but the italics were mistakenly removed. This has been corrected.

Section 95153(p): The reference to section 95152(h)(4) should have been shown as (h)(3) to correctly cross-reference the requirement in section 95152. This has been corrected.

Section 95153(c)(3): Equation 4A is listed as a capital “A” in the regulatory text of this section, but mistakenly shown as 4a for the actual equation. This has been corrected to provide consistency.

Section 95157(c)(3): Reference to “Equations 4a-b” should have shown as “Equations 4A-B” to provide consistency to the actual equations shown in section 95153. This has been corrected.

4. **Referring to documents incorporated by reference.** In the July 24, 2012 Notice of Public Hearing, ARB incorporated several documents by reference which are included in the Reporting Regulation. Among these documents were: *Oil and Gas and Sulfur Operations in the Outer Continental Shelf*; 30 Code of Federal Regulations (CFR) Part 250, Subpart C (July 1, 2011 Edition); and *Year 2008 Gulfwide Emission Inventory Study (GOADS)*; U.S. Department of the Interior, OCS Study, BOEMRE 2010-045 (December 2010).

Section 95152(b) contained the following phrase:

“For offshore petroleum and natural gas production, the operator must report CO₂, CH₄, and N₂O emissions from equipment leaks, vented emissions, and flare emission source types as identified in the collection and emissions estimation study conducted by the Bureau of Ocean Energy Management (BOEM) in compliance with 30 CFR §§250.302 through 304 (July 1, 2011), which is hereby incorporated by reference.”

The collection and emissions estimation study referenced in section 95152(b) was intended to refer to the incorporated “Year 2008 Gulfwide Emission Inventory Study (GOADS)” conducted by the Bureau of Ocean Energy Management (BOEM, sometimes referred to as BOEMRE) and published in December 2010. In order to clarify this intent in the reference in the final regulation order, ARB is changing section 95152(b) to read:

“For offshore petroleum and natural gas production, the operator must report CO₂, CH₄, and N₂O emissions from equipment leaks, vented emissions, and flare emission source types as identified in the collection and emissions estimation study **(Year 2008 Gulfwide Emission Inventory Study (GOADS) (December 2010))** conducted by the Bureau of Ocean Energy Management (BOEM) in compliance with 30 CFR §§250.302 through 304 (July 1, 2011), which is hereby incorporated by reference.”

Similarly, section 95153(q) also included the phrase: “as identified in the collection and emissions estimation study conducted by the Bureau of Ocean Energy Management (BOEM) in compliance with 30 CFR §§250.302 through 304 (July 1, 2011), which is hereby incorporated by reference.”

This section has been modified to read: “as identified in the collection and emissions estimation study **(Year 2008 Gulfwide Emission Inventory Study (GOADS) (December 2010))** conducted by the Bureau of Ocean Energy Management (BOEM) in compliance with 30 CFR §§250.302 through 304 (July 1, 2011), which is hereby incorporated by reference.”

As explained in the Notice of Public Hearing, these documents were incorporated by reference because it would be cumbersome, unduly expensive, and otherwise impractical to publish them in the California Code of Regulations (CCR). In addition, many of these documents are copyrighted, and cannot be reprinted or distributed without violating the licensing agreements. The documents are lengthy and highly technical test methods and engineering documents that would add unnecessary additional volume to the regulation. Distribution to all recipients of the CCR is not needed because the interested audience for these documents is limited to the technical staff at a portion of reporting facilities, most of whom are already familiar with these methods and documents. Also, the incorporated documents were made available by ARB upon request during the rulemaking action and will continue to be

available in the future. The documents are also available from college and public libraries, or may be purchased directly from the publishers.