



Western States Petroleum Association
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Catherine H. Reheis-Boyd
President

March 17, 2016

Ms. Rajinder Sahota
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: WSPA comments on the ARB February 24, 2016 Workshop Presentation on Pre-regulatory AB 32 Mandatory Reporting Regulation (MRR) Amendments.

Dear Ms. Sahota,

The Western States Petroleum Association (WSPA), representing 25 companies that explore for, develop, refine, market and transport petroleum and petroleum products, appreciates this opportunity to comment on the Air Resources Board (ARB) February 24, 2016 Workshop Presentation on Pre-regulatory AB 32 Mandatory Reporting Regulation (MRR) Amendments. WSPA is providing the following comments in an effort to offer feedback during this pre-regulatory phase. This feedback does not represent all comments WSPA may subsequently provide once it has had the opportunity to examine the draft regulations. WSPA reserves the right to provide additional comments during the notice and comment period once ARB releases its draft regulations and initiates formal rulemaking.

Proposed Earlier MRR Report Verification Milestone

ARB is proposing to move up the verification deadline of annual MRR reports by five (5) weeks. WSPA is opposed to this change in the MRR schedule. This proposal to decrease the available time for verification is unreasonable, because the September 1st deadline is already constrained and difficult to manage, particularly for complex facilities. The time spent prior to site visits in June and July includes: organization of backup data, providing information the verifiers require in preparation for the verification, and internal coordination to ensure the site visit schedule works for the verifier and key subject matter experts (SMEs). Qualified verifiers (in limited supply, particularly for refineries and oil & gas facilities) are very busy reviewing initial data, understanding impacts of any guidance/tool changes, requesting and assessing additional information from facilities, developing site verification plans, and coordinating the schedules of their personnel with the schedules of their customers.

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Often, ARB makes changes to guidance or MRR tools in March and April so that neither of these months is available for set up or data organization for verification. After the site visit, additional time is required for follow-up and SME discussions, as well as ARB and verifier exchanges. Furthermore, preparation of USEPA reporting is also conducted during the February and March timeframe. Although there are similarities between USEPA and ARB reporting, these efforts do not perfectly align with ARB MRR reporting and require separate, detailed scrutiny.

WSPA believes that moving up of the verification deadline shortchanges both the facilities and verifiers. It also could negatively impact the data review process by increasing the potential for inadvertent noncompliance. At a minimum, more discussion with stakeholders and ARB is needed in this pre-regulatory phase to review all the steps in the reporting and verification process with a focus on looking for ways to improve efficiency and efficacy. Alternatively if ARB continues to feel that this change in verification schedule is necessary, WSPA proposes that ARB reduce the intensity of verification (i.e., follow the less intensive verification protocols) or utilize a tiered verification approach where smaller facilities and/or less intensive verification deadlines are moved up to August 1st while larger facilities and/or more intensive verifications are kept at September 1st.

WSPA also requests that ARB minimize auditing or “re-verification” of what the verifiers have completed. This would improve the efficiency of ARB’s processes following the September 1st submittal deadline.

Requirements for Schematics for Oil & Gas Production and Refineries

ARB is proposing the inclusion of detailed process flow diagrams in the monitoring plans. WSPA is opposed to this unwarranted requirement for the following reasons:

- There are many details on existing diagrams that are not needed for either MRR verification or Cap & Trade (C&T) compliance, and may be confidential data.
- There is no value in constantly updating the monitoring plans to accommodate this proposed requirement.

If ARB is insistent upon requiring a flow diagram, the scope of the diagram should be consistent with that provided for the Energy Efficiency and Co-Benefits Assessments (i.e., a schematic representation of the facility which identifies the processes or systems within the facility).

Default Conversion Factor for Methane in Onshore Petroleum and Natural Gas Production and Natural Gas Distribution Combustion Emissions

The current applicable MRR language for this default factor in Equations 35 and 36 is:

“ η = Fraction of gas combusted for portable and stationary equipment determined using an engineering estimation. For internal combustion devices, a default of 0.995 can be used.”

Setting the default internal combustion conversion factor of 0.995 is technically unsound and is not supported by air pollution research. Inserting this proposed default at 0.995 not only assumes an unreasonably low combustion efficiency (one that is associated with open systems and not those found in the oil & gas industry), but it also mischaracterizes the remaining emission as 100% methane. AP-42, a guidance widely used in the air pollution field (including air districts and ARB) provides a factor of 99.9% for conversion to CO₂ in heaters and boilers. AP-42 uses the conversion factor to estimate CO₂ emissions and not to estimate CH₄ emissions as proposed by ARB. In addition, AP-42 goes further to clarify that the remainder of the un-combusted material is not 100% methane. AP-42 calculates CH₄ emissions by “subtracting the VOC and ethane emission factors from the TOC emission factor.” The AP-42 data shows that less than 10% of the methane that is not converted to CO₂ remains as methane. The rest is converted to other compounds such as VOC, PM, and ethane.

Based on the factors in AP-42 Table 1.4-2 for natural gas combustion, the amount of methane pass-through is approximately 0.005%, which is **100 times lower than the default value of 0.5% proposed by ARB**. Further, USEPA’s Technology Transfer Network Clearinghouse for Inventories and Emission Factors includes results from 26 individual sources tests for methane emissions, covering a variety of heater and boiler types and operating conditions. Every source test shows methane conversion to be greater than 99.99% (pass through less than 0.01%), and 21 of the 26 show methane conversions of greater than 99.995% (pass through less than 0.005%). The data in AP-42, Table 3.1-2a for turbines also correspond to methane conversion much greater than the proposed default value: 99.992% conversion and 0.008% methane pass through in this case. Thus by making the proposed change, the situation is created where gross overestimates of impacts will result when no new emissions have occurred. WSPA believes that the current MRR language is appropriate and recommends that it not be modified.

Elimination of Refinery Product Reporting

WSPA supports elimination of unnecessary reporting requirements. ARB’s proposal to consolidate rather than remove the requirement for finished refinery products is no longer appropriate.

Starting in 2016, ARB will no longer use finished products for allocation. Similarly, primary refinery products are not used for allowance allocation or fee assessment purposes. ARB’s original argument for continuing to collect this data was to satisfy a research need to study the differences between larger and smaller facilities. As these requirements have been in place for several reporting cycles, ARB should have sufficient data in hand to satisfy its research objectives. Moving into the third compliance period, it is inappropriate to continue subjecting reporting entities to potential enforcement actions for discrepancies in data that have absolutely nothing to do with emissions or allowance allocation. Accordingly, WSPA proposes that product (both finished product and primary refinery product) reporting be removed from MRR.

For similar reasons, we also support removal of atomic hydrogen and energy intensity index reporting requirements. As we have stated in previous correspondence, any additional data sought by ARB

should be clearly justified, the intended use of the data should be disclosed, and the data should be gathered by non-regulatory means (i.e., a one-time survey).

Fuel Export Reporting Requirements

ARB's reason for requiring fuel export data (as stated in the February 24, 2016 Workshop) is to "true-up" the data needed for the C&T program. As the C&T program only operates within California borders, it is not clear how data for volumes of fuels sold outside the State would help their "true-up" process. Reporting entities already provide the volumes of fuels sold within the State. ARB can verify that fuels sold in the State are consistent with records held by California Board of Equalization (BOE). However, exported fuels, marine fuels, and aviation fuels are not regulated under the C&T program and, thus, have no place in ARB's database. These reporting requirements should be eliminated along with any other reporting requirements for products which are exempt from the C&T program. The proposed reporting creates additional work for both fuel providers and ARB that is not germane to the existing regulatory requirements. Finally, data on fuels exported from California is proprietary, competitively business sensitive information. The proposed requirement puts additional confidential data at risk of disclosure and creates unnecessary reporting complexity.

Meter Accuracy Demonstration

WSPA recommends that ARB simplify the requirements by removing the "once a compliance period" language. The timing of compliance periods has no technical relevance to meter accuracy. A more flexible 2.5-year to 4-year period should be allowed instead of defaulting to a straight 3-year requirement. Some operators have equipment with a 3-5 year turnaround schedule (e.g., boiler inspection requirements). Depending on what is considered the date of inspection, situations could occur where an operator would need to postpone additional meter accuracy demonstrations a few months to meet the 3-year turnaround cycle. Allowing 4 years would also reduce the postponement timeframe for meters on 5-year turnaround cycles.

Further, removing the requirement to calibrate or postpone "once within a three year compliance period" would help lessen the burden and simplify the tracking of calibration due dates. A 3-year calibration frequency would increase the number of postponements that need to be submitted. In addition to the sheer volume of meters that need to be postponed at a complex facility, the proposed method to demonstrate accuracy that an operator must provide in the postponement request makes the process difficult and time-consuming. ARB is also proposing that operators include more detailed information in the postponement requests regarding the accuracy demonstration. WSPA is concerned that ARB could reject a postponement request, even years after it was made, due to "incompleteness". We request that ARB amend its guidance to indicate that it will provide notice of incompleteness within 30 days of application receipt.

Impartiality Provisions

ARB is considering requiring conflict of interest (COI) risk consulting services in the assessment of the 6-year time limit on providing verification services to the same reporting entity. Currently, MRR section 95130(a)(2) describes a six-consecutive-year limit for verification personnel working with the same facility. MRR section 95133(g) discusses monitoring conflict of interest situations during the verification and notification requirements for emerging COI issues during and for one year after verification services have been provided. Under MRR section 95133(g)(3)(A), it is stated that if those conflict of interest risks can be mitigated, then the verifier(s) can continue to provide verification services. If those risks cannot be mitigated [per MRR section 95133(g)(3)(B)], then verification services will not continue and may be subject to suspension or revocation of accreditation under MRR section 95132(d). As existing regulatory language appears to address COI, WSPA believes that additional changes are not necessary. Notwithstanding this position, WSPA also requests that ARB clarify the statement “consequences for emerging potential conflict of interest during and up to one year after verification services” as ARB’s intention for suggesting the COI language revision is not apparent (i.e., meant to address verifiers only or to be extended to facilities).

Additional MRR Cleanup Recommendations

In reviewing ARB’s additional MRR cleanup recommendations, WSPA has the following comments and additions:

- For changes in the regulation that affect data collection and reporting for purposes of compliance or record-keeping, WSPA believes that such provisions should only apply to data collected and reports submitted during the calendar year following the effective date of the regulation.
- WSPA supports ARB’s proposal to exempt recycle feed to isomerization units (from the requirement to report only fresh feed).
- WSPA also supports removal of the requirement to disclose information about the purchaser and destination for hydrogen sales.
- WSPA requests an enhancement to Cal e-GRRT to include out of range/QC checks of forms that have been added to EPA e-GRRT in recent years.
- WSPA supports the addition of missing data procedures (MDP) to process flow data captured and utilized for calculating a facility’s Complexity Weighted Barrel (CWB). Monitoring, recording and calculating CWB in a refinery utilizes the same types of in-field flow meters, transmitters, and data acquisition and handing systems (DAHS) as those used for calculating GHG emissions where MDP are already provided for.

In addition, similar procedures for the design, configuration, and routine calibration and maintenance are expected for both CWB and Emissions monitoring instruments, with the same degree of accuracy expected from them. As such, it is reasonable to assume similar use of missing data procedures should be allowed for CWB-related monitoring equipment.

WSPA appreciates your consideration of our comments, and we look forward to reviewing the proposed regulatory language. If you have any questions, please contact me at this office, or Tom Umenhofer of my staff at (805) 701-9142 or tom@wspa.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cathy A. Beyer".

cc: Edie Chang – ARB
Tom Umenhofer – WSPA