



Linda S. Adams
Secretary for
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Air Resources Board

Mary D. Nichols, Chairman
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Arnold Schwarzenegger
Governor

MEMORANDUM

TO: Craig Tarpinning, Senior Staff Counsel
Office of Administrative Law

FROM: Trini Balcazar
Regulations Coordinator

DATE: June 17, 2010

SUBJECT: OAL Regulatory Action Number: 2010-0505-02S

Pursuant to your findings in review of the above-referenced Regulatory Action, the Air Resources Board hereby authorizes you to make the following substitutions and additions in connection with the above-referenced rulemaking:

- (1) Add the enclosed Documents Incorporated by Reference behind the Form 400 with the original text that was filed on May 5, 2010, for filing with the Secretary of State.
- (2) Substitute the enclosed revised Table of Contents in the beginning of the rulemaking file, before Tab 1.
- (3) Add the enclosed Addendum to the Final Statement of Reasons to Tab 5 of the rulemaking file.
- (4) Substitute the enclosed revised and updated Certificate of Closure for the Rulemaking File at the beginning of the rulemaking file following the Table of Contents.
- (5) Add this memo behind the enclosed Tab 19 to the rulemaking file.
- (6) ARB hereby authorizes OAL to correct the Regulation text, Section 95470(b)(3) by striking the word "subsequent" to clarify that the initial annual report, like all subsequent annual reports, is to be submitted to the Executive Officer by March 15 following the calendar year. The March 15 date appears periodically in the regulations and no other annual reporting deadline was discussed either therein or in the Initial Statement of Reasons. Therefore, clarifying that all reports are to meet the March 15 deadline will not affect the rights or responsibilities of affected facilities because they were on notice of the March 15 deadline generally and there is no indication that any other deadline would apply for the initial annual report.

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: <http://www.arb.ca.gov>.

California Environmental Protection Agency

- (7) ARB hereby authorizes OAL to correct the numbering hierarchy of the regulation text section 95469(a)(2) by replacing the (E) with (D).
- (8) ARB hereby authorizes OAL to correct the regulation text section 95469(b)(3)(A), by striking the word "during." Our intent was that this testing takes place prior to planned outages. It can't actually be done during an outage since the system is not operating (no leak would ever be detected).

Regarding the onset of reporting and monitoring obligations, given the likely June 17, 2010 effective date of these regulations, the March 15 deadline in Section 95470(b)(3) will require the first annual report to be due March 15, 2011, for data generated on or after the effective date. Thus the regulations will not impermissibly impose any retroactive requirements upon affected stakeholders.

Thank you for your assistance in this matter. If you have any questions please feel free to contact me at (916) 445-9564.

Enclosures

cc: Aron Livingston, Senior Staff Counsel