State of California
AIR RESOURCES BOARD

AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

Resolution 13-43

October 25, 2013

Agenda Item No.: 13-9-8

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations, and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature has enacted the Global Warming Solutions Act of 2006 (AB 32; Stats 2006, ch. 488, Health and Safety Code section 38500 et seq.), which declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and creates a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, section 38510 of the Health and Safety Code designates ARB as the State agency charged with monitoring and regulating sources of GHG emissions in order to reduce these emissions;

WHEREAS, section 38530 of the Health and Safety Code directed ARB, on or before January 1, 2008, to adopt regulations to require the reporting and verification of statewide GHG emissions;

WHEREAS, section 38530 of the Health and Safety Code also requires that the GHG reporting regulations shall require annual reporting, beginning with the largest sources; account for GHG emissions from all electricity consumed in the State, including imports and line losses; ensure rigorous and consistent emissions accounting, and provide reporting tools and formats to ensure collection of necessary data; ensure that GHG emission sources maintain comprehensive records of all reported GHG emissions; and make reasonable efforts to promote consistency with existing and proposed international, federal, and State GHG emission reporting programs;

WHEREAS, the Board approved the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.) on December 6, 2007, and approved the adoption of amendments to the regulation on December 16, 2010, and September 20, 2012, to align reporting methods

and requirements, to the extent possible, with the United States Environmental Protection Agency (U.S. EPA) and to support the California Cap-and-Trade program;

WHEREAS, section 39607 of the Health and Safety Code requires the Board to inventory sources of air pollution and gather air pollution information;

WHEREAS, section 39607.4 of the Health and Safety Code requires the Board, as part of its responsibilities under section 39607 of the Health and Safety Code, to prepare, adopt, and update a statewide inventory of greenhouse gas emissions;

WHEREAS, mandatory GHG reporting supports California's efforts to improve our GHG emission inventory, track emission trends, support regulatory development, and assist in the development of carbon trading markets;

WHEREAS, California has a Cap-and-Trade program (title 17, California Code of Regulations, section 95800 et seq.), which relies on reported GHG emissions data derived from calculation methods that are accurate, rigorous, and consistent;

WHEREAS, amending the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions is necessary to fully support California's Cap-and-Trade regulation and other ARB programs, including the statewide GHG emission inventory;

WHEREAS, ARB staff conducted a public workshop on June 26, 2013, and participated in various other stakeholder webinars and meetings in order to include the public and affected stakeholders in the regulatory development process;

WHEREAS, ARB staff prepared a staff report entitled *"Initial Statement of Reasons for Rulemaking Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions"* (Initial Statement of Reasons), which presents the rationale for the proposed amendments to the regulations;

WHEREAS, the Initial Statement of Reasons (ISOR) and proposed regulatory language were made available to the public for at least 45 days prior to the October 25, 2013, Board hearing;

WHEREAS, ARB staff considered less prescriptive standards and procedures for reporting but determined that these would be less effective in providing complete, consistent, verifiable, and accurate GHG emissions data;

WHEREAS, the California Environmental Quality Act (CEQA) requires that a public agency not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental impacts of such a project; In the event that specific economic, social, or other conditions make infeasible the alternatives or mitigation measures, the project

may be approved if it is determined that any remaining unavoidable significant impacts are acceptable due to overriding considerations;

WHEREAS, Public Resources Code section 21080.5 allows public agencies with regulatory programs to prepare a plan or other written document in lieu of an environmental impact report or negative declaration once the Secretary of the Resources Agency has certified the regulatory program;

WHEREAS, that portion of ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary of the Resources Agency (CEQA Guidelines, section 15251(d));

WHEREAS, in accordance with ARB's certified regulatory program at title 17, CCR, section 60005(b), and the policy and substantive requirements of CEQA, as part of the ISOR, ARB staff prepared an assessment of the potential for significant adverse and beneficial environmental impacts associated with the proposed amendments;

WHEREAS, the environmental analysis, circulated with the ISOR for 45 days, concluded the proposed amendments would result in no adverse impacts to the environment;

WHEREAS, no comments were received during the 45-day comment period raising significant environmental issues, therefore, no approval of written responses to such comments is required per title 17, California Code of Regulations, section 60007;

WHEREAS, the Board has considered the impact of the proposed amendments, additions, and deletions to the regulations on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, in consideration of the information in the public record, including the Initial Statement of Reasons, written comments, and testimony provided at the hearing, the Board finds that:

1. The proposed amendments to the regulation meets the requirements specified in sections 38530, 38562, 38570, 38597, 39607, and 39607.4 of the Health and Safety Code;
2. The emission estimation methods, schedules, and other provisions of the proposed amended regulations focus on the most significant GHG emission sources, use rigorous and consistent emission accounting methods, provide accounting for all electricity consumed in the state, including imports, require

verification of emissions data, and to the extent feasible, maintain consistency with other GHG reporting programs;

3. Annual reporting of GHG emissions and supporting information from cement production facilities, electric power entities including importers and exporters, electricity generation and cogeneration units, petroleum refineries, hydrogen plants, stationary fuel combustion sources, glass production facilities, lime manufacturing facilities, nitric acid production facilities, pulp and paper manufacturing facilities, iron and steel production facilities, lead production facilities, suppliers of transportation fuels, suppliers of natural gas, natural gas liquids, and liquefied natural gas, suppliers of carbon dioxide, and petroleum and natural gas systems that emit over 10,000 metric tons of carbon dioxide equivalent per year from stationary source combustion and process emissions is necessary to identify and characterize the most significant California GHG emission sources;

4. Accurate GHG emissions reporting is necessary to support a rigorous Cap-and-Trade program and California's other GHG emission reduction programs, including the statewide GHG emission inventory;

5. The economic and cost impacts of the proposed amended regulations have been analyzed as required by California law and the conclusions and supporting documentation for these analyses are set forth in the Initial Statement of Reasons;

6. The reporting requirements of the proposed regulations which apply to businesses are necessary for the health, safety, and welfare of the people of the State;

7. No reasonable alternative considered or that has otherwise been identified and brought to the attention of ARB would be more effective in carrying out the purpose for which the regulations are proposed, or be as effective as, and less burdensome to affected private persons and businesses, than the proposed regulations; and

8. On the basis of the whole record, including the environmental analysis included in the ISOR, there is no substantial evidence that the amendments will result in any significant adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption the amendments 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, 95157, new section 95124, and Appendix B, title 17, California Code of

Regulations as set forth in Attachment A hereto, with the modifications set forth in Attachment B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt the amendments 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, 95157, new section 95124, and Appendix B, title 17, California Code of Regulations, as set forth in Attachment A, with the modifications set forth in Attachment B after making the modified regulatory language and additional supporting documents and information available for public comment for a period of 15 days, provided the modifications do not alter the conclusion of the environmental analysis and no comments raising significant environmental issues are received, and the Executive Officer considers written comments regarding the modification and additional supporting documents and information submitted during this period and makes modifications as may be appropriate in light of the comments received, and he shall present the regulations to the Board for further consideration if he determines that this is warranted.

BE IT FURTHER RESOLVED if the Executive Officer receives comments raising significant environmental issues, or if it is determined that any 15-day modifications to the regulation affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by ARB's regulations at title 17, California Code of Regulations, sections 60001-60007, and/or prepare written responses to any comments received raising significant environmental issues to present to the Board for its consideration for approval along with the proposed Final Regulation Order.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue to monitor the development of the U.S. EPA Mandatory Reporting of Greenhouse Gas Emissions rules.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to return to the Board as needed to amend the GHG reporting regulations to include additional emissions sources, update emission estimation methods, or provide other enhancements to the regulation.

I hereby certify that the above is a true and correct copy of Resolution 13-43, as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board

Resolution 13-43

October 25, 2013

Identification of Attachments to the Board Resolution

Attachment A: Proposed Modifications to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, California Code of Regulations, title 17, section 95101, 95102, 95103, 95104, 95105, 95110, 95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95124, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157 and Appendix B, as set forth in Appendix A to the Initial Statement of Reasons, released September 4, 2013.

Attachment B: Staff's Suggested Modifications to the Original Proposal (Distributed at the October 25, 2013 ARB hearing)