

Resolution for Public Access to Greenhouse Gas Mandatory Reporting Calculations

Whereas developing an accurate Greenhouse Gas (GHG) emission inventory is essential to the development of controls on GHG emissions;

Whereas current state Mandatory Reporting regulations, adopted for the purpose of developing the statewide GHG inventory, allow secret calculations of GHG emissions which will be housed privately and separately at each polluting facility;

Whereas only the results of the GHG emissions calculations and not the calculations themselves are required to be reported to the California Air Resources Board (CARB);

Whereas this secrecy is counter to basic scientific principles requiring that data be verifiable and available before it is accepted;

Whereas not only will the public not have access to the GHG data calculations, but the state itself will not review the GHG calculations and associated data unless CARB decides to make a special request that emissions calculations be submitted;

Whereas such review by CARB will occur only on a case-by-case basis;

Whereas there is uncertainty in the calculations of GHG emissions and in the reporting methods set for polluters by CARB in the Mandatory Reporting regulations;

Whereas there is a great potential when developing an entirely new inventory and given varying industrial practices, for polluters to err in their reporting;

Whereas GHG emissions calculations are only required to be privately verified by third party independent consultants who are hired by the individual polluting companies;

Whereas Conflict-of-Interest limits on the third party verifiers are not adequate to protect the public interest;

Whereas the review of GHG emissions calculations by privately contracted third party consultants is in no way a surrogate for public access to the calculations and data forming the basis of the GHG emissions estimations;

Whereas public review and scrutiny of pollution data and calculations has historically resulted in much improved pollution data quality;

Whereas if CARB were to modify the Mandatory Reporting regulations to require that the emissions reports that are already required to be submitted to CARB, must also include all GHG calculations and associated data forming the basis of the emissions estimates, such new provisions would allow normal Public Records Act review of the calculations by the public;

Whereas existing protections have long been in place for preserving any legitimate company trade secret information when it is submitted to CARB;

Whereas requiring that polluting companies submit their calculations and associated data forming the basis of the GHG emissions estimates to CARB would not circumvent existing legitimate trade secret protections;

Whereas the California Public Records Act (CPRA) summary by the State Attorney general finds that *“In enacting the CPRA, the Legislature stated that access to information concerning the conduct of the public’s business is a fundamental and necessary right for every person in the state;”*¹

Whereas public access to air pollution data and calculations is a fundamentally important Environmental Justice tool for protecting public health;

Whereas CARB states on its website as part of Environmental Justice Policies and Actions that *“People should have the best possible information about the air they breathe and what is being done to reduce unhealthy air pollution in their communities.”*²

Whereas, communities of color and low income communities suffer disproportionately from the effects of global climate change and existing pollution burdens which threaten the health and well-being of our communities;

Be It Resolved, that environmental justice advocacy groups in California propose the adoption of modifications to the *Regulation for the Mandatory Reporting of Greenhouse Gas Emissions*, with additions identified in underline format as follows:

95104. Greenhouse Gas Emissions Data Report.

(a) *Emissions Data Report*. Operators subject to this article shall submit emissions data reports according to the schedule specified in section 95103(b), except as provided in section 95103(e). Emissions data reports shall include the information below and the additional data specified in sections 95110 through 95115, as applicable.

- (1) Facility name, identification number, physical address, mailing address, location, NAICS code;
- (2) A description of facility or entity boundaries for the report, including geographic location;
- (3) Name of the person responsible for reporting and his or her preparing and submitting the emissions report, and contact information, including e-mail address, and telephone number;
- (4) The report year;
- (5) The direct GHG emissions, electricity transactions information, and other data specified in sections 95110 through 95115 as applicable to the operator, including emissions occurring during routine maintenance, startups, shutdowns, upsets and downtime subject to the limitations of section 95103(a)(8) and all calculations and data forming the basis of

¹ *Summary of the California Public Records Act 2004*, California Attorney General’s Office, page 3, http://ag.ca.gov/publications/summary_public_records_act.pdf

² <http://www.arb.ca.gov/ch/programs/ej/ej.htm>

these emissions estimates, including but not limited to monitoring, measuring, other analysis, and calculations of these emissions estimates;

- (6) Indirect electric and thermal energy consumed for electricity, heat, steam, and cooling when required for the facility as specified in sections 95110 through 95115 and all calculations and data forming the basis of these energy estimates, including but not limited to monitoring, measuring, other analysis, and calculations of these energy estimates;
- (7) Efficiency metrics when required for the facility as specified in sections 95110 through 95115 and all calculations and data forming the basis of these efficiency metrics, including but not limited to monitoring, measuring, other analysis, and calculations of these efficiency metrics;

Signatories

DRAFT