

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

Public Hearing Date: December 16, 2010

Agenda Item No.: 10-11-2

Addendum Prepared: December 14, 2011

As part of the Office of Administrative Law's (OAL) review of the Regulation for Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emission, title 17, California Code of Regulations (CCR), sections 95100- 95157, OAL requested further explanation from the Air Resources Board (ARB).

The ARB is submitting this supplement to the Final Statement of Reasons (FSOR) to OAL on December 14, 2011, for inclusion in OAL Regulatory Action File Number 2011-1028-05S.

Nonsubstantial Changes Made to the Final Regulation Order

ARB has authorized OAL to make several nonsubstantial changes to the final regulation order to correct erroneous citations, correct 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 (CCR) provisions. The following is a summary of the corrections made:

1. There were inaccurate version dates (amendments) listed for 40 CFR Part 98. The date in the final regulation order was October 28, 2010, but the Notice and FSOR list October 7, 2010. October 28, 2010 is the correct date.

The following numbered definition corrections are from section 95102(a)

2. Definition #147 for "Field - The regulation text was modified to include the publication date.

(147) "Field," in the context of oil and gas systems, means oil and gas fields defined by the Energy Information Administration Oil and Gas Field Code Master List 2008, DOE/EIA 0370(08), **January 2009**, which is hereby incorporated by reference.

3. Definition #157 for “Fluorinated greenhouse gas” doesn’t provide a date of the CFR reference.

The regulation text was modified to indicate a date of May 1995.

(157) “Fluorinated greenhouse gas” means sulfur hexafluoride (SF₆), nitrogen trifluoride (NF₃), and any fluorocarbon except for controlled substances as defined at 40 CFR Part 82, subpart A, **(May 1995)**, which is hereby incorporated by reference, and substances with vapor pressures of less than 1 mm of Hg absolute at 25°C. With these exceptions, “fluorinated GHG” includes any hydrofluorocarbon, any perfluorocarbon, any fully fluorinated linear, branched or cyclic alkane, ether, tertiary amine or aminoether, any perfluoropolyether, and any hydrofluoropolyether.

4. Definition #329 for “Quality-assured data” doesn’t provide a date of the CFR reference. The use of the term “such as” in the definition is unsatisfactory.

The regulation text was modified to include dates for references. “Such as” was changed to “for example”, as these references are provided as representative examples, and are not intended to be all inclusive or limiting of acceptable specifications and procedures.

(329) “Quality-assured data” or “quality-assured value” means the data are obtained from a monitoring system that is operating within the performance specifications and the quality assurance/quality control procedures set forth in the applicable rules, **for example** 40 CFR Part 60 **(July 1, 2009)** or Part 75, **(July 1, 2009)**, **which is hereby incorporated by reference**, without unscheduled maintenance, repair, or adjustment.

5. Definition #340 for “Relative Accuracy Test Audit” doesn’t provide a date of the CFR reference. The use of the term “such as” in the definition is unsatisfactory.

The regulation text was modified to include dates for references. “Such” was changed to “for example”, as these references are provided as representative examples, and are not intended to be all inclusive or limiting of acceptable specifications and procedures.

(340) “Relative Accuracy Test Audit” means a method of determining the correlation of continuous emissions monitoring system data to simultaneously collected reference method test data, **for example** as required in 40 CFR Part 60 **(July 1, 2009)** and 40 CFR Part 75 **(July 1, 2009)**.

6. Definition #360 for “Solomon Energy Intensity Index” doesn’t provide a date.

The Solomon Index is a procedure used by the oil refining industry to quantify energy efficiency. The index is a facility-specific value computed every two years using data from individual facilities. As such, the Solomon Index term does not have a specific reference date associated with it.

7. Section 95103(k)(6)(A)(1.), the document incorporated by reference ISO 5167 (2003), was corrected to include -2 as shown below. This was made consistent with the reference in section 95105(c)(7).

1. Pressure differential devices must be inspected at a frequency specified in subparagraph (4) of this section. The inspection must be conducted as described in the appropriate part of ISO 5167-2 (2003), or AGA Report No 3 (2003) Part 2, **both of which are incorporated by reference**, or a method published by an organization listed in 40 CFR §98.7 applicable to the analysis being conducted. If the plate fails any one of the tests then the meter shall be deemed out of calibration.

8. The regulation showed the citation to section 38580 being stricken out, and then reinserted.

The Authority and Reference citation to 39580 should remain. It was inadvertently stricken, and then later restored. The reference to section 39580 in the Reference section should also be restored as shown below.

(g) Any violation of this article may be enjoined pursuant to Health and Safety Code section 41513.

NOTE: Authority cited: Sections 38510, 38530, **38580**, 39600, 39601, 39607, 39607.4 and 41511, Health and Safety Code. Reference: Sections 38530, **38580**, 39600 and 41511, Health and Safety Code.

9. Section 95131 inadvertently omitted the existing Authority and Reference citation at the end of the section. The Authority and Reference citations were appropriately replaced as shown below.

NOTE: Authority cited: Sections 38510, 38530, 39600, 39601, 39607, 39607.4 and 41511, Health and Safety Code. Reference: Sections 38530, 39600 and 41511, Health and Safety Code.

Documents Incorporated by Reference

Throughout the final regulation order, the words “are hereby incorporated by reference” were added for clarity.

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 the 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.