

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text**

**Amendments to the Regulation for the Mandatory  
Reporting of Greenhouse Gas Emissions**

Public Hearing Date: November 15, 2018  
Public Availability Date: November 15, 2018  
Deadline for Public Comment: November 30, 2018

At its November 15, 2018, public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed amendments to sections 95101, 95102, 95103, 95111, 95115, 95118, 95152, and 95153, title 17, California Code of Regulations which support California's Cap-and-Trade Regulation to ensure consistency with the calculation of compliance obligations, and ensure that reported GHG emissions data are accurate and complete in order to support California's GHG reduction programs, including imported electricity emissions from the California Independent System Operator's (CAISO) Energy Imbalance Market (EIM).

The Board directed the Executive Officer to make the modified regulatory language, and any additional conforming modifications, 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.

Regulatory documents for this rulemaking are available online at the following CARB website:

<https://www.arb.ca.gov/regact/2018/ghg2018/ghg2018.htm>

The text of the modified regulatory language is shown in Attachment A. The originally proposed regulatory language is shown in ~~striketrough~~ 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 striketrough~~ 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 received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment A.

## **Summary of Proposed Modifications**

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 A.

### **1. Modifications to Section 95102. Definitions.**

Section 95102 is changed to modify the definition of Electricity Exporter. Based on updated information, the proposed change in the 45-day proposal is not needed. The existing language accurately captures entities who are exporters in the Energy Imbalance Market.

Section 95102 is changed to modify the definition of Energy Imbalance Market (EIM) Purchaser. This modification is needed to conform to a change in the entities responsible for ensuring environmental integrity of the Cap-and-Trade Program due to EIM emissions leakage in the 15-day Cap-and-Trade Regulation language. The definition is modified from any entity participating in the EIM, to Electrical Distribution Utilities (EDUs) that receive an allocation in the Cap-and-Trade Program and that participate in EIM. Section 95102 now also specifies the information that will be used to determine whether an EDU is an EIM Purchaser. EDUs who directly or indirectly purchase EIM energy at any point in the data year, to meet their California load will be included as EIM Purchasers. This change is necessary to ensure that those EDUs who are benefiting from the California Independent System Operator (CAISO) 5-minute market proportionally share in the responsibility of addressing emissions leakage resulting from EIM under the Cap-and-Trade Regulation.

These changes reduce the number of entities that would be responsible for addressing emissions leakage in EIM to existing covered entities, specifically the EDUs who participate in CAISO and whose customers benefit from the EIM. It is only these entities that will be responsible for ensuring environmental integrity of the Program due to EIM emissions leakage. This change is necessary as several stakeholders commented that the 45-day proposal would have included in-State generators with negative imbalances as obligated entities and further, with the assessment of a compliance obligation would have made it difficult for entities to understand and manage their obligation that would have been assessed under the 45-day proposal. Furthermore, stakeholders commented that the 45-day proposal could have unintended impacts on CAISO's markets by changing scheduling and bidding behavior, which this current proposal would avoid.

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

Section 95111(h)(1) is modified to specify that CARB will calculate EIM Outstanding Emissions from January 1, 2019 through March 31, 2019, and April 1, 2019 through December 31, 2019, separately. The EIM Purchaser requirement will be effective on April 1, 2019 and will therefore require CARB to calculate EIM Outstanding Emissions for two periods for the 2019 data year. This change is necessary to allow CARB to calculate EIM Purchaser Emissions under the proposed amendments separate from the method included currently in the regulation for addressing EIM emissions leakage.

Subsection 95111(h)(1)(C) is modified to specify that EIM Participating Resource Scheduling Coordinators must report 2019 data pertaining to the two timeframes mentioned above. This change is necessary so that CARB has the data necessary to calculate EIM Outstanding Emissions for the first quarter under the current method in the regulation, and for the second through fourth quarters of 2019 for EIM Purchaser Emissions.

Original subsection 95111(h)(2) is deleted as the EIM Outstanding Emissions calculation will now remain the same. The original language incorporated 5-minute data into this calculation. With the shift in the basis of the calculation of the EIM Purchaser Obligation from 5-minute data to a retail sales share for those EDUs participating in CAISO's 5-minute market, this subsection is no longer necessary. This change is necessary as the 45-day proposal would have included in-State generators with negative imbalances as obligated entities and further, could have unintended impacts of CAISO's markets by changing scheduling and bidding behavior.

Prior subsection 95111(h)(3) is now new subsection 95111(h)(2), and has been modified to reflect the revised definition of EIM Purchaser, including the new calculation of EIM Purchaser Emissions based on retail sales.

Prior subsection 95111(h)(3)(A) is now subsection 95111(h)(2)(A) and is modified to delete the prior EIM Purchaser emissions calculation, which was based on 5-minute data and add the proposed retail sales share calculation, including definitions for EIM Purchaser's retail sales. This change is necessary to specify the calculation for how the EIM Outstanding Emissions will now be apportioned to each EIM Purchaser.

Subsection 95111(h)(3)(B) is now subsection 95111(h)(2)(B), and is modified to delete the reporting of 5-minute imbalance energy data from CAISO. Due to the shift in how EIM Purchaser Emissions are calculated, this data is no longer necessary. New language is added to define EIM Purchaser's retail sales. This includes specific reporting requirements in new subsection 95111(h)(2)(B)(1) that all EIM Purchasers annually report and verify their retail sales. In addition, new subsection 95111(h)(2)(B)(2) specifies that investor owned utilities (IOUs) who have other load-serving entities in their distribution service territory must report and verify the retail sales for each load-serving entity in its distribution service territory. The total reported retail

sales in the IOUs electrical distribution service territory will be used to calculate its EIM Purchaser Emissions for these entity types.

These changes are needed to ensure the data necessary for calculating the EIM Purchaser Emissions is reported and verified. Basing the retail sales for IOUs on the total retail sales in their service territory aligns with how freely allocated allowances are provided to IOUs in the Cap-and-Trade Regulation. IOUs receive allowance allocation based on a calculation that includes all retail sales in their service territory and the allowance proceeds are available, in accordance with the decisions of the Public Utilities Commission, to all distribution ratepayers regardless of whether they are a customer of the IOU, community choice aggregator or electric service provider. The proposed calculation takes a similar approach. In doing so, it streamlines the number of entities responsible for EIM emissions leakage, while ensuring that all applicable retail sales are captured in in the EIM Purchaser Emissions calculation.

### **Agency Contacts**

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Syd Partridge, Manager, Climate Change Reporting Section, at (916) 445-4292, or (designated back-up contact) Ryan Schauland, Manager, Emissions Data Quality Assurance Section, at (916) 324-1847.

### **Public Comments**

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than 5:00 pm on the due date to the following:

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 CARB in one of the two forms described above and received by CARB 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.

CALIFORNIA AIR RESOURCES BOARD



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Richard W. Corey  
Executive Officer

Date: November 15, 2018

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see CARB's website at [www.CARB.ca.gov](http://www.CARB.ca.gov).*