

State of California

AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text and
Availability of Additional Documents**

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR THE
MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS**

Public Hearing Date: October 25, 2013

Public Availability of Modified Text Date: October 28, 2013

Deadline for Public Comment: November 12, 2013

Deadline for Public Comment Extended to: November 15, 2013

Background

At its October 25, 2013 public hearing, the Air Resources Board (ARB or Board) approved for adoption amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.) (reporting regulation).

At the hearing, the Board approved Resolution 13-43, which endorsed the revisions proposed in the Staff Report: Initial Statement of Reasons released on September 4, 2013 with a small number of modifications proposed by staff, some of which were identified at the hearing. Resolution 13-43 and other regulatory documents for this rulemaking action are available online at the following website:

<http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>

The approved amendments clarify existing calculation methods and reporting requirements and support benchmarking and allocation of allowances for the Cap-and-Trade program.

In accordance with Government Code section 11346.8, in Resolution 13-43 the Board directed the Executive Officer to adopt the proposed regulations, with the modifications identified in the Resolution and other conforming modifications as may be appropriate, after making the modified language and any additional supporting documents available to the public for a comment period of no less than 15 days. The Board also directed the Executive Officer to consider written comments as may be submitted during this period, and make such modifications as may be appropriate in light of the comments received, and to present the regulations to the Board for further consideration if the Executive Officer determines that it is warranted.

Summary of Proposed Modifications

Below, staff provides an overview of the modifications to the originally proposed regulations. The overview does not include modifications to correct typographical or grammatical errors, or changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity. All references to sections 95101, 95102, 95103, 95104, 95105, 95110, 95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, and 95157, title 17, CCR, and the adoption of new section 95124 and Appendix B, are to title 17 of the California Code of Regulations. Also, all references to sections of the regulation shown below are to the modified text included for this review and comment period, and not the originally proposed text.

For a complete account of all modifications in the proposed regulations, please refer to the double-underline and ~~double-strikeout~~ sections of the regulation in Attachment 1, available here: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>

A. Modifications to Subarticle 1 General Requirements for Greenhouse Gas Reporting

Modifications to Section 95102. Definitions.

In response to stakeholder comments and feedback, staff has proposed amendments to clarify definitions related to the product data listed in section 95102(b). Additionally, staff included a new section of definitions, section 95102(c), to support the Complexity Weighted Barrel (CWB) efficiency metric in the originally proposed regulations. Staff has withdrawn proposed changes to the definitions of first point of receipt and source of generation in section 95102(a). Other definitional changes in section 95102(a) support the 15-day proposed amendments in other sections of the reporting regulation.

Modifications to Section 95103. Greenhouse Gas Reporting Requirements.

Staff proposes to modify language in section 95103(h) to specify implementation of reporting requirements for 2013 data reported in 2014. Staff addressed electric power entity stakeholder comments in section 95103(h)(8) by clarifying language to specify the effective date for certain contract and asset controlling supplier requirements in section 95111. Additional language was removed in section 95103(k) to ensure consistent metering requirements for all covered product data, including the CWB. These changes are necessary to ensure reporting entities understand the timing of implementation and metering requirements of the regulation.

Modifications to Section 95104. Emissions Data Report Content and Mechanism.

In order to ensure consistency with regulatory provisions in the AB 32 Cost of Implementation Fee Regulation (title 17, California Code of Regulations, section 95200

et seq.), staff proposes to move the originally proposed language regarding increases and decreases in facility emissions from section 95104(e) to section 95104(f), and to retain section 95104(e) for the reporting tool requirement. The proposed change re-letters these provisions. In addition, and based on stakeholder comments, staff proposes to modify the language related to increases and decreases in facility emissions (now shown in section 95104(f)) by replacing the references to criteria pollutants and toxic air contaminants with references to greenhouse gas emissions. These modifications shown in section 95104(f) include submittal of qualitative information regarding increases or decreases in greenhouse gas emissions, a threshold limiting the reporting of the increases or decreases to differences of greater than five percent from the previous year, and clarify that there are no verification requirements for this paragraph. These changes are necessary to ensure reporting under this paragraph is consistent with the greenhouse gas reporting requirements of this article.

B. Modifications to Subarticle 2 Requirements for the Mandatory Reporting of Greenhouse Gas Emissions from Specific Types of Facilities, Suppliers, and Entities

Modifications to Section 95111. Data Requirements and Calculation Methods for Electric Power Entities.

In response to stakeholder comments, staff has withdrawn originally proposed regulatory amendments associated with supporting documentation for busbar claims in section 95111(a)(4)(A)(3); use of the transmission loss factor in sections 95111(a)(5)(D) and 95111(b)(3); path outs in section 95111(a)(5)(E); modifications of the meter data requirement in section 95111(g)(1)(N); system power reporting in sections 95111(a)(12) and 95111(b)(5) and references in sections 95111(g) and 95111(g)(6); and treaty power in sections 95111(b)(3) and 95111(f)(5)(F). After reviewing stakeholder comments, staff has determined that these originally proposed amendments are not appropriate at this time. Withdrawing these originally proposed amendments ensures consistent reporting with previous reporting years and the proposed changes to withdraw those originally proposed amendments are necessary to ensure reporting entities understand their reporting obligations.

Additionally, and in response to stakeholder comments, staff intends to issue revised statements in the Final Statement of Reasons to effectively withdraw the seller control interpretation for asset controlling suppliers associated with section 95111(a)(5)(B). This change is needed to ensure electric power entities know how to effectively report their purchases of asset controlling supplier power.

Modifications to Section 95113. Petroleum Refineries.

In conjunction with the inclusion of CWB in the originally proposed regulation, in response to stakeholder comments, and to ensure clarity of reporting, staff has proposed to remove references to the Carbon Dioxide Weighted Tonne (CWT) methodology and replace them with CWB. This includes adding an equation to calculate the CWB in section 95113(l)(3)(B), corrections to the catalytic cracking CWB factor in

section 95113(l)(3)(C), specifications on density and measurement accuracy in 95113(l)(3)(D)-(E) and a new Table 1 to the section that describes the CWB factor for each throughput. These changes are necessary to support the revised Cap-and-Trade benchmarking and allocation of allowances for the refining sector.

Modifications to Section 95115. Stationary Fuel Combustion Sources.

Staff has proposed modifications to the product data reporting requirements of section 95115(m) which are consistent with stakeholder comments requesting slightly altered definitions and names of certain products. The altered names are reflected in this section. These changes are necessary to ensure consistent product data reporting.

Modifications to Section 95119. Pulp and Paper Manufacturing.

In response to a stakeholder comment, staff updated section 95119(d) to further clarify the reporting requirements related to data aggregation and sampling frequencies for tissue products.

**C. Modifications to Subarticle 3
Additional Requirements for Reported Data**

Modifications to Section 95129. Substitution for Missing Data Used to Calculate Emissions from Stationary Combustion and CEMS Sources.

Staff has proposed modifications to section 95129(c)(3) to clarify the missing data provisions for carbon content and fuel data for cases when less than 80 percent of data is available. These changes are necessary to avoid a gross over estimation of emissions and to ensure reporting entities are able to accurately utilize the originally proposed regulatory amendments.

**D. Modifications to Subarticle 4
Requirements for Verification of Greenhouse Gas Emissions Data Reports and Requirements Applicable to Emissions Data Verifiers; Requirements for Accreditation of Emissions Data and Offset Project Data Report Verifiers**

Modifications to Section 95131. Requirements for Verification Services.

Staff has proposed modifications to section 95131(b)(8)(F)(1) to clarify the verifier requirements for conformance checks. Additional updates to section 95131(b)(14) removed references to the CWT for consistency with section 95113(l)(3).

Modifications to Section 95132. Accreditation Requirements for Verification Bodies, Lead Verifiers, and Verifiers of Emissions Data Reports and Offset Project Data Reports.

Staff has corrected a grammatical error in this section.

Modifications to Section 95133. Conflict of Interest Requirements for Verification Bodies.

In order to clarify what constitutes a high conflict of interest, staff has proposed changes to section 95133(b)(2) to assist verification bodies and reporting entities better evaluate

potential conflicts of interest. This change is needed to ensure reporting entities and verification bodies understand the verification requirements.

E. Modifications to Subarticle 5 Reporting Requirements and Calculation Methods for Petroleum and Natural Gas Systems

Modifications to Section 95152. Greenhouse Gases to Report.

The requirements for crude oil well venting during well completions and workovers was removed from section 95152(c)(6) based on stakeholder feedback. Instead, the crude oil well venting during completions and workovers were moved to section 95157(c)(6). The reporting requirement in section 95152(c)(8) was renamed to ensure consistency with the term in section 95153(h). Lastly, reporting emissions from pipeline main equipment leaks was added to section 95152(i)(9) to ensure reporting consistency with the United States Environmental Protection Agency's Greenhouse Gas Reporting Rule for the natural gas distribution industry segment. These changes were made in response to stakeholder comments and are necessary to ensure clarity in the reporting requirements.

Modifications to Section 95153. Calculating GHG Emissions.

In response to stakeholder comments, staff has proposed removing the metering requirement for oil well workovers and completions which was included in the originally proposed regulations in section 95153(f). Removal of this requirement is consistent with the modifications to section 95152(c)(6). The heading for section 95153(h) was modified back to "Dump Valves" for consistency with section 95152(c)(8). Staff has proposed a clarifying modification to section 95153(k) for flexibility with reporting associated gas venting and flaring. The modification in section 95153(p) was added to ensure pipeline main equipment leaks are reported correctly. A wording edit was made to section 95153(v)(1)(A)(1) to improve clarity in the provision. Lastly, staff has proposed modified language to clarify the monthly reporting requirements for non-pipeline quality natural gas in section 95153(y)(2) and the method for the gas composition of each hydrocarbon stream. These changes are necessary to improve the clarity of reporting under this section, to respond to stakeholder concerns about cost without hampering accuracy requirements, and to ensure reporting entities understand their reporting requirements.

Modifications to Section 95156. Additional Data Reporting Requirements.

Based on stakeholder comments, staff has proposed modified language in section 95156(c) to clarify the specific types of facilities that must report natural gas liquids. This change is needed for improved clarity.

Modifications to Section 95157. Activity Data Reporting Requirements.

In response to stakeholder comments, staff has added activity data requirements for gas and oil well completions and workovers in section 95157(c)(6). These changes further clarify how reporting entities must report. Additionally, minor typographical edits were made in sections 95157(c)(18) and 95157(c)(19).

Additional Documents Added to the Rulemaking Record

Based on the definitions and requirements added to support the complexity weighted barrel measurements, the following documents have been added to the rulemaking record and are incorporated by reference:

1. ASTM D189 - 06(2010)e1 "Standard Test Method for Conradson Carbon Residue of Petroleum Products," 2010.
2. CRC Handbook of Chemistry and Physics, CRC Press Inc., Boca Raton 83rd Edition, 2002 – 2003, Section 3-1, Physical Constants of Organic Compounds.

These documents are available upon request for review.

Availability of the Attachments and Additional Documents

By this notice, the modified regulatory language, provided as Attachment 1 to this notice, are being made available for public comment prior to final action by the Board's Executive Officer. The attachments are available here:

<http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>

Comments

Written comments will only be accepted on the additional documents and the modifications identified in this notice, and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

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

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo!, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the additional documents and the modifications identified in this notice will be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachments

(Available at: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>)