

State of California
AIR RESOURCES BOARD

Addendum to the Final Statement of Reasons for Rulemaking

**2013 AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS
EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS**

Public Hearing Date: October 24, 2013 and April 25, 2014

Agenda Items: 13-9-9 and 14-3-3

Addendum Prepared: June 25, 2014

I. Background

On May 16, 2014, the Air Resources Board (ARB or Board) submitted the Final Statement of Reasons (FSOR) for the “2013 Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to the Office of Administrative Law (OAL) for its review and approval. In the course of its review, OAL identified several minor and nonsubstantive clarification issues. Each of these issues is addressed in turn below.

II. MINOR ADDITIONAL CORRECTIONS

A. PROTOCOL CHANGES (Exempt from APA pursuant to Health & Safety Code § 38571)

During OAL’s review period, ARB requested additional changes to the Compliance Offset Protocol Mine Methane Capture Projects (the protocol). These changes included a correction to an acronym in section 1.2(c)(34) (change “Development” to “Data”) and a minor grammatical correction in section 3.5(c) (change “All methane” to “Methane”).

Additionally, ARB moved an equation from Appendix B to Appendix A and changed references within the protocol quantification methodologies appropriately (Equations 5.7, 5.19, 5.34 and 5.46. ARB also changed the recording frequency to match the defined terms of the equations and sections of the protocol in equations 5.15, 5.16, 5.21, 5.22, 5.27, 5.28, 5.36, 5.37, 5.42, 5.48 and 5.49.

ARB also added in two paragraphs to section 5.4 of the protocol. The addition of 5.4 (c) and (d) clarifies the 15-day change made to section 3.4.2(b)(4) pertaining to additionality. Like other quantification methodology sections of the protocol, chapter 5 instructs offset project operators on how to calculate the baseline and project emissions. Greenhouse gas emission reductions are calculated based on the amount of eligible methane sent qualifying and non-qualifying devices. Which methane sources

are deemed eligible and which destruction devices are deemed qualifying feeds directly into how the equations within the protocol are used and how GHG emission reductions are quantified. A similar provision, applicable to active underground mine methane drainage activities currently exists in section 5(b) and 5(c).

Finally, ARB added a clarification to section 6.2 of the protocol regarding measurement of data to use the hyperbolic emission rate decline curve coefficients from measured data from pre-existing mine wells or boreholes.

These changes are non-substantive and/or fall within the exception provided for in Health & Safety Code section 38571 because they pertain to methodologies for quantification for a voluntary program.

B. ADDITIONAL NONSUBSTANTIVE CORRECTIONS

OAL identified several additional, minor non-substantive changes in its review that ARB agrees add clarity and consistency to the regulations.

Section 95857 -

Changes were initially proposed to sections 95856 that would remove the annual surrender obligation (the 30% surrender). Under the original proposal, ARB would only evaluate the number and types of instruments in the compliance account on an annual basis, while the triennial compliance obligation would result in 100% of the compliance instruments being surrendered on November 1 every three years.

As a complementary measure to section 95856, ARB proposed changes to section 95857 governing “untimely” surrender obligations. ARB proposed to require the compliance instruments to remain in the compliance account until the next triennial surrender date. However, in the 15-day amendments, ARB rolled back the 45-day changes in 95856 to require actual surrender and removal of the compliance instruments. Staff inadvertently forgot to remove the complementary 45-day text in 95857. It is ARB’s intent to retire instruments per 95857 to be consistent with the annual retirement in 95856 and avoid having entities out of compliance until the end of the compliance period. To that end, ARB elected to not move forward with the proposed change adding “shall remain in in the covered entity or opt-in entity’s compliance account until the next triennial surrender date, after which they will be transferred” to enhance the clarity of section 95857.

Section 95981.1(e) –

ARB makes the determination of proof for this provision on a case by case basis.

Section 95990 –

ARB makes the determination of proof for this provision on a case by case basis.