

Energy Enterprises

October 24, 2007

Doug Thompson
Manager of the Climate Change Reporting Section, ARB
1001 I Street
PO Box 2815
Sacramento, CA 95812

Re: Comments on public draft of the GHG Reporting Regulation
Threshold of reporting level for refineries

Dear Mr. Thompson:

I received a copy of the draft regulation for the GHG Reporting Regulation and have a serious problem with one aspect of the regulation. I represent a very small asphalt refinery. Although it has 2 boilers/heaters with a total input rating of 15.8 MMBTU/hour, the large one is only fired intermittently, so the operation averages burning 26,700 MMBTU/year (3.04 MMBTU/hour). The total CO2 emissions are less than 1,500 MT/year.

The regulation states that there are 21 refineries in the state. I believe that this assumption is incorrect. There may be 21 large refineries in the state that the ARB is aware of, but there are many more small operations that are defined as refineries.

The regulation has a de minimus threshold level of reporting shown for hydrogen production facilities (25,000 MT/year), for power plants (>1 MW and 2,500 MT/year), for cogeneration facilities (>1 MW and 2,500 MT/year), and for all other facilities that put out greenhouse gasses (25,000 MT/year), however there is no threshold level for a refinery source.

There are very small facilities that are by definition a refinery, however should not have the financial burden of reporting (which is excessive as the refinery is small), since their GHG emissions are below the above thresholds. In the case of my client, the actual emissions are less than 5.7% of the de minimus threshold the ARB is proposing for the general source category (a de minimus of the de minimus).

Section 38530(b)(1) of the H&S Code requires that the reporting apply to "sources...that contribute the most to statewide emissions". Obviously this size of this refinery source does not contribute the most, or even a small fraction of the statewide emissions. Also, as part of the draft, the ARB has in fact determined what the de minimus level is for all sources under (b)(8), setting the level of significance at 25,000 MT/year.

Additionally, Section 38530(b)(2) states that the report is to account for "greenhouse gas emissions from all electricity consumed in the state"; however, the draft regulation exempts power plants and cogeneration facilities less than 1 MW. Why are the small power plant guys exempted here when the H&SC clearly does not allow the exemption, yet a small refinery which intuitively is exempted by the proposed regulation 95101(b)(8) is not?

I can understand the lowered threshold for power plants to 2,500 MT/year; the legislature mandated it in 38530(b)(2). It applies to all electricity generated in the state. Actually, even this threshold is not legally correct, it should be zero.

An argument was advanced that this small refinery may be part of the cap & trade system, hence should be included in the reporting. This argument has no bearing and should be given no

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weight. That requirement was not included in the H&SC; that was not the direction given by the legislature. In addition, what is the difference between my client's 1,600 MT and another of my clients 10,000 MT/year? Why would this refinery be discriminated against? In reality, the amount of CO2 emissions are so small that it would not be worth it to even consider the cap and trade program.

I suggest that the exemption section start by granting the blanket threshold exemption of 25,000 MT/year of CO2 for refineries to cover this unique situation.

If the ARB does not think this is necessary, please explain why this industry and my client in particular is singled out to report, when all other facilities in all other industries, save the electrical generation industry, have the 25,000 MT exemption? After all, the amount of global warming caused by one ton of CO2 is no different whether it came from my refinery or a hospital down the street. The same damage is done.

For that matter, why do schools and hospitals have any exemption? The legislature didn't allow it. If my refinery's emissions are so serious that I must report at 1,500 MT/year, those two sources should not be given a free ride. They are causing just the same damage.

Sincerely,



Bruce Falkenhagen