TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER 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

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.), which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006. The Board will also consider amendments to the definition sections of the AB 32 Cost of Implementation Fee regulation (title 17, California Code of Regulations, section 95200 et seq.) and the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulation (title 17, California Code of Regulations, section 95800 et seq.) made to conform with the proposed amendments to the mandatory reporting regulation.

DATE: September 20, 2012

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., September 20, 2012, and may continue at 8:30 a.m., September 21, 2012. This item may not be considered until September 21, 2012. Please consult the agenda for the meeting, which will be available at least 10 days before September 20, 2012, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 95101, 95102, 95103, 95104, 95105, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95202, and 95802, title 17, California Code of Regulations. Proposed adoption of new section 95158, title 17, California Code of Regulations.

Documents Incorporated by Reference:

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);

Year 2008 Gulfwide Emission Inventory Study (GOADS); U.S. Department of the Interior, OCS Study, BOEMRE 2010-045 (December 2010);

Alternative Work Practice for Monitoring Equipment Leaks; 40 CFR Part 60, Subpart A (July 1, 2011 Edition);

Method 21 – Determination of Volatile Organic Compound Leaks; 40 CFR Part 60, Appendix A-7 (July 1, 2011 Edition);

Regulation of Fuels and Fuel Additives, 40 CFR Part 80.40, 40 CFR Part 80.41, and 40 CFR Part 80.27. (July 1, 2011 Edition).

Background:

In 2006, the Legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32); Stats. 2006, chapter 488). In AB 32, the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and environment of California. AB 32 created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020.

Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

One of the requirements of AB 32 is that ARB must adopt a greenhouse gas reporting regulation. To comply with this requirement, the Board approved the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (reporting regulation) at its December 2007 Board meeting. The reporting regulation became effective on January 2, 2009. All relevant documents for the 2007 rulemaking, including the final regulation, are available at: http://www.arb.ca.gov/regact/2007/ghg2007/ghg2007.htm.

Over the past four years, ARB staff has implemented the California greenhouse gas reporting program established by the reporting regulation. Under the program, over 600 facilities and entities annually submit to ARB their greenhouse gas emissions data reports, which are verified as accurate and complete by ARB-accredited third-party verifiers. Information about the program can be found at: http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm.

At its December 2010 public hearing, the Board approved amendments to the reporting regulation to support the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (title 17, CCR, section 95800 et seq.) (cap-and-trade regulation) data requirements, harmonize to the extent feasible with the United States Environmental Protection Agency's (U.S. EPA) Final Rule on Mandatory

Reporting of Greenhouse Gases (rule), and align with the Western Climate Initiative (WCI) reporting structure. The amendments to the reporting regulation became effective on January 1, 2012. All relevant documents for the 2010 rulemaking, including the amended regulation, are available at: http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm.

Since the approval of the 2010 amendments to the reporting regulation, there have been several changes and updates that affect the calculation methods in the regulation. In late 2011, U.S. EPA updated its rule for Petroleum and Natural Gas Systems (Title 40, Code of Federal Regulations, Part 98, Subpart W), correcting and updating several emissions calculation methods. ARB staff has also identified minor clarifications that are needed to ensure the reporting elements in the reporting program are accurate and reflect their intended purpose. Finally, ARB staff identified reporting elements that need to be added to the reporting program to ensure effective implementation of the cap-and-trade program.

ARB staff is proposing targeted revisions to ARB's current reporting regulation necessary to align California's GHG emissions reporting with the changes discussed above, to streamline and avoid duplicate GHG reporting, and to continue to provide the highest quality data needed to support California's cap-and-trade regulation.

AB 32 Cost of Implementation Fee and California Cap-and-Trade Regulations

AB 32 authorized ARB, through Health and Safety Code section 38597, to adopt a schedule of fees to be paid by sources of GHG emissions to support the costs of carrying out AB 32 measures. At the Board's September 25, 2009 hearing, the Board directed ARB's Executive Officer to finalize the AB 32 Cost of Implementation Fee Regulation (fee regulation). The Executive Officer subsequently adopted these regulations and submitted them to the California Office of Administrative Law (OAL). The regulations were approved by OAL and became legally effective on July 17, 2010. The fee regulation requires sources of GHG emissions to pay a regulatory fee which is to be used to support the costs of implementing AB 32 measures. More information on the fee regulation may be found at: http://www.arb.ca.gov/cc/adminfee/adminfee.htm.

AB 32 also authorized ARB to adopt a market-based compliance mechanism in its regulations. From 2009 through 2011, ARB staff developed the overall options for a market-based mechanism program design and development. ARB staff conducted extensive public consultation, including more than 40 public meetings, to discuss and share ideas with the general public and key stakeholders on the appropriate structure of the cap-and-trade regulation. The cap-and-trade regulation, which went into effect on January 1, 2012, provides a fixed limit on GHG emissions from the sources responsible for about 85 percent of the state's total GHG emissions. The cap-and-trade regulation reduces GHG emissions by applying a declining aggregate cap on GHG emissions, and creates a flexible compliance system through the use of tradable instruments (allowances and offset credits).

In order to ensure consistency in terminology across the reporting regulation, fee regulation, and cap-and-trade regulation, revisions, additions, and deletions were made in the definition sections of the fee regulation and the cap-and-trade regulation to conform to the proposed amendments to the reporting regulation described below. Note that the conforming definitional changes herein are distinct from those cap-and-trade regulation amendments approved by the Board in June 2012.

A description of the proposed action follows. The proposed amendments were initially presented in an informal discussion draft released on May 29 and subsequently discussed at a public workshop held May 30, 2012. Additional informal discussion drafts for electric power entity definitions and the proposed amendments to subarticle 5 were released on June 14th and 15th, respectively, and discussed in webinars held on June 19, 22, and 29, 2012. Staff considered the informal comments provided during and after these meetings in crafting the staff proposal.

Description of the Proposed Regulatory Action, Objectives, and Benefits

The purpose of the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions is to: (1) harmonize to the extent feasible with the U.S. EPA national greenhouse gas reporting requirements, (2) ensure sufficient accuracy and completeness in reported emissions and product data to support California's cap-and-trade program, (3) make clarifications to improve the understanding and transparency of reporting requirements and methodologies, and (4) ensure consistency in terminology used in the reporting regulation, fee regulation, and cap-and-trade regulation. Anticipated benefits of the proposed revisions include improved clarity for reporting entities as to their reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved clarity to support the statewide greenhouse inventory program and continued robust methods for reporting emissions and product data in order to support ARB's cap-and-trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

To achieve these goals, amendments to the current reporting regulation are being proposed. Under this proposal, most of the current reporting requirements of the reporting regulation remain the same. Subarticle 5 has substantial text additions because ARB staff is proposing to add the reporting requirements and calculation methods from the U.S. EPA rule for Petroleum and Natural Gas Systems (Subpart W) directly into the reporting regulation rather than incorporate the federal rule by reference. For reporting entities, this improves clarity of the requirements and reduces confusion when ARB and U.S. EPA requirements differ. Overall though, the reporting requirements for Petroleum and Natural Gas Systems are

substantially the same as in the current reporting regulation, with the exception of amended emission factors and calculation methods based on recent U.S. EPA updates.

The following paragraphs describe the revisions that are included in this regulatory action to the reporting regulation. Conforming definitional amendments to the fee regulation and the cap-and-trade regulation are also described.

Subarticle 1. General Requirements for Greenhouse Gas Reporting

Applicability and Cessation of Reporting Requirements. Instead of incorporating the applicability requirements and cessation of reporting requirements from U.S. EPA's rule by reference, ARB staff is proposing to set forth directly the text from the U.S. EPA rule in the mandatory reporting regulation. These additions will improve clarity for reporting entities in determining whether they are subject to the regulation. Additional clarifications were made in the applicability section to indicate that electricity generating units not subject to 40 CFR Part 75 are subject to mandatory reporting under the general stationary combustion category and in the cessation of reporting section to clarify requirements for electric power entities.

Process Emissions. The reporting requirements for abbreviated reporters (facilities with less than 25,000 metric tons of carbon dioxide equivalents, $MTCO_2e$) were modified to include the reporting of process emissions in emissions data reports and to determine the 10,000 $MTCO_2e$ threshold for abbreviated reporting. The purpose of this amendment is to obtain more complete emissions data and to track any effect of emissions "leaking" from facilities with emissions greater than 25,000 $MTCO_2e$ into activities by abbreviated reporter facilities. In the current reporting regulation, process emissions are calculated and reported only by facilities with emissions greater than 25,000 $MTCO_2e$. An analysis by ARB staff, which is included in Chapter VI of the ISOR, indicates that this modification of the abbreviated reporting requirements will affect only a small number of facilities in California.

Measurement Accuracy Requirements. The measurement accuracy requirements have been clarified in these amendments. Specifically, the intent of the requirements has been explicitly included in section 95103(k) and a field accuracy assessment option has been added to reduce the risk of data losses going back more than one year. The currently enacted version of the reporting regulation includes requirements for the frequency of meter calibrations, which, depending on the approach, is about every three years. If a meter fails calibration, it is possible that data collected by that meter in the past three years could be voided. In order to ensure that data losses due to failed calibrations do not result in a substantial loss of data for a multi-year time period, staff has proposed including an optional field accuracy assessment which would allow reporting entities to perform an annual test to ensure the meter is still calibrated accurately. Additionally, staff has proposed amendments to clarify that if a meter fails calibration, a reporter may also demonstrate by other means that the meter was indeed

calibrated for a portion of the time since the last calibration.

Product Data Verification Requirements. The current reporting regulation requires product data to be verified and subject to material misstatement assessments for each single product data component. In order to be consistent with the reporting requirements for emissions data, ARB staff has proposed removing the verification requirement for each single product data and instead basing material misstatement assessments on the sum of all product components. This reduces the risk of a single minor product causing a material misstatement for all products that would be within the five percent accuracy requirement and invalidating their ability to receive allocations under the cap-and-trade program. This would be similar to how covered emissions data is verified and would be called covered product data. Additional information on product data verification is also covered in subarticle 4.

Other. Modifications, clarifications and additional definitions have been added to subarticle 1. The definitional changes were made to support the proposed regulatory changes identified in this notice. The majority of the definitional changes relate to amendments to subarticle 5 (petroleum and natural gas systems), because the calculation methods were added into the body of the regulation instead of being incorporated by reference. In order to ensure consistency in terminology between the reporting regulation and ARB's fee regulation and cap-and-trade regulation, conforming revisions, additions, and deletions are also proposed for the definition sections of both of those regulations (section 95202 of the fee regulation and section 95802 of the cap-and-trade regulation). In addition, the proposed amendments would require facilities to inform ARB whether they meet the statutory definition of a small business to assist in leakage analysis. Further modifications are proposed to correct internal references, as well as spelling and punctuation errors.

Subarticle 2. Requirements for the Mandatory Reporting of Greenhouse Gas Emissions from Specific Types of Facilities, Suppliers and Entities

Electric Power Entities. The two main amendments proposed for electric power entity reporting are clarifications to the requirements for asset-controlling suppliers and clarifications on the data used to generate the emission factors for specified sources and asset-controlling suppliers.

Asset-Controlling Supplier Requirements. The asset-controlling supplier application and reporting process has been clarified in these amendments. Previously, the asset-controlling supplier application process was ambiguous in certain areas, which generated many questions from stakeholders. Clarifications to the asset-controlling supplier application process and proposed language on the reporting requirements alleviate these concerns. Specifically, staff is proposing to clarify that if an entity chooses to seek asset-controlling supplier designation, it would need to report and verify annually, submit all necessary information to calculate their system emission factor, and in the case of an adverse verification statement, lose their status as an

asset-controlling supplier, which includes their ARB-calculated system emission factor. Additionally, the amendments would remove the system emission factor for Bonneville Power Administration from the reporting regulation. Instead, ARB would publish any approved and calculated supplier system emission factors on the ARB website. This change was made to ensure consistency in the treatment of asset-controlling supplier emission factors. In the event that an asset-controlling supplier fails to report and verify, the unspecified default emissions rate is applicable to emissions reports.

Emission Factor Calculation Data Vintage. Proposed language was added to indicate the vintage (i.e., year) of data for calculating the emission factors for specified sources and for asset-controlling suppliers. For example, for specified sources, a 2012 emission data report will be based on 2012 transaction data and 2011 emission factor data. However for an asset-controlling supplier, a 2012 emission data report will be based on 2012 transaction data and 2010 emission factor data. The additional lag time for the asset-controlling supplier is needed to ensure that power entities have advanced knowledge of the reporting and verification status of the asset-controlling supplier and the appropriate system emission factor before they use that factor in their emissions data reporting. All 2012 emission data reports would be submitted in 2013. ARB plans to post asset-controlling supplier emission factors to the ARB website prior to the end of each calendar year.

Other Electric-Power Entity Issues. Clarifications to wheeled power and the first point of receipt and final point of delivery were made. An additional reporting requirement for reporting renewable energy credit (REC) serial numbers was added to section 95111(g)(1)(M) to ensure accurate tracking of the RECs as they pertain to the RPS adjustment.

Unit Aggregation. ARB staff has proposed several clarifications to the unit aggregation requirements. In the current reporting regulation, certain electricity generating units did not have aggregation options that could streamline reporting. The proposed amendments include additional options and conditions for unit aggregation and other emission sources.

Importers of Compressed Natural Gas and Liquefied Natural Gas. In the current regulation, importers of compressed natural gas and liquefied natural gas were omitted. ARB staff is proposing amendments to include those entities in the mandatory reporting regulation.

Other. Minor clarifications to the product data reporting requirements were made for the refinery, hydrogen, and rare earths manufacturing sectors. Calcined coke was added to the product data reporting requirements because it is a product that is used to determine the allocation of allowances in the cap-and-trade regulation. Hydrogen production was modified to split out hydrogen gas and liquid hydrogen. In addition, clarifications to the transportation fuels and natural gas suppliers were made to improve clarity in the applicability rationale for these sectors. These amendments are proposed to clarify the requirements for these sectors with

regards to the point of regulation.

Subarticle 4. Requirements for Verification of Greenhouse Gas Emissions Data Reports and Requirements Applicable to Emissions Data Verifiers; Requirements for Accreditation of Emissions Data and Offset Project Data Report Verifiers.

Verification Services for Facilities Under 25,000 $MTCO_2e$. ARB staff has proposed deleting language from section 95130 that subjects facilities that may have significantly less than 25,000 $MTCO_2e$ of annual emissions to acquiring verification services. The intent of requiring verification services is to ensure that reporting entities with over 25,000 $MTCO_2e$ of emissions, or facilities that are electric power entities or that opt-in, report accurately and transparently and to provide for increased assurance for data used in the cap-and-trade program. It was not the intent of ARB staff to require small facilities subject to the zero emission threshold reporting requirements of section 95101, who do not have a cap-and-trade compliance obligation, to obtain verification services if they are below 25,000 $MTCO_2e$.

Other. Proposed amendments to the regulation include definitional additions for sector specialty categories in the accreditation section, clarifications to the material misstatement calculation for product data, as discussed above, and minor clarifications to the conflict of interest section. The conflict of interest changes improve upon the clarity of how verification services that can be performed by verification bodies outside of the state are to be assessed.

Subarticle 5. Reporting Requirements and Calculation Methods for Petroleum and Natural Gas Systems

Directly Include Calculation Methods and Reporting Requirements. In the current version of the reporting regulation, the calculation methods and reporting requirements from the U.S. EPA rule were incorporated by reference. However, since adoption of the reporting regulation, the petroleum and natural gas systems section of the U.S. EPA rule have changed considerably. In order to improve stability of the methods and requirements for the California reporting program in the face of potential U.S. EPA changes, and improve clarity within the regulatory text, staff is proposing amendments to add all the calculation methods, definitions, and reporting requirements directly in subarticle 5 (as opposed to simply incorporating the U.S. EPA rule by reference). While the number of pages associated with this change appears substantial, the actual methodological differences from the U.S. EPA rule, and the current ARB regulation, which incorporated those U.S. EPA rule requirements, are minimal.

Onshore Petroleum and Natural Gas Production Definition. In the current regulation, the onshore petroleum and natural production industry segment definition includes the phrase: "associated with a well pad." The amended

regulation maintains this definition as opposed to updating to U.S. EPA's new term: "associated with a single well pad." The reason for maintaining the existing approach is to ensure a sufficient breadth of emissions is covered for onshore petroleum and natural gas productions for the cap-and-trade regulation.

Other. The proposed amendments include modifications to the best available monitoring methods (BAMM). The proposed amendments would specifically allow the use of BAMM for certain calculation methods through the collection of 2012 data. However, in 2013, the use of BAMM will no longer be permitted. Lastly, modifications to the U.S. EPA rule also occurred in the following instances: additional industry segments are covered for pipeline and equipment blowdowns and flare stack emissions reporting; and a more stringent method for reporting of leaker emissions for onshore petroleum and natural gas production. These proposed changes were made because the U.S. EPA methods were not rigorous enough to support the needs of the cap-and-trade program and the statewide greenhouse gas inventory program.

Complete details are provided in the proposed regulation and the Initial Statement of Reasons, which are available at: http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

Staff does not believe the proposed regulation is inconsistent or incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS

This regulation is not mandated by federal law or regulations.

COMPARABLE FEDERAL REGULATIONS

As mentioned previously, the U.S. EPA requires mandatory GHG reporting (*Mandatory Reporting of Greenhouse Gases; Final Rule*. 40 CFR Parts 86, 87, 89, 90, 94, and 98. United States Environmental Protection Agency. October 30, 2009). Staff does not believe the proposed regulation is inconsistent with existing federal law. In fact, this proposed amended regulation was developed to minimize, to the greatest extent possible, any redundant State and federal reporting, while also ensuring that ARB is collecting the necessary additional information required by California's various GHG programs, including the cap-and-trade regulation, fee regulation, and the statewide GHG inventory.

AVAILABILITY OF DOCUMENTS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and

environmental impacts of the proposal. The ISOR is entitled: "Staff Report: Initial 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."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, or by calling (916) 322-2990 within the 45 days prior to the scheduled hearing on September 20, 2012.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dr. David Edwards, Manager of ARB Climate Change Reporting Section, Planning and Technical Support Division at (916) 323-4887, or Ms. Joelle Hulbert Howe, Air Pollution Specialist, at (916) 322-6349.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit (916) 322-4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445-9564. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at: http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm.

FISCAL IMPACT AND ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulatory action are presented below. A detailed assessment of the fiscal and economic impacts of the proposed regulation is included

in the Initial Statement of Reasons for this regulatory item. The cost summary described below is focused on the reporting regulation; the cap-and-trade and the fee regulations do not incur any costs for their conforming definitional changes.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Because most facilities affected by the proposed revisions are already subject to the regulation, they will only have a small incremental cost to comply with the revised rule provisions. There will be no noticeable change in employment, business creation, elimination or expansion, or business competitiveness in California due to the proposed revisions.

Costs to Businesses and Private Individuals

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative businesses and determined that there would be a potential net cost saving on businesses directly affected. Staff estimates that the total net saving is $1.2 million over the course of 10 years for all affected entities, which can be further broken down to a saving of $871,000 over 10 years for private businesses and a saving of $356,600 for local government entities. The proposed revisions are not expected to impact state government entities and private persons. Chapter VI of the ISOR for the proposed regulation includes additional data on the estimated costs to facilities.

Facilities that are subject to the federal and California GHG reporting regulations regardless of emission level (i.e., electricity generation facilities subject to the federal Acid Rain Program and certain industries with process emissions) but that have total facility emissions of less than 25,000 $MTCO_2e$ can expect to see a total net incremental cost saving of $1.2 million over the course of 10 years from the amendments due to the proposed exemption from third-party verification requirements. Facilities with process emissions that have combustion emissions of less than 25,000 $MTCO_2e$ are expected to incur a small incremental cost of up to $2,000 per facility per year for including process emissions in their GHG reports.

For importers of compressed natural gas and liquefied natural gas, the proposed amendments may result in a cost increase of $500-$2,000 per facility per year for requiring these facility types to report and verify those fuels. The incremental cost for the oil and gas sector is expected to be $259,000 over 10 years. Oil and gas facilities are expected to see an incremental cost increase of $50 to $2,000 per facility per year, depending on their industry segment and size. Oil and gas facilities in the other industry segments are expected to see an incremental cost ranging from a few hundred dollars to $2,000 per facility per year. State-wide, most of the incremental costs are borne by the oil and gas sector, accounting for 70%of the total state-wide costs among

the cost-incurring sectors. The incremental costs to the other industry sectors make up the remaining 30% of the state-wide costs.

Small Businesses

The Executive Officer has determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses. Staff estimates that approximately 3 small businesses may be affected in California. Some of these small business entities that have emissions less than 25,000 $MTCO_2e$ will see a cost saving from the exemption of third-party verification requirements. Other facilities may incur marginal incremental cost to comply with the proposed requirement to include process emissions in their GHG reports.

Costs to State Government and Local Agencies

The proposed regulatory action will reduce costs to some local agencies. Like their counterparts in the private sector, publicly owned electricity generating facilities with total facility emissions of less than 25,000 $MTCO_2e$ are expected to see a cost saving from the exemption of verification requirements. ARB anticipates that 9 electricity generating facilities operated by local government entities will see a collective saving of $356,600 over 10 years. Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. In addition, there are no other nondiscretionary costs or savings imposed upon local agencies.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, or costs or mandate to any school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

Adoption of the proposed revisions has no additional fiscal impact on ARB. No change in staffing level is needed to administer the program under the revised rule. ARB fiscal expenses needed for integrating the proposed amendments into the existing reporting systems are already accounted for in the current operational budget that was proposed in the previous amendment to the rule.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT PREPARED PURSUANT TO GOVERNMENT CODE SEC. 11346.3(b)

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not result in a creation or elimination of jobs within the State of California, or the creation or elimination of existing

businesses within the State. Creation of jobs had already occurred at the inception of the reporting program in 2008 as it created the need for technical support for developing GHG emissions estimates, providing laboratory and other services, and providing emission verification services. These existing jobs should be retained, and staff does not anticipate noticeable job creation due to the smaller scope of this regulatory action.

Anticipated benefits of the proposed revisions include improved clarity for reporting entities as to their reporting and verification obligations, more accurate GHG emissions estimates from corrected or updated emissions calculation methods and emission factors, improved clarity to support the statewide greenhouse inventory program and continued robust methods for reporting emissions and product data in order to support ARB's cap-and-trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

ALTERNATIVES

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Since the proposed amendments are made to the existing reporting regulation, fee regulation, and cap-and-trade regulation, and given that these proposed amendments do not have a significant adverse fiscal or economic impact, no alternatives, other than one in which no regulatory amendments would be made and ones in which the specific amendments to various sector requirements are compared to

harmonization with the applicable U.S. EPA rule requirements, were considered. These alternatives are fully described in Chapter III of the ISOR.

ENVIRONMENTAL ANALYSIS

In accordance with ARB's certified regulatory program, California Code of Regulations, title 17, sections 60006 through 60007, and the California Environmental Quality Act, Public Resources Code section 21080.5, ARB has conducted an analysis of the potential for significant adverse and beneficial environmental impacts associated with the proposed regulatory action. The environmental analysis of the proposed regulatory action can be found in Chapter IV of the ISOR.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments relating to this matter orally or in writing at the hearing, and comments may also be submitted by postal mail or electronic submittal before the hearing. The public comment period for this regulatory item will begin on August 6, 2012. To be considered by the Board, written submissions not physically submitted at the hearing must be submitted on or after August 6, 2012, and received **no later than 12:00 noon, September 19, 2012**, and must be addressed to the following:

Postal Mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

You can sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: http://www.arb.ca.gov/board/online-signup.htm

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38510, 38530, 38560, 38562, 38564, 38570, 38571, 38580, 38597, 39600, 39601, 39607, 39607.4, and 41511. This action is proposed to implement, interpret and make specific sections 38501, 38505, 38510, 38530, 38560.5, 38564, 38565, 38570, 38580, 38597, 39600, 39601, 39607, 39607.4, and 41511 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at 916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.

- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

James N. Goldstene
Executive Officer

Date: July 24, 2012

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.