

## **TITLE 17. CALIFORNIA AIR RESOURCES BOARD**

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

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.), which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006.

DATE: December 16, 2010

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 16, 2010, and may continue at 9:00 a.m., December 17, 2010. This item may not be considered until December 17, 2010. Please consult the agenda for the meeting, which will be available at least 10 days before December 16, 2010, to determine the day on which this item will be considered.

### **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendments to sections 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95130, 95131, 95132, and 95133, title 17, California Code of Regulations (CCR). Proposed repeal of section 95125, title 17, CCR. Proposed adoption of new sections 95100.5, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, and 95158, title 17, CCR.

### **Background**

In 2006, the Legislature passed and Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (AB 32; Stats. 2006, chapter 488). In AB 32, the Legislature declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California.

AB 32 created a comprehensive, multi-year program to reduce GHG emissions in California, with the overall goal of restoring emissions to 1990 levels by the year 2020. One of the requirements of AB 32 is that ARB must adopt a greenhouse gas reporting regulation.

To comply with this requirement, the Board approved the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (regulation) at its December 2007 Board meeting. The regulation became effective on January 2, 2009. All relevant documents for the rulemaking, including the final regulation, are available at: <http://www.arb.ca.gov/regact/2007/ghg2007/ghg2007.htm>.

Over the past two years, ARB staff has implemented the California greenhouse gas reporting program established by the regulation. Under the program, over 600 facilities and entities annually submit to ARB their greenhouse gas emissions data reports, which are verified as accurate and complete by ARB-accredited third-party verifiers. Information about the current program can be found at:

<http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>.

Since the adoption of the Mandatory Reporting Regulation, there have been three significant developments. First, ARB has moved forward with developing a market-based cap-and-trade program for reducing GHG emissions. A successful cap-and-trade program requires very accurate and complete emissions reporting. Second, at the federal level, the United States Environmental Protection Agency (U.S. EPA) has adopted a national mandatory greenhouse gas reporting rule. The U.S. EPA reporting requirements differ from the current ARB reporting requirements, and they were not designed to support a market-based cap-and-trade program. Finally, the Western Climate Initiative (WCI), established in 2007 by Governor Schwarzenegger and the governors and premiers of six other states and four Canadian provinces, has worked to assemble common and consistent reporting requirements out of the framework of U.S. EPA's reporting regulation. WCI's goal has been to create a GHG emissions market within a job-creating green economy among the partner states and provinces, built on a strong foundation of reported emissions data.

Substantial revisions to ARB's current mandatory reporting regulation are necessary in order to align California's GHG emissions reporting with these three developments, to streamline and avoid duplicate GHG reporting, and to still provide the high quality of data needed to support a market-based cap-and-trade program.

A description of the proposed action follows. Many of the proposed amendments were presented at a public workshop held March 23, 2010. ARB staff also discussed its intent to harmonize with U.S. EPA requirements while supporting cap-and-trade; this discussion took place at the U.S. EPA mandatory reporting training session held May 4, 2010, in Los Angeles. Staff considered the comments provided during and after these meetings, as well as public comments provided on the WCI Proposed Harmonized Reporting Requirements, in crafting the staff proposal.

## **Description of the Proposed Regulatory Action**

The purpose of the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions is to: (1) harmonize with the U.S. EPA national greenhouse gas reporting requirements, (2) ensure sufficient accuracy and completeness in reporting to support a California greenhouse gas market-based cap-and-trade system, and (3) eventually, support linkage with a WCI regional market system.

To meet these goals, the current ARB mandatory reporting regulation must be substantially altered in form, though the emissions monitoring practices of many reporting entities will not change. Under this proposal, therefore, much of the current regulation would be replaced with new regulatory language. In general, the overall approach has been to start with the U.S. EPA reporting requirements, and then provide additional stringency or specificity where needed to support California cap-and-trade and WCI consistency.

This approach streamlines reporting for those entities subject to both ARB and U.S. EPA reporting rules. An emissions data report that meets the proposed ARB regulation will most often meet the U.S. EPA requirements. This reduces the time and data needed to report, which should reduce costs and result in consistent GHG data reporting across government programs. ARB is also pursuing development of a unified mechanism for federal and state reporting.

The proposed revision requires annual emissions reporting from facilities, fuel and carbon dioxide suppliers, and electric power entities that together account for approximately 87 percent of the total carbon dioxide (CO<sub>2</sub>) produced in California from industrial, commercial, and mobile sources of emissions, and similar portions of methane and nitrous oxide emissions. Overall, we estimate that approximately 750 facilities, suppliers and entities would be subject to GHG reporting under the proposed revised regulation, compared to about 600 under the current regulation.

The proposed revised regulation provides specific reporting requirements for each industrial sector, defining which facility processes and GHGs must be reported. In general, all facilities would be required to report their on-site stationary source combustion emissions of CO<sub>2</sub>, N<sub>2</sub>O (nitrous oxide), and CH<sub>4</sub> (methane). Facilities in some industrial sectors, such as cement, glass production, nitric acid production, and refineries, would also report their process emissions, which occur from chemical or other non-combustion activities. Facilities would report fugitive emissions as specified in the regulation. The CO<sub>2</sub> emissions from biomass-derived fuels would also be separately identified during reporting.

The following paragraphs describe the regulatory requirements according to the level of emissions for a facility or supplier.

Reporters With No Reporting Threshold. For several types of reporting facilities and suppliers, the U.S. EPA regulation and this proposed revision to California's reporting regulation require "whole-sector" reporting. This means that all facilities or suppliers within the industrial sector must report their GHG emissions. In California, this applies to cement production, lime manufacturing, nitric acid production, petroleum refineries, natural gas liquid fractionators, and carbon dioxide suppliers. These types of facilities and suppliers are likely to have emissions that exceed the thresholds below, and their reporting and verification requirements are similar to those above the 25,000 metric tons (MT) of CO<sub>2</sub> equivalent (CO<sub>2</sub>e) threshold.

In addition the ARB regulation would continue to require reporting by importers and exporters of electric power; there is no emissions threshold associated with these requirements. Other electricity retail providers would continue to report their retail sales, but would be relieved of many current reporting requirements that were in place for a possible load-based point of regulation in the electricity sector.

Reporters Over 25,000 MT of CO<sub>2</sub>e. Under the proposed revision, the majority of facilities currently subject to reporting will still be required to report. Full reporting is required for facilities emitting at least 25,000 metric tons of CO<sub>2</sub>e emissions per year, most of which will hold a cap-and-trade compliance obligation under ARB's cap-and-trade program. Those subject to the proposed revised regulation include electricity generating and cogeneration facilities, electric retail providers and other importers and exporters of electric power, oil refineries, hydrogen plants, cement plants, and other facilities that meet CO<sub>2</sub>e reporting thresholds for stationary combustion and industrial processes, including producers of glass, nitric acid, iron and steel, and manufacturers of lime and pulp and paper. The addition of process emissions from these sources in California is consistent with U.S. EPA reporting requirements. The proposal would also require that these facilities provide their consumption of purchased or acquired electricity and thermal energy; this is consistent with the current ARB regulation and will be used to support ARB regulatory programs.

In addition to reporting by industrial facilities, most of which report under the current regulation, the proposed revised regulation requires new reporting by fuel suppliers (suppliers of transportation fuels, suppliers of natural gas, natural gas liquids, and liquefied petroleum gas), and suppliers of carbon dioxide. Reporting by fuel suppliers would substantially increase the emissions coverage of the regulation, which is necessary to support a broad cap-and-trade program that includes these sources by 2015. Also covered by the U.S. EPA regulation, suppliers report the GHGs to be emitted from the eventual combustion or use of the products supplied. To limit reporting of transportation fuels to those resulting in emissions in California, the regulation would require reporting by position holders (fuel owners) at terminal racks and refineries, and enterers (importers) of petroleum products and biofuels outside the terminal system. GHG reporting would follow practices that are already used by these suppliers to determine fuel taxes payable to the California Board of Equalization, so the addition of GHG reporting requirements should not be too

burdensome.

The proposed revised regulation also includes requirements for emissions reporting by facilities in the oil and gas exploration and production sector. These requirements are included in anticipation of finalization of the U.S. EPA proposal (known as Subpart W) for reporting GHG emissions by the oil and gas exploration and production sector. The proposed ARB requirements are based on the U.S. EPA proposal for most source types, but for some source types in this sector (as in other sectors) additional requirements are proposed to ensure the accuracy needed to support market emissions trading. Because final U.S. EPA action may not occur prior to the release of this proposal, full proposed regulatory text is included as Subarticle 5 of the revised regulation.

*Schedule and Due Dates.* The data specified in the proposed revised regulation would be reported to ARB annually, for the previous calendar year. The first emissions reports under the proposed revised regulation, for 2011 emissions, would be submitted in 2012. Facilities and suppliers would be permitted to report on 2011 emissions using only the requirements in the U.S. EPA regulation, in recognition that any needed shifts in monitoring practices to comply with the new ARB requirements may not be implemented until 2012. Most reports would be due April 1 of each year; electric power entities would have until June 1 to allow enough time for compilation of purchase and sales data for the previous year.

*Missing Data Substitution.* The proposed revised regulation includes new specifications for the replacement of missing emissions and fuel monitoring data needed for meeting the requirements of the regulation. Because the U.S. EPA regulation was not designed for a cap-and-trade program, these additional elements are intended to prevent abuse of monitoring practices that would undermine fairness in a market program. They are based on similar requirements developed for the U.S. EPA Acid Rain Program.

*Third Party Verification.* Most facilities and entities subject to the proposed revised regulation would be required to contract with a third-party verification body (which may include local air pollution control or air quality management districts) for the verification of their submitted emissions data reports, to ensure the completeness and accuracy of the data and to confirm the use of required methods in preparing the emission estimates. Verification would be performed annually, with more comprehensive reviews, including site visits, at least once during a three-year compliance period under the market program. Verification would be required by September 1 for facilities and suppliers, and by October 1 for electric power entities. Verification services specified in the regulation must be performed by ARB-accredited verifiers. The verification and verifier accreditation requirements are not significantly different from current ARB requirements (most facilities and entities affected by the proposed revised regulation are already subject to third-party verification), but some additional language has been added to provide for the accreditation of offset project verifiers.

Reporters Below 25,000 MT of CO<sub>2</sub>e. Facilities and suppliers with emissions between 10,000 metric tons and 25,000 metric tons of CO<sub>2</sub>e would be included in the mandatory reporting program, but would have abbreviated reporting requirements. These reporters would report their combustion emissions using default emission factors or any other method of their choosing from the U.S. EPA regulation. They would also report process emissions, although these are unlikely to occur at facilities of this size. Only some oil-and-gas production facilities and a few glass production facilities are likely to have process emissions to report.

Under the current regulation, only power plants report within this emissions range. Under the revised regulation, power plants would continue to report down to 10,000 MT of CO<sub>2</sub>e, but may use a simplified calculation approach. They would also report some basic information on their power generation or cogeneration systems, such as generating capacity and the amount of power generated.

Reporters in this range would also report process information associated with their emissions, such as fuel use. This will enable ARB staff to check the emissions calculation as part of their review of these reports.

As part of the streamlined approach for reporters in this range, they would not be subject to other regulatory requirements for third-party verification, missing data substitution, or calibration and measurement accuracy. This will minimize costs while providing ARB a means of monitoring what is happening “below the cap” for the cap-and-trade program. This feature of the regulation is part of the WCI design recommendation.

Reporters No Longer Affected. The current ARB reporting regulation requires reporting by power plants and cogeneration facilities emitting between 2,500 and 10,000 metric tons of CO<sub>2</sub>e. These facilities will no longer be subject to reporting requirements. No facility or supplier below 10,000 MT of CO<sub>2</sub>e will be required to report to California, except in the unlikely case one is brought in by U.S. EPA whole-sector requirements.

Other Items. Other items included in the proposed revised regulation are the detailed quantification and reporting requirements for each industrial sector, requirements for the substitution of missing data, required elements of verification services, verifier accreditation requirements, specifications for claiming confidential data, and document retention and record keeping requirements. Also in the proposal, the current requirements for SF<sub>6</sub> (sulfur hexafluoride) and HFCs (hydrofluorocarbons) reporting in the electricity sector have been removed because this information is being reported more comprehensively through other ARB programs. Complete details are provided in the proposed regulation and the Initial Statement of Reasons, which are available at:

<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>

## **DOCUMENTS INCORPORATED BY REFERENCE**

The following documents would be incorporated in the regulation by reference: *Mandatory Reporting of Greenhouse Gases; Final Rule.*, 40 Code of Federal Regulations (CFR) Parts 86, 87, 89, 90, 94, and 98 (October 30, 2009); *Mandatory Reporting of Greenhouse Gases from Magnesium Production, Underground Coal Mines, Industrial Wastewater Treatment, and Industrial Waste Landfills; Final Rule.*, 40 CFR Part 98 (July 12, 2010); *Mandatory Reporting of Greenhouse Gases; Final Rule* (Corporate Parent/NAICS Code Amendments), 40 CFR Part 98 (September 22, 2010); *Mandatory Reporting of Greenhouse Gases; Final Rule (Technical Corrections, Clarifying and Other Amendments to Certain Provisions of the Mandatory Greenhouse Gas Reporting Rule)*, 40 CFR Parts 86 and 98 (October 7, 2010); 40 CFR Part 75 (July 1, 2009); 40 CFR Part 60, subpart A, §60.18(i)(1) and (2) (revised as of July 1, 2009); *The American Association of Petroleum Geologists Bulletin*, V. 75, No. 10, pp. 1644-1651 (October 1991); American Society for Testing and Materials (ASTM) D388, *Standard Classification of Coals by Rank* (September 2005); ASTM D4806, *Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel* (August 2008); ASTM D6751, *Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels* (October 2008); and, *Year 2005 Gulfwide Emission Inventory Study (GOADS)*, U.S. Department of the Interior, Minerals Management Service, Gulf of Mexico OCS Region, MMS 2007-067 (2007).

In addition to the documents listed above, the proposed regulation would also incorporate by reference two software programs: *Production Tank Model – A Program for Estimating Emissions from Hydrocarbon Production Tanks – E&P Tank Version 2.0*, American Petroleum Institute (2000) and *GRI-GLYCalc<sup>TM</sup> Version 4.0*, Gas Technology Institute (2008).

## **COMPARABLE FEDERAL REGULATIONS**

As mentioned previously, the U.S. EPA requires mandatory GHG reporting (*Mandatory Reporting of Greenhouse Gases; Final Rule.* 40 CFR Parts 86, 87, 89, 90, 94, and 98. United States Environmental Protection Agency. October 30, 2009). This proposed revised regulation was developed to minimize, to the greatest extent possible, any redundant State and federal reporting. Without adoption of the proposed revised regulation, reporters would have to submit duplicative GHG emissions reports based on different requirements, estimation methods, and reporting systems, in order to comply with different ARB and U.S. EPA reporting requirements for GHG data.

In addition, the U.S. EPA's Acid Rain Program requires the reporting of CO<sub>2</sub>, SO<sub>2</sub>, and NO<sub>x</sub> emissions from certain fossil fueled power plants as part of its program to reduce atmospheric levels of sulfur dioxide and nitrogen oxides (see Title 40, Code of Federal Regulations, section 72.1 et seq.). Because of the very limited nature of this federal regulation related to GHG emissions reporting, the proposed revised ARB regulation is not duplicative of this federal requirement. The missing data elements in the proposed

amendments are largely based on elements in the Acid Rain Program, which were developed to support emissions trading.

## **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The ISOR is entitled: "Staff Report: Initial Statement of Reasons for Rulemaking: Revisions to the Regulation for Mandatory Reporting of Greenhouse Gas Emissions."

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, or by calling (916) 322-2990 within the 45 days prior to the scheduled hearing on December 16, 2010.

Upon its completion, a Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Mr. Doug Thompson, Manager of ARB Climate Change Reporting Section, Planning and Technical Support Division at (916) 322-7062, or Mr. Patrick Gaffney, Staff Air Pollution Specialist, at (916) 322-7303.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at:  
<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>

## **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulatory action are presented below. A detailed assessment of the economic impacts of the proposed regulation is included in the Initial Statement of Reasons for this regulatory item.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Because the proposed revised regulation provides harmonization with the U.S. EPA greenhouse gas reporting requirements, most facilities subject to the U.S. EPA requirements will only have a small incremental cost to comply with the ARB regulations. In most cases, data and analysis will be performed in compliance with the U.S. EPA regulation, and the data will also meet ARB requirements.

For most facilities not subject to U.S. EPA reporting, but subject to the ARB proposal, reporting costs will typically be modest. This is because these facilities will generally be able to use the abbreviated reporting option, which provides simple estimation methods, or because readily available data may be used to complete reporting. The reporting costs will be low relative to typical facility revenues; therefore the affected businesses newly added to GHG reporting as part of this proposal should be able to absorb the costs of the proposed regulation with no significant adverse impacts on their profitability. Staff does not expect a noticeable change in employment, business creation, elimination or expansion, or business competitiveness in California due to the proposed revisions.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses and determined that there would be a potential net incremental cost impact on private persons and businesses directly affected. Staff estimates that the total incremental net costs associated with meeting the proposed revisions, beyond what is incurred in complying with the U.S. EPA regulation, to be \$18 million over the course of 10 years for businesses, local, and State government. Initial annual reporting costs will be higher due to the possible need for new equipment, sampling systems, training, and other start-up costs to meet the regulatory requirements. Chapter VI of the ISOR for the proposed regulation includes additional data on the estimated costs to facilities.

Determining the specific cost for an individual facility subject to the proposed revised regulation is complex because incremental costs vary by facility type, the complexity of the facility, and applicable reporting requirements. For many facilities and suppliers there should be minimal additional costs over those needed to comply with the U.S. EPA reporting regulation, and monitoring practices may not differ from practices currently used to comply with the existing ARB regulation. For facilities and suppliers not required to report to U.S. EPA, or to ARB currently, incremental costs will be more significant. We estimate that on average the costs of complying with the ARB proposal will be about \$5,000 for typical reporters. Actual costs will be higher or lower than this “typical” value based on the complexity of the reporting facility or entity. Implementation of the regulation will also produce a cost savings for some reporters as a result of reduced requirements, or because some facilities will no longer be subject to reporting.

Additional information on the facility cost analysis can be found in Chapter VI of the ISOR for this regulatory action.

Staff anticipates that the additional costs for reporting can be easily absorbed under existing operating expenses for most facilities and suppliers, even those for whom reporting is new. Facilities below 25,000 metric tons will be allowed to complete abbreviated reports without the need for new equipment or fuel sampling and testing, and do not need to contract with third-party verifiers. Suppliers of transportation fuels will be following established practices for tax law compliance. Verification costs will apply to suppliers, but because their reports are relatively simple, their costs should generally be lower than those of other reporting entities.

Electric power entities are not required to report to U.S. EPA, but currently report to ARB if they import power to California. Their reports will change under the proposed revised regulation, but costs should not increase. This is because much of the detailed data currently reported by electric power entities will no longer be required to be reported. Retail providers who are not importing or exporting power will report only retail sales figures. Importers and exporters will need to track and report electricity transactions and calculate emissions, and they will also need to continue to contract with third-party verifiers. But, because reporting and verification has become part of the established business practices for these businesses, implementation of the proposed regulation should not produce cost increases, and in some cases it should lead to cost savings for reporters.

The Executive Officer has determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses. Staff estimates that approximately 185 small businesses may be affected in California. The proposed revised regulation is designed to minimize costs to these businesses by providing simplified emission estimation methods. Many of the affected small businesses will take advantage of abbreviated reporting and will not face verification costs. Based on the types of small business expected to be impacted and the kinds of GHG generating activities present at these facilities, the incremental reporting and verification costs for a typical small business subject to the regulation should be approximately \$4,000 for the first year and \$2,000 per year for future years.

Some public agencies could also be subject to GHG reporting, such as certain county or city owned sewage treatment works or landfills, various utility districts or publicly owned electricity providers, some State universities, prisons and other State facilities that emit more than 10,000 metric tons of CO<sub>2</sub>e from stationary combustion sources. Most of California's public and private electricity retail providers will experience diminished reporting costs, as they will no longer need to compile data that was previously collected to support a load-based point of regulation. The Department of Water Resources will continue to have a reporting requirement related to imported power. The additional costs incurred by these State and local government agencies in total as a result of this regulatory proposal are not expected to be significant. A net savings for local agencies of approximately \$260,000 per year is expected, mostly due to reduced reporting

requirements for municipal utilities.

As described above, the proposed regulatory action will impose a mandate upon and create costs to some local agencies. Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution.

Adoption of the proposed revisions is expected to require new funding for ARB to administer the program. Approximately 2.0 staff members will be redirected from existing staffing to administer the new program beginning in FY2011/2012. In addition, approximately \$250,000 per year will be required over a three-year period for reporting system improvements as staff works to integrate State reporting with U.S. EPA reporting systems, and then an additional \$150,000 per year is needed on an ongoing basis for operations and maintenance of the reporting systems.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed regulatory action will not result in an elimination of jobs within the State of California, or the creation or elimination of existing businesses within the State. In fact, jobs were added as a result of the original reporting regulation because it created the need for technical support for developing GHG emissions estimates, providing laboratory and other services, and providing emission verification services. These existing jobs should be retained, and some new jobs may be created as the breadth of the current reporting regulation expands.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the state, or costs or mandate to any school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **SUBMITTAL OF COMMENTS**

Interested members of the public may present comments relating to this matter orally or in writing at the hearing, and comments may also be submitted by postal mail or electronic submittal before the hearing. The public comment period for this regulatory item will begin on November 1, 2010. To be considered by the Board, written submissions not physically submitted at the hearing must be submitted on or after November 1, 2010, and received **no later than 12:00 noon, December 15, 2010**, and must be addressed 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>

To ensure that your comment will be available for consideration it is important that your comment is received by the deadline.

Please note that under the California Public Records Act (Government Code section 6250 et. seq.), your written and oral comments, attachments, and associated contact information becomes part of the public record and can be released to the public upon request. This includes personal information provided with your comments, such as your home address, your home phone number, and your personal email address. Additionally, your comments, attachments, and associated contact information may become available via internet search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

## **STATUTORY AUTHORITY AND REFERENCES**

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 38510, 38530, 38580, 39600, 39601, 39607, 39607.4, and 41511. This action is proposed to implement, interpret and make specific sections 38530, 38580, 39600, 39607, 39607.4, and 41511 of the Health and Safety Code.

## **HEARING PROCEDURES**

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

### **SPECIAL ACCOMMODATION REQUEST**

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo

más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

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James N. Goldstene  
Executive Officer

Date: October 19, 2010

*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 our website at [www.arb.ca.gov](http://www.arb.ca.gov).*