

# Handout 6

## Enforcement Provisions

Subchapter 10. Climate Change  
Article 4. Regulations to Achieve Greenhouse Gas Emission Reductions

Subarticle 7. Low Carbon Fuel Standard

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**§ 95490.2. Authority to Suspend, Revoke, or Modify**

The Executive Officer may suspend, revoke or restrict the LRT-CBTS Account of a regulated party or an opt-in regulated party determined to be in violation of any provision of this article. The Executive Officer may suspend, revoke, or modify any fuel pathway approval or certification made under this article and later determined to be incorrect.

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**§ 95492. Enforcement Protocols. [from 95490, page 106]**

Notwithstanding ~~section 95484(b) and (c)~~ any provision of this subarticle, the Executive Officer may enter into an enforceable written protocol with any person to identify conditions under which the person may lawfully meet the recordkeeping, reporting, or demonstration of physical pathway-transport mode requirements in section 95486 [formerly 95484(b) and (c)]. The Executive Officer may only enter into such a protocol if he or she reasonably determines that the provisions in the protocol are necessary under the circumstances and at least as effective as the applicable provisions of this subarticle specified in section 95484(b) and (c). Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

NOTE: Authority cited: Sections 38510, 38560, 38560.5, 38571, 38580, 39600, 39601, 41510 and 41511, 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 38501, 38510, 38560, 38560.5, 38571, 38580, 39000, 39001, 39002, 39003, 39515, 39516, 41510, 41511, 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).

**§ 95493. Jurisdiction. [from 95480.5, page 9]**

- (a) Any of the following actions shall conclusively establish a person's consent to be subject to the jurisdiction of the State of California, including the administrative authority of ARB and the jurisdiction of the Superior Courts of the State of California:

- (1) ~~Registration with ARB as a regulated party pursuant to the opt-in provisions in section 95480.3(a)~~Opting in pursuant to section 95483.1;
  - (2) Receipt of compensation of any kind, including sales proceeds and commissions, from any transfers of a LCFS credit made pursuant to section 95489 [formerly 95488]; or
  - (3) Submittal of information to the Executive Officer pursuant to the crude oil innovative method provisions set forth in section 95486(b)(2)(A)4.
  - (4) Submittal of information to the Executive Officer pursuant to the fuel pathway certification provisions set forth in section 95488(??).
  - (5) Registration in the LRT-CBTS as a broker pursuant to section 95483.2(d)(2).
- (b) Any person who, pursuant to section 95483 [formerly 95484(a)(1) through (4), inclusive], is the initial regulated party or a person to whom the compliance obligation has been transferred directly or indirectly from the initial regulated party, is subject to the jurisdiction of the State of California, including the administrative authority of ARB and the jurisdiction of the Superior Courts of the State of California, irrespective of whether the person has registered as a regulated party in the LRT.

NOTE: Authority cited: Sections 38510, 38560, 38560.5, 38571, 38580, 39600, 39601, 41510 and 41511, 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 38501, 38510, 38560, 38560.5, 38571, 38580, 39000, 39001, 39002, 39003, 39515, 39516, 41510, 41511, 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).

**§ 95494. Violations and Penalties. [from 95484(d), page 48]**

(d) — Violations and Penalties.

- (a4) ARB may seek penalties and injunctive relief for any violation of this article pursuant to Health and Safety Code section 38580 and Chapter 1.5 of Part 5 of Division 26. Violations shall be subject to all other penalties and remedies permitted under State law. In determining any penalty amount, ARB shall consider all relevant circumstances, including the criteria in Health and Safety Code section 43031.
- (b2) Penalties may be assessed for each day of any violation of this subarticle. Each day or portion thereof that any report required by this subarticle remains unsubmitted, incomplete, or inaccurate constitutes a separate violation of this

article. For purposes of this subparagraph "report" means any submittal to the Executive Officer or made in the LRT under this Subarticle.

- ~~(c3)~~ Failure to demonstrate compliance at the end of a compliance period or carry over all deficits pursuant to section 95485 [formerly 17 CCR §95488(a)(4)] constitutes a separate violation for each day within the compliance period. Alternatively, each deficit that is not eliminated or carried over as required by section 95485 [formerly 95488(a)(4)] constitutes a separate violation of this subarticle for purposes of determining penalties pursuant to Health & Safety Code section 38580(b)(3), subject to a penalty not to exceed \$1000 per deficit.
- ~~(1) Pursuant to H&S section 38580 (part of the California Global Warming Solutions Act of 2006), any violation of the provisions of the LCFS regulation (title 17, CCR § 95480 et seq.) may be enjoined pursuant to H&S section 41513, and the violation is subject to those penalties set forth in Article 3 (commencing with § 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with § 43025) of Part 5 of, Division 26.~~
- ~~(2) Pursuant to H&S section 38580, any violation of the provisions of the LCFS regulation shall be deemed to result in an emission of an air contaminant for the purposes of the penalty provisions of Article 3 (commencing with § 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with § 43025) of Part 5 of, Division 26.~~
- ~~(3) Any violation of the provisions of the LCFS regulation shall be subject to all other penalties and remedies permitted under State law.~~

Authority: NOTE: Authority cited: Sections 38510, 38530, 38560, 38560.5, 38562, 38571, 38580, 39600, 39601, 41510, 41511, 43013, 43018, 43027, 43029, 43030, and 43031 Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975). Reference cited: Sections 38501, 38510, 38530, 38560, 38560.5, 38562, 38571, 38580, 39000, 39001, 39002, 39003, 39515, 39516, 41510, 41511, 43013, 43018, 43027, 43029, 43030, and 43031, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3rd 411, 121 Cal.Rptr. 249 (1975).

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