



September 15, 2014

Sent via email to:

spartrid@arb.ca.gov; Brieanne.Aguila@arb.ca.gov

Electronically submitted at:

<http://www.arb.ca.gov/lispub/comm/bclist.php>

California Air Resources Board
Attention: Clerk of the Board
1001 I Street
P.O. Box 2815
Sacramento, California 95812

Subject: Proposed Amendments To The Regulation For The Mandatory Reporting Of Greenhouse Gas Emissions *Amend Division 3, Chapter 1, Subchapter 10, Article 2, Sections 95101, 95102, 95103, 95104, 95111, 95112, 95113, 95114, 95115, 95119, 95121, 95122, 95124, 95130, 95131, 95132, 95133, 95152, 95153, 95156, 95157, And Appendix A, Title 17 California Code Of Regulations*

Dear Members of the California Air Resources Board:

Thank you for the opportunity to comment on the Proposed Amendments (Amendments) to the Regulations for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) you issued on July 28, 2014.

The Coalition for Renewable Natural Gas is the non-profit organization representing the renewable natural gas industry. We are an association of more than fifty leading companies who operate at the various stages of the biomethane supply chain. Our interests in the MRR are limited in scope and specific to

issues potentially impacting the renewable natural gas industry. We will limit our comments accordingly.

The expansion of Section 95101 (c) “Applicability” to include suppliers that import transportation fuels, as described in section 95121, appears to be overly broad and should be further amended to clarify biomethane’s exclusion from registration and reporting requirements.

The Coalition for Renewable Natural Gas requests clarifying language to ensure that biomethane suppliers are not required to register and report under the MRR.

Appendix A to the Staff Report delineates the Proposed Amendments to the MRR. In subsection (c) of Section 95101 titled “Fuel and Carbon Dioxide Suppliers” it says:

*(c) **The suppliers listed below, as defined in section 95102(a), are required to report** under this article when they produce, import and/or deliver an annual quantity of fuel that, if completely combusted, oxidized, or used in other processes, would result in the release of greater than or equal to 10,000 metric tons of CO₂e in California, unless otherwise specified in this article:*

- (1) Position holders at terminals and refiners delivering petroleum fuels and/or biomass-derived fuels, as described in section 95121;*
- (2) **Enterers that import transportation petroleum fuels outside the bulk transfer/terminal system, as described in section 95121, and biofuel production facilities that produce and deliver transportation fuels outside the bulk/terminal system, as described in section 95121;** (Emphasis Added).*

Inclusion of “biofuel production facilities” that produce and deliver transportation fuels outside the bulk/terminal system appears to mean that suppliers of bio-based transportation fuels are now included in MRR requirement. The limitation on this interpretation is the phrase “as described in section 95121.” However, as we will discuss below, this section may also be subject to broad interpretations that may include biomethane.

Section 95102(a) (447) defines a “Supplier” as:

*“A producer, importer, exporter, position holder, interstate pipeline operator, or local distribution of **fossil fuel** or an industrial greenhouse gas.” (Emphasis Added).*

The limitation in this definition to “fossil fuel or industrial greenhouse gas” appears to be expanded by inclusion of the Section 95101(c)(2) bolded language

above that includes importers of “transportation” fuels rather than “petroleum” fuels.

This newly amended inclusion of “biofuel production facilities” is also reflected in Section 95121.

The proposed amendments to Section 95121, entitled “Suppliers of Transportation Fuels,” would read:

***“Any position holder, refiner, enterer, or ~~refiner~~ biofuel production facility who is required to report under section 95101 of this article must comply...* in reporting emission and related data to ARB, except as otherwise provided in this section.” (Emphasis Added).**

ARB staff kindly met with staff and members of the Coalition for Renewable Natural Gas regarding our concerns with an interpretation of this language that would include biomethane in the MRR. ARB staff has assured us that inclusion of biomethane is not intended, and pointed to Table 2, entitled “Blendstocks, Distillate Fuel Oils and Biomass-Derived Fuels Subject to Reporting under section 95121” as evidence. Table 2 lists Biomass-Derived Fuels and does not list biomethane. This has assured us of ARB’s intentions. Nevertheless, while we do read several subsection of Section 95121 referencing “*biomass-derived fuels listed in Table 2*” these references are generally found in specific reporting requirement sections.

The best example of a broad intent to limit MRR applicability is in Section 95121(a)(2):

(2) Refiners, position holders of fossil fuels and biomass-derived fuels that supply fuel at California terminal racks, and enterers that import transportation fuels outside the bulk transfer/terminal system, and biofuel production facilities that produce and deliver biomass-derived fuels outside the bulk transfer/ terminal system in California of fossil fuels must report the CO₂, CO₂ from biomass-derived fuels, CH₄, N₂O, and CO₂e emissions that would result from the complete combustion or oxidation of each Blendstock, Distillate Fuel Oil or biomass-derived fuel (Biomass-Based Fuel and Biomass) listed in Table 2 of this section. However, reporting is not required for fuel in which a final destination outside California or where a use in exclusively aviation or marine applications can be demonstrated. No fuel shall be reported as finished fuel. Fuels must be reported as the individual Blendstock, Distillate Fuel Oil or biomass-derived fuel listed in Table 2 of this section. For purposes of this article, CARBOB blendstocks are reported as RBOB blendstocks. (Emphasis Added).

Reading this section leads us to an interpretation that resulting emissions from combustion or oxidation of biomass based fuels listed in Table 2 are included in the MRR. It does not lead us to the conclusion that only those fuels listed in Table 2 have reporting requirements under the MRR. Language found in other sections suggest the contrary.

For example, Section 95121(d)(7) says:

“All fuel suppliers identified in this section must report the total quantity of CARBOB, California Gasoline, California diesel fuel, and biomass-derived fuel that was imported from outside California for use in California....” (*Emphasis Added*).

Also, a plain reading of the MRR definition section does not exclude biomethane as a biomass-derived fuel. Section 95102(a) (38) defines “Biomass-derived fuels” or “biomass fuels” or “biofuels” or “biomass-based fuels” as “*fuels derived from biomass.*” Broadly speaking, and consistent with the other definitions in this section, biomethane is derived from biogas which is a byproduct of biomass. Accordingly, to differentiate biomass-derived fuels that are included in the MRR requirements from those that are not included, we believe further clarifying language is needed.

Respectfully, we request a statement of preclusion, such as “Biomass-derived fuels not listed in Table 2 are not subject to the registration and reporting requirements of this article,” to add increased clarity.

Inclusion of registration and reporting requirements for biomethane in the MRR would place a significant burden on biomethane suppliers. Additionally, the information captured by such a requirement would not add value to the ARB’s current MRR objectives. We trust it was not your intention that the proposed amendments would capture biomethane-based transportation fuels in the MRR.

Thank you, in advance, for your actions to further clarify your intentions. And thank you again for the opportunity to comment on the Proposed Amendments to the Regulations for the Mandatory Reporting of Greenhouse Gas Emissions (MRR).

Sincerely,



Johannes D. Escudero
Executive Director
Coalition for Renewable Natural Gas
916. 520. 4764
Johannes@rngcoalition.com



David A. Cox
Operations Director
Coalition for Renewable Natural Gas
916. 678. 1592
David@rngcoalition.com