

State of California
AIR RESOURCES BOARD

First 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**

Hearing Date: September 18, 2014
Public Availability Date: October 2, 2014
Deadline for Public Comment: October 17, 2014

At its September 18, 2014, 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, (CCR), section 95100 *et seq.*), which clarify existing requirements to support the calculation or compliance obligations and allocation of allowances under the Cap-and-Trade Regulation (title 17, CCR, section 95801 *et seq.*), ensure that reported greenhouse gas (GHG) emissions data are accurate and complete in order to support California's climate programs, including statewide GHG emissions inventory, and to integrate and provide data needed for the Cost of Implementation Fee Regulation (title 17, CCR, section 95200 *et seq.*) (COI Fee Regulation).

The Board directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

At its September 18, 2014 public hearing, the Board approved Resolution 14-32 which included modifications to sections 95101, 95102, 95103, 95104, 95111, 95112, 95113, 95114, 95115, 95119, 95121, 95122, 95124, 95130, 95131, 95132, 95133, 95152, 95153, 95156, 95157, Appendix A, and Appendix B. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website.

<http://www.arb.ca.gov/regact/2014/ghg2014/ghg2014.htm>

The text of the modified regulatory language is shown in Attachment A. The originally proposed regulatory language is shown in ~~strikethrough~~ to indicate deletions and underline to indicate additions. New deletions and additions to the proposed language that are made public with this notice are shown in ~~double-strikethrough~~ and double underline format, respectively.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments related to changes that are noticed. Therefore, staff will only address comments that are responsive to this notice or the changes detailed in Attachment A.

Summary of Proposed Modifications

Staff's proposed modifications to the originally proposed amendments to sections 95101, 95102, 95103, 95104, 95111, 95112, 95113, 95114, 95115, 95119, 95121, 95122, 95124, 95130, 95131, 95132, 95133, 95152, 95153, 95156, 95157, Appendix A, and Appendix B, title 17, CCR are summarized below and attached to this notice as Attachment 1. All subsequent section references are to title 17, CCR, unless otherwise noted.

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting; nor does it include all of the non-substantive revisions made to improve clarity. For a complete account of all modifications in the proposed regulatory amendments, refer to the underline and strikeout sections of the regulation in Attachment 1.

A. Modifications to Section 95101. Applicability.

No changes were made to this section.

B. Modifications to Section 95102. Definitions.

Definitions "electricity sold into the CAISO markets" and "sub-facility" were added because they are new terms added in the regulation. These definitions were developed with stakeholder input. The definition for "sub-facility" was included to provide increased clarity on the disaggregation of data that is reported pursuant to section 95156. This definition is necessary to ensure that data is reported consistently across years.

The following definitions were modified for clarity: butter, dairy product solids for animal feed, petroleum coke, pipeline dig-in, and primary refinery product.

The definition of "butter" in section 95102(b) was modified to clarify the constituents of butter to ensure that other, non-butter products like butter oil are not reported as butter.

The definition of “dairy product solids for animal feed” in section 95102(b) was modified to specify that only animal feed made from liquid milk processing are reported under this definition.

The definition of “primary refinery product” in section 95102(b) was modified to provide a more accurate listing of Energy Information Administration (EIA) product codes for each material included in the definition. These changes provide clarity and align the product codes with the materials historically included in this definition.

The definition for “petroleum coke” in section 95102(a) was updated to be consistent with the COI Fee Regulation. Specifically, the term “catalyst coke” was removed from the description for “petroleum coke” because the terms are not synonymous.

C. Modifications to Section 95103. Greenhouse Gas Reporting Requirements.

Section 95103(h) was modified to clarify that best available methods may be used for 2014 data reporting of calcined coke and primary refinery product data, in response to stakeholder comments. Based on stakeholder comment, staff also removed the use of best available methods from section 95103(h) for compressor start-ups, and instead modified the calculation requirements in section 95153(m) to allow use of metering or engineering estimates based on best available data. Also, section 95103(l) was modified to clarify that reporters may elect to exclude accurate covered product data from their report, in response to stakeholder feedback.

D. Modifications to Section 95104. Emissions Data Report Contents and Mechanism.

No changes were made to this section.

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

Section 95111(a)(12) was modified to clarify the types of information that entities must report for CAISO sales, include an exemption from this reporting requirement for certain electrical distribution utilities, and to clarify how the information reported under this provision should be verified. These changes were made in response to stakeholder comments.

Section 95111(b)(2) was modified to clarify the requirements for the transmission line loss factor and the circumstances under which each default factor may be used. This change was made in response to stakeholder comments and allows reporting entities to continue to use the 1.0 factor if certain criteria are met.

In addition, this section was modified to restore and further clarify the original requirements which relied on U.S. EPA data for calculating specified source emission factors. This change was made in response to stakeholder comments, and to ensure consistency with the likely reporting requirements of U.S. EPA's proposed federal Clean Air Act section 111(d) power plant program.

New section 95111(b)(2)(E) was originally section 95111(g)(1)(N). These requirements were moved to section 95111(b)(2)(E) to clarify the applicability of these requirements to specified sources and not the RPS adjustment which addresses stakeholder comments. The text was also modified to clarify the requirements and to add additional exemptions based on stakeholder discussions and comments.

Section 95111(g) was modified to clarify data requirements for registering specified unit source power and to make clear when data for specified source calculations must be provided. This change is needed to ensure that ARB has sufficient time and information to calculate unit specific emission factors.

F. Modifications to 95112. Electricity Generation and Cogeneration Units.

In response to stakeholder comments, section 95112(i) was modified to clarify the information needed to determine the appropriate level of legacy contract allocations. In addition, staff fixed grammatical errors.

G. Modifications to Section 95113. Petroleum Refineries.

Section 95113(l) was modified to clarify that reported complexity-weighted barrel (CWB) throughputs must include only fresh feed to the CWB unit and that reported Total Refinery Input and Non-Crude Input must exclude hydrogen, natural gas, and any input to a hydrogen production plant. These changes were made to provide clarity to reporters. Section 95113(l) also has minor non-substantive modifications that clarify language and correct typographical errors.

Furthermore, section 95113(l) was modified to remove the reporting requirements for CARBOB under this section because section 95113(m) already requires CARBOB to be reported for COI purposes.

H. Modifications to Section 95114. Hydrogen Production.

No changes were made to this section.

I. Modifications to Section 95115. Stationary Combustion.

Section 95115(n)(16) was modified to clarify that butter and powdered milk product data may include butter and powdered milk that is re-introduced to the manufacturing process. This change was made based on stakeholder feedback.

J. Modifications to Section 95119. Pulp and Paper Manufacturing.

Section 95119(d) was modified to clarify that bathroom tissue and associated water absorption capacity (WAC) should be reported separately for each bathroom tissue with a distinct WAC, that covered product data for bathroom tissue is the sum of the product of the reported tissue production values and the WACs, that tissue reporting is based on saleable tissue, and to specify the measurement frequency of WAC. These changes were made to clarify what are covered product data for bathroom tissue and to conform to the Cap-and-Trade Regulation.

K. Modifications to Section 95121. Suppliers of Transportation Fuels.

Section 95121(d) was modified to exclude refiners from reporting under this section because they already report this information pursuant to section 95113(m).

L. Modifications to Section 95122. Suppliers of Natural Gas, Natural Gas Liquids, Liquefied Petroleum Gas, Compressed Natural Gas, and Liquefied Natural Gas.

No changes were made to this section.

M. Modifications to Section 95124. Lead Production.

No changes were made to this section.

N. Modifications to Section 95130. Requirements for Verification of Emissions Data Reports.

No changes were made to this section.

O. Modifications to Section 95131. Requirements for Verification Services.

Section 95131(i) was modified to fix an incorrect reference.

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

No changes were made to this section.

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

No changes were made to this section.

R. Modifications to Section 95152. Greenhouse Gases to Report.

Section 95152(i)(9) was modified to clarify that the provision only applies to blowdowns and not leaks. This change was made in response to stakeholder comment.

S. Modifications to Section 95153. Calculating GHG Emissions.

Section 95153(m)(1) was modified to allow for the use of metering or engineering estimates based on best available data when estimating compressor start-up emissions. This change was made in response to stakeholder comment.

Section 95153(p) was modified to clarify which methods can be used for population counts. This change was made to simplify the reporting requirements.

T. Modifications to Section 95156. Additional Data Reporting Requirements.

Section 95156 was modified to clarify that sales records or sales records with an inventory adjustment are considered acceptable methodologies for quantifying covered product data for products that are sold or produced, if the measurement system meets the criteria in section 95103(k). These changes are necessary to clarify what reporting methodologies are allowed for reporting petroleum and natural gas covered product data.

Section 95156(a) was modified to clarify that associated gas covered product data may be quantified using the measurement of a gas-to-oil ratio (GOR) and a gas-to-water ratio (GWR). This section was also modified to specify the high heat value (HHV) measurement frequency requirements for reporting associated gas covered product data. These changes were made for consistency with published guidance and to clarify the reporting of covered product data for use in the Cap-and-Trade Program.

Sections 95156(b) and (d) were modified to specify HHV measurement frequency requirements for reporting dry gas and natural gas processed covered product data,

respectively. These changes were made to clarify the reporting of covered product data for use in the Cap-and-Trade Program.

U. Modifications to Section 95157. Activity Data Reporting Requirements.

No changes were made to this section.

V. Appendix A. Emission Factors and Calculation Data for Petroleum and Natural Gas Systems Reporting.

No changes were made to this appendix.

W. Appendix B. Test Procedure Flash Emissions of Greenhouse Gases and Other Compounds from Crude Oil and Natural Gas Separator and Tank Systems.

No changes were made to this appendix.

Additional Document(s) Added to the Record

In the interest of completeness, staff has also added to the rulemaking record and invites comments on the following documents that are proposed for incorporation by reference:

1. California Independent System Operator Corporation Fifth Replacement FERC Electric Tariff, May 1, 2014 (CAISO)
http://www.caiso.com/Documents/ConformedTariff_May1_2014.pdf

Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Ms. Rajinder Sahota, Chief, Climate Change Program Evaluation Branch, at (916) 323-8503 or Ms. Brienne Aguila, Manager, Climate Change Reporting Section at (916) 324-0919.

Public Comments

Written comments will only be accepted on 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 verbal 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.

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 above-described modifications to the text of the regulations shall 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 alterno 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.

Attachment