

**BEFORE THE
AIR RESOURCES BOARD
OF THE
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
COMMENT ON THE PROPOSED CHANGES TO
THE PROVISIONS ON BIOMASS-DERIVED FUELS
IN THE CAP AND TRADE REGULATION AND
THE MANDATORY REPORTING REGULATION**

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I. INTRODUCTION.

The Southern California Public Power Authority (“SCPPA”)¹ respectfully submits this comment on the proposed changes to the provisions on biomass-derived fuels in the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (“MRR”) and the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulation (“C&T Regulation”) released by the California Air Resources Board (“ARB”) for 15-day public comment on July 25, 2011.

SCPPA appreciates the efforts made by ARB staff to accommodate our concerns with the provisions on biomass-derived fuel in the MRR and in the C&T Regulation. However, some further changes are required. As biomass-derived fuel provisions are included in both regulations, our remaining concerns on those provisions are set out in this comment that addresses biomass-derived fuel provisions only. SCPPA’s other concerns with the MRR and the C&T Regulation are set out in separate comments.

SCPPA considers that the provisions on biomass-derived fuels should be revised as set out below.

¹ SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

II. BIOFUEL PROVISIONS IN CAP AND TRADE REGULATION SHOULD BE AMENDED.

A. Section 95852. Emission Categories Used to Calculate Compliance Obligations.

Section 95852 (C&T p. 80) is the key section setting out how each covered entity's compliance obligations will be determined. It is important to clearly address liability relating to biomass-derived fuels. This section should clarify that, if the biomass-derived fuels meet the specified conditions, there is no compliance obligation for CO2 emissions from the combustion of those fuels.

Section 95852(b)(5) (C&T p. 83) refers only to biomethane, but the more general term "biomass-derived fuel" should be used.

We understand that a certification program will be developed under the MRR, as an alternative to verification. This should be recognized in the C&T Regulation too. Ideally, the term "certification" should be defined in both the MRR and the C&T Regulation.

§ 95852. Emission Categories Used to Calculate Compliance Obligations.

(b) First Deliverers of Electricity. ...

(5) There is no compliance obligation for CO2 emissions from electricity generated from use of biomass-derived fuels that~~ethane must~~ comply with section 95852.2, and ~~must~~ meet verification or certification requirements for use of biomass~~ethane~~ass-derived fuel pursuant to MRR.

B. Section 95852.1. Compliance Obligations for Biomass-Derived Fuels.

Section 95852.1 (C&T p. 87) now largely repeats requirements that are already set out in other sections. This section could be deleted without affecting the requirements that apply to biomass-derived fuels. If it is not deleted, some changes should be made to this section for clarity and to reduce redundant wording.

The reference to “source categories” in § 95852.1(a) is not relevant here. As the first paragraph of § 95852.1 indicates, this section only addresses biomass-derived fuels.

§ 95852.1. Compliance Obligations for Biomass-Derived Fuels.

An entity that has emissions from combustion of biomass-derived fuels is required to report and verify its emissions pursuant to MRR and has a compliance obligation for every metric ton of CO₂e emissions ~~from biomass-derived fuels that would result from combustion or oxidation of all biomass-derived fuel from sources identified below:~~

(a) from combustion of ~~Source categories or~~ fuel types that are not listed under section 95852.2; or

(b) from combustion of ~~Emissions from~~ fuels that do not meet the requirements of section 95852.1.1, or

(c) these emissions that are reported as Other Biomass CO₂ under MRR.

C. Section 95852.1.1(a). Clarify eligibility requirements for Biomass-Derived Fuels.

Although only certain types of biofuel contracts will meet the criteria in § 95852.1.1 (C&T p. 88) for the combustion emissions to have no compliance obligation, this section should not prevent entities entering into contracts that do not meet the criteria. The change to the first line of § 95852.1.1(a) below is to clarify that, although there is no absolute requirement for biofuel contracts to meet the criteria, there is a benefit (in terms of a reduced compliance obligation) if the contract does meet the criteria.

The heading of this section refers to the general term “biomass-derived fuels”, and so does section (a)(1). This term should be used throughout. There appears to be no reason to restrict this section to biogas and biomethane.

This section refers to “contracts.” A “contract” should be defined to include transactions evidenced by recorded telephone calls, instant messaging, emails, and other types of electronic records that are commonly used for energy transactions.

Section 95852.1.1(a) refers to assigned emissions. It is unclear how an assignment of emissions by the ARB relates to the reporting of emissions as biomass CO2.

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(a) ~~There is no compliance obligation for CO2 emissions from combustion of biomass-derived fuel procured under cContracts for biogas and biomethane must that~~ meet one of the following criteria. Only the portion of the fuel that meets this criteria will be considered a biomass-derived fuel. ~~and is not subject to a compliance obligation if t~~ The emissions ~~must beare~~ reported as biomass CO2 in an emissions data report that has received a positive or qualified positive emissions data verification statement ~~or been assigned emissions~~:

D. Section 95852.1.1(a)(1). Contract cut-off date for Biomass-Derived Fuels.

Section 95852.1.1(a)(1) refers to the date on which a contract is “in effect.” Instead, the date of execution of a contract should be used, as it is clearer and less subject to interpretation and argument than the date on which a contract is “in effect.”

SCPPA appreciates the change in the cut-off date for biofuel contracts from January 1, 2010, to the previous start date of the cap and trade program, January 1, 2012. However, the start date of the cap and trade compliance obligations has now been moved to January 1, 2013. Furthermore, the current cut-off date of January 1, 2012 is fast approaching but entities attempting to enter into contracts for biofuel still have little certainty as to the regulatory requirements affecting biofuel contracts. Some large biomethane transactions that are currently being negotiated may not be able to be finalized and approved by the end of 2011. For these reasons, SCPPA respectfully requests the cut-off date for biofuel contracts to be extended to January 1, 2013. References to 2012 should be changed to 2013 throughout § 95852.1.1.

Section 95852.1.1(a)(1) refers to “the same California operator.” The word “operator” is confusing in this context – for example, it could be read to refer to the operator of the biofuel facility (e.g. a landfill). “Purchaser” is clearer and more to the point.

Section 95852.1.1(a)(1)(A) should be amended for clarity. Sections (A) and (B) are alternatives, not cumulative requirements.

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(a) (1) The contract for purchasing any biomass-derived fuel must be ~~executed in effect~~ prior to January 1, 201~~32~~ and remain in effect or have been renegotiated with the same California ~~purchaser operator~~ within one year of contract expiration. The delivery of the fuel under the contract must meet the following requirements~~;~~:

(A) Physical transfer of the fuel must begin no later than 90 days after ~~the execution date of the a signed~~ contract; ~~or and~~

(B) If physical transfer of the fuel begins more than 90 days after the contract is signed then for the purposes of this provision the first date of physical fuel transfer shall be considered the contract signing date;

E. Section 95852.1.1(a)(2). New or increased production of Biomass-Derived Fuels.

Section 95852.1.1(a)(2) refers to “new” production or recovery of biofuel. “New” should be defined in this context. The cut-off date for biofuel contracts is the appropriate date for determining whether production or recovery is “new”.

It may also be helpful to define “useful energy transfer.”

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(a) (2) The fuel being provided under a contract dated after January 1, 201~~32~~ must only be for an amount of fuel that is associated with~~;~~:

(A) an increase in the biomass-derived fuel producer’s capacity, ~~where an increase is considered any amount over the average of the last three calendar years’ production;~~

(B) new production ~~on or after January 1, 2013;~~ or

(C) recovery of the fuel that ~~as of January 1, 2013,~~ was ~~previously being~~ destroyed without producing useful energy transfer. ~~Increased capacity is considered any amount over the average of the last three calendar years’ production;~~

F. Section 95852.1.1(a)(4). Certification of Biomass-Derived Fuels.

“Certification” is referred to in § 95852.1.1(a)(4) (C&T p. 89) but this term is not defined. Ideally, the term should be defined in both the MRR and the C&T Regulation. If fuel is from a certified facility, we understand that fuel will qualify as biomass-derived fuel. This should be clarified here.

The cross-references in section (a)(4) do not appear to be correct. In relation to § 95852.1.1(a)(1) and (2), physical transfer of fuel under a contract could begin either before or after 90 days from contract execution, but not both. Section 95852.1 describes circumstances when biofuel does carry a compliance obligation, not requirements to be met in order for biofuel not to carry a compliance obligation.

A better approach would be to clearly state the effect of receiving certification: If the biofuel production facility has been certified, biofuel from that facility will, as set out in paragraph (a), be biomass-derived fuel that is not subject to a compliance obligation.

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(a) (4) The fuel was produced at a fuel production facility that has been certified by an accredited certifier of biomass-derived fuels~~Once a certification program is in place, a fuel which meets the requirements of sections 95852.1.1(a)(1) and 95852.1.1(a)(2) will always be considered to have met the requirements in section 95852.1;~~ or

G. Section 95852.1.1(a)(5). Circumstances where there are no contracts for Biomass-Derived Fuels.

The term “operator” can cause confusion. Whether a reporting entity is an “operator” is not relevant in § 95852.1.1(a)(5) (C&T p. 89).

An additional circumstance in which there may not be a contract for biofuel is where one entity owns both the fuel production facility and a separate generating facility at which the fuel is combusted. This situation applies to a SCPPA member, and should be included in this section.

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(a) (5) If the biogas or biomethane is used at the site of production, and not transferred to another ~~entity operator~~, or the fuel is used at another site owned or operated by the entity that produced the fuel, thus not requiring a contract, ~~that entity operator~~ must demonstrate one of the following:

(A) The fuel has been combusted in California prior to January 1, 201~~32~~; or

(B) As of January 1, 2013, ~~T~~he fuel was not ~~previously~~ used to produce useful energy transfer.

H. Section 95852.1.1(b). Offsets and Biomass-Derived Fuels.

Section 95852.1.1(b) (C&T p. 89) is very unclear. What types of credits would “otherwise result in holding a compliance obligation”? Is the intention of this section to allow offsets to be generated from avoided methane emissions at (e.g.) a landfill, as well as allowing the combustion of the biofuel to be zero-emissions, but only if the offsets are sold together with the biofuel? This accords with statements made by ARB staff in June 2011.

If this is the ARB’s intention, SCPPA commends the recognition of the fact that the avoided methane emissions are separate from the emission reductions from using biogenic fuel in place of fossil fuel, and that no double counting arises. This recognition is in accordance with the science of emission reductions, with international practice in offset markets and cap-and-trade programs, and with the ARB’s own Compliance Offset Protocol for Livestock Projects. This protocol states on page 7 that it “does not account for carbon dioxide emission reductions associated with displacing grid-delivered electricity or fossil fuel use”, meaning that offsets will not be issued for those emission reductions and that those emission reductions can therefore be recognized under the cap-and-trade program without creating double counting.

However, as the offset-related and combustion-related types of emission reductions are separate from and additional to each other, there is no need to require the offsets to remain with

the biofuel. Offsets for avoided methane emissions bear no relationship to the “compliance obligation for combustion CO₂.” This situation is not equivalent to the relationship between renewable energy certificates (“RECs”) and renewable energy, where either a REC or a megawatt hour of renewable energy can be counted as zero-emissions, but not both, as the REC is issued in respect of the zero-emission benefits of that megawatt hour of renewable energy. In the case of biofuel, emission reductions associated with displacing fossil fuel use are *additional to* the emission reductions associated with avoided methane emissions at (e.g.) the landfill. Separating the offsets from the biofuel does not strip the biofuel of its ability to reduce emissions by displacing fossil fuel.

Once the step has been made to recognize that offsets can be generated for avoided methane as well as counting the biofuel combustion emissions as zero-carbon, there is no logical reason to require these two separate products to be sold together. Consider a biofuel purchaser that receives ARB offsets with its purchase of biofuel. Presumably that purchaser can use those offsets for compliance (subject to the quantitative limitation). Why should only the biofuel purchaser, and no other entity, be able to purchase those offsets and use them for compliance?

Given the vagueness of the phrase “otherwise result in holding a compliance obligation for combustion CO₂”, § 95852.1.1(b) as currently drafted could be interpreted in an even more limiting way, by prohibiting any sale of biofuel-related offsets (even to a biofuel purchaser). This interpretation should be clearly ruled out, as in this case the offsets would be rendered worthless (given that most biofuel producers do not have a compliance obligation of their own for which they could use the offsets they generate).

Prohibiting biofuel offsets from being sold, or from being sold separately from the biofuel, would have negative consequences for both the offset market and the biofuel market. It

would unnecessarily reduce the flexibility of biofuel producers to sell or otherwise transfer their products, it would reduce liquidity in the offset market, and it would be likely to increase the price of biofuel (as the price will need to incorporate the value of the offsets), without any additional environmental benefit.

Section 95852.1.1(b) should be revised to allow offsets for avoided methane emissions, as well as RECs, to be generated in respect of biofuel and sold separately.

§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.

(b) ~~An entity may not sell, trade, give away, claim or otherwise dispose of any of the carbon credits, carbon benefits, carbon emissions reductions, carbon offsets or allowances, howsoever entitled, attributed to the fuel production that would otherwise result in holding a compliance obligation for combustion CO₂.~~ Generation and sale of Renewable Energy Credits in respect of electricity from combustion of biomass-derived fuel, and offset credits in respect of avoided methane emissions at the site where biomass-derived fuel is generated, is allowable and will not prevent the CO₂ emissions from combustion of a biomass-derived fuel that meets the requirements in this section from being exempt from a compliance obligation.

I. Section 95852.2. Emissions without a Compliance Obligation.

Plant material should be mentioned in § 95852.2(a)(8) (C&T p. 91), as it is an important source of biogas and is identified in the definition of “biogas.”

Section 95852.2(a)(8)(B) refers to “waste.” Arguments may arise as to whether a material constitutes “waste”, particularly if the material is producing a useful product such as biogas. It would be clearer if the term “waste” were replaced with a more neutral term such as “material.”

§ 95852.2. Emissions without a Compliance Obligation.

Emissions from the following source categories and from the combustion of the following fuel types count toward applicable reporting thresholds but do not count toward a covered entity’s compliance obligation set forth in this article unless those emissions are reported as Other Biomass CO₂ under MRR. Emissions without a compliance obligation include:

(a) CO2 ~~combustion~~ emissions from combustion of the following ~~biomass-derived portion of~~ biomass-derived fuels: ...

(8) Biomethane and biogas from the following sources:

(A) All animal, plant and other organic ~~material~~waste; or

(B) Landfills and wastewater treatment plants; ...

III. BIOFUEL PROVISIONS IN MANDATORY REPORTING REGULATION SHOULD BE AMENDED.

A. Section 95102. Definitions.

The definition of “biogenic portion of CO2 emissions” in § 95102(a)(32) (MRR p. 13) should be revised for clarity.

In § 95102(a)(273) (MRR p. 48), the definition of “Other biomass CO2”, the term “biomass CO2 emissions” is used but this term is not defined. The general term “biomass-derived fuel” should be used. It is important to specify “combustion” of the biomass-derived fuel, as some types of biomass-derived fuel (e.g. landfill gas), if not combusted, constitute a separate, uncovered category of GHG emissions.

§ 95102. Definitions.

(a) (32) “Biogenic portions of CO2 emissions” means carbon dioxide emissions generated from the combustion of biomass-derived fuels~~as the result of biomass combustion from combustion units~~.

(273) “Other ~~B~~biomass_-CO2” means ~~biomass~~-CO2 emissions from the combustion of biomass-derived fuels that will be required to hold a compliance obligation.

B. Section 95103(j). Calculating, Reporting, and Verifying Emissions from Biomass-Derived Fuels.

Section 95103(j) (MRR p.75) refers to § 95115 but not to § 95112. Section 95112 is the section on electricity generation, and this section appears to be relevant to § 95103(j).

Section 95103(j) refers to verification requirements but not to certification. A reference to certification should be included, because if fuel is from a certified facility, SCPPA understands that fuel will qualify as biomass-derived fuel.

As discussed above, it is important to specify “combustion” of the biomass-derived fuel. Some additional changes to this provision are required for clarity.

§ 95103. Greenhouse Gas Reporting Requirements.

The facilities, suppliers, and entities specified in section 95101 must monitor emissions and submit emissions data reports to the Air Resources Board following the requirements specified in 40 CFR §98.3 and §98.4, except as otherwise provided in this section. ...

(j) *Calculating, Reporting, and Verifying Emissions from Biomass-Derived Fuels.* The operator of a generating facility that combusts biomass-derived fuels, or supplier of biomass-derived fuels, must separately identify, calculate, and report all direct emissions of CO₂ resulting from the combustion of biomass-derived fuels as specified in sections 95112 and 95115 (as applicable) for facilities, and sections 95121-95122 for suppliers. Biomass-derived fuel emissions must be identified by the source of fuel as described in title 17, California Code of Regulations, section 95852.2(a). Carbon dioxide emissions from combustion of a biomass-derived fuel not listed in those sections will be identified as ~~an~~ Other Biomass CO₂. For a fuel listed under title 17, California Code of Regulations, section 95852.2, reporting entities must also meet the verification or certification requirements in section 95131(i) of this article and the requirements of title 17, California Code of Regulations, section 95852.1.1, or the carbon dioxide emissions from combustion of the fuel must be identified as ~~an~~ Other Biomass CO₂. The responsibility for obtaining verification of a biomass-derived fuel falls on the entity that is claiming there is not a compliance obligation for the fuel, as indicated in section 95852.2 of the Cap-and-Trade Regulation. ...

(3) When reporting emissions from combustion of biomass-derived fuel as Other Biomass CO₂ the reporting entity must report fuel consumption subject to the requirements of section 95103(k) and emissions subject to the requirements of section 95112 or 95115, as applicable.

C. Section 95131(i)(1)(A). Annual Verification.

Section 95131(i) (MRR p. 228) is the key provision on verification of biomass-derived fuel. SCPPA appreciates the improvements that have been made to this section. However, some further changes are needed for clarity and to avoid impractical or overly burdensome verification requirements.

The first paragraph of § 95131(i) refers to certification, but it would be helpful to include more details on the proposed certification program. This brief reference to such an important concept, without a definition or other explanatory material, has already led to confusion and disagreements in the course of negotiating biofuel purchase contracts. A definition of certification should be included, as well as more details on the way in which the certification and verification requirements will interact.

Section 95131(i)(1)(A) refers to a full verification. A full verification of all reported emissions is an expensive and time-consuming process. It should not be triggered merely because there is a change or increase in a reporting entity's biofuel purchases. Biofuel purchases may form only a small part of an entity's total operations. In the circumstances set out in § 95131(i)(1)(A), full verification should only be required for the biomass-derived fuel.

§ 95131. Requirements for Verification Services.

(i) *Verifying Biomass-derived Fuels.* In the absence of certification of the biomass-derived fuel by an accredited certifier of biomass-derived fuels, the verification body is subject to the requirements of subarticle 4 of this article as modified below when verifying biomass-derived fuel:

(1) *General biomass-derived fuel verification requirements.* The following requirements apply to the biomass-derived fuel verification:

(A) *Annual Verification.* Biomass-derived fuel is subject to annual verification as specified in section 95103(f). In addition to the full verification requirements in sections 95130(a)(1)(A)-(D), a full verification [of the biomass-derived fuel \(not including full verification of emissions not relating to biomass-derived fuel\)](#) is also required when: ...

D. Section 95131(i)(1)(C). Verification Services for Biomass-Derived Fuels.

Section 95131(i)(1)(C)(2) (MRR p. 229) refers to site visits to the upstream entity. Under the general verification provisions in § 95130(a) (MRR p. 212) and the definition of “less intensive verification” in § 95102(a)(218) (MRR p. 38), site visits are required only when full verification is required (which is quite frequently). This should also apply in relation to biofuel verification. Site visits should not be required in years in which full verification (either for the reporting entity’s full report, or for its biofuel emissions only) is not required.

Furthermore, site visits to corporate headquarters or data management offices will increase verification costs without providing any information that could not be found from a desktop/ online review. Consider the costs of sending verifiers to visit the corporate headquarters of fuel marketers around the United States. Site visits will only provide useful information when the next upstream entity is the fuel producer and the site visit is to the fuel production facility. To avoid unnecessary costs, site visits should only be required when the next upstream entity is the fuel producer.

§ 95131. Requirements for Verification Services.

(i) Verifying Biomass-derived Fuels. ...

(1) General biomass-derived fuel verification requirements. ...

(C) Verification Services for Biomass-Derived Fuels. When a reporting entity claims that biomass-derived fuels are used, the biomass-derived fuels must be considered when providing all verification services required under section 95131(b) of this article. In providing verification services for reporting entities using biogas and biomethane, the verification team must:

1. Consider information from the entity immediately upstream in the chain of title when developing the verification plan under section 93131(b)(1).

2. If full verification is required under sections 95130(a)(1) or 95131(i)(1)(A), cConduct the required site visit at the headquarters or other place of production of the biomass-derived fuel~~central data management~~ for the entity immediately upstream in the chain of title, if that entity is the fuel producer. ...

E. Section 95131(i)(1)(D). Completion of Verification Services for Biomass-Derived Fuels.

Section 95131(i)(1)(D)(4) (MRR p. 230) refers to § 95852.1, but it is unclear whether this is the correct cross-reference. Section 95852.1 describes circumstances when biofuel does carry a compliance obligation, not requirements to be met in order for biofuel not to carry a compliance obligation. Additional changes to § 95131(i)(1)(D)(4) are required for clarity, including a reference to CO2 emissions from combustion.

§ 95131. Requirements for Verification Services.

(i) *Verifying Biomass-derived Fuels.* ...

(1) *General biomass-derived fuel verification requirements.* ...

(D) *Completion of Verification Services for Biomass-Derived Fuels.*

4. Biomass-derived fuels are included in the reporting entity's overall evaluation for material misstatement. If a~~Any~~ fuel ~~that~~ does not conform with sections 95852.1 and 95852.2 of the Cap-and-Trade Regulation and the carbon dioxide emissions from the combustion of that fuel are~~is~~ not listed as Other Biomass CO2, this will be considered an omission when evaluating for material misstatement under section 95131(b)(12)(A) of this article.

F. Section 95131(i)(2)(D). Specific biomass-derived fuel verification requirements.

Section 95131(i)(2)(D)(1) (MRR p. 232) requires the verifier to examine all contracts in the chain of title for the biomethane or biogas. The reporting entity will have the contract for its purchase of the biogas, and will provide this to the verifier. However, the reporting entity may not be able to access any further upstream contracts (as it is not a party to those contracts). The

verifier can request them from the upstream entities, but those upstream entities outside California are not necessarily required (under regulation or contract) to provide the contracts, and may refuse to provide them on the grounds that they are confidential. The reporting entity should not be held responsible for this as it is outside the reporting entity's control.

Section 95131(i)(2)(D)(2) refers to "all requirements of" § 95852.2 of the C&T Regulation. That section of the C&T Regulation is a list of fuel types, not a list of requirements.

Section 95131(i)(2)(D)(2) prohibits the use of fossil fuel to supplement the biofuel. However, it is standard market practice to schedule a small portion of natural gas when biomethane is being transported. Purchase contracts will always distinguish between the biomethane and the natural gas, given the significant price difference between the two. As long as the natural gas is not claimed as biomethane under the MRR, this section should allow this efficient practice to continue.

Section 95131(i)(2)(D)(4) is unclear. Why can't the missing data substitution provisions be used? Unless this provision is clarified and the need for this provision is demonstrated, it should be deleted.

§ 95131. Requirements for Verification Services.

(i) *Verifying Biomass-derived Fuels. ...*

(2) *Specific biomass-derived fuel verification requirements. ...*

(D) For biomethane and biogas, the verifier must:

1. Examine all contracts in the chain of title that the reporting entity is able to procure for the verifier to examine in order to track the reported fuel volumes from the producer to the reporting entity and have reasonable assurance that the reporting entity is the only customer receiving the identified fuel;

2. Ensure all contracts in the chain of title are for the purchase of biogas or biomethane from the sources listed in~~meet all requirements of~~ title 17, California Code of Regulations, section 95852.2 and that no fossil-

derived fuel ~~is~~ used to supplement the biomass-derived fuel deliveries is reported as biomass-derived fuel without a compliance obligation;

3. Determine the upstream entity's total volume of biomass-derived fuel transferred to all customers in a calendar year does not exceed the entity's purchases and/or production of biomass-derived fuels during that year;

~~4. Ensure that missing data at the entity immediately upstream in the chain of title has not been replaced when evaluating conformance at the reporting entity; ...~~

G. Section 95131(i)(3). Assessment.

Section 95131(i)(3) (MRR p. 233) refers to the “requirements” in § 95852.2 of the C&T Regulation. This section is a list of fuel types, not a list of requirements.

Additional changes to § 95131(i)(3) are required for clarity, including a reference to CO₂ emissions from combustion.

§ 95131. Requirements for Verification Services.

(i) *Verifying Biomass-derived Fuels.* ...

(3) *Assessment.* If the reporting entity is unable to demonstrate that the biomass derived fuel is consistent with the requirements from a source category listed in title 17, California Code of Regulations, section 95852.2, the emission data report must be revised to list the carbon dioxide these biomass CO₂ emissions from the combustion of this fuel as Other Biomass CO₂.

IV. CONCLUSION

SCPPA urges the ARB to consider these comments in finalizing the amendments to the C&T Regulation and the MRR. SCPPA appreciates the opportunity to submit these comments to the ARB and looks forward to working with the staff of the ARB to further refine the regulations.

Respectfully submitted,

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