

State of California

AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS AND CONFORMING AMENDMENTS TO THE DEFINITION SECTIONS OF THE AB 32 COST OF IMPLEMENTATION FEE REGULATION AND THE CAP-AND-TRADE REGULATION

Public Hearing Date: September 20, 2012

Public Availability of Modified Text Date: October 12, 2012

Deadline for Public Comment: October 29, 2012

Background

At its September 20, 2012 public hearing, the Air Resources Board (ARB or Board) approved for adoption the 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) and Conforming Amendments to the Definition Sections of the AB 32 Cost of Implementation Fee Regulation (title 17, California Code of Regulations, section 95200 et seq.) (fee regulation) and the Cap-and-Trade Regulation (title 17, California Code of Regulations, section 95800 et seq.) (cap-and-trade regulation).

At the hearing, the Board approved Resolution 12-25, which endorsed the revisions proposed in the Staff Report: Initial Statement of Reasons released on August 1, 2012, with a small number of modifications proposed by staff, some of which were identified at the hearing. Resolution 12-25 and other regulatory documents for this rulemaking action are available online at the following website:

<http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm>

Modifications to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions and Conforming Amendments to the Definition Sections of the AB 32 Cost of Implementation Fee Regulation and Cap-and-Trade Regulation are being released concurrently with this notice. The approved amendments clarify calculation methods, increase the rigor of provided data, and support cap-and-trade and other AB32 programs.

In accordance with Government Code section 11346.8, in Resolution 12-25 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, 95111, 95112, 95113, 95114, 95115, 95119, 95120, 95121, 95122, 95123, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, 95158, 95202, and 95802 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 to 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 Attachments 1-3, available here: <http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm>

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

Modifications to Section 95101. Applicability.

Staff clarified the time needed to retain records once a facility has ceased reporting under the reporting regulation (§95101(h)). This change is necessary to ensure consistent requirements for record retention.

Modifications to Section 95102. Definitions.

In response to stakeholder comments and feedback, staff has proposed amendments to clarify definitions related to electric power entities (including the definition of “asset-controlling supplier”), electricity generation, suppliers of transportation fuels, and the petroleum and natural gas systems.

Modifications to Section 95103. Greenhouse Gas Reporting Requirements.

Staff has added language to section 95103(f) to more clearly identify the verification requirements. Additional language was modified in section 95103(k) to clarify the existing meter calibration requirements and to emphasize the optional nature of the field accuracy assessments. These changes are necessary to ensure reporting entities understand the verification and meter calibration requirements of the regulation.

**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 made clarifying changes regarding electricity wheeled through California (§95111(a)(8)), Renewable Energy Credit (REC) retirement requirements (§95111(g)), and the retention of meter data from generation facilities (§95111(g)). These changes are needed to ensure electric power entities know what and how to report.

Modifications to Section 95121. Suppliers of Transportation Fuels.

Staff proposes clarifications suggested by stakeholder comments in sections 95121(a)(2) and 95121(d)(2) to more clearly describe reporting requirements for refiners, position holders, and enterers.

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

Modifications to Section 95150. Definition of the Source Category.

Language regarding booster stations as they relate to this source category was inadvertently struck from section 95150(a)(3)-(4) during a previous amendment process and has been re-inserted. This change was made based in part on stakeholder comments, and also to ensure a complete and accurate definition of this source category.

Modifications to Section 95153. Calculating GHG Emissions.

Methods for the quantification of CH₄ and CO₂ emissions from produced water and crude oil and condensate have been edited and combined into a single section (§95153(v)) to ensure accurate emissions calculations. In addition, and based on stakeholder comments, staff has modified the pneumatic device methodology (§95153(a)-(b)) to allow for the use of alternative emission estimation methods for intermittent devices. Staff has also modified provisions related to equipment and pipeline blowdowns to allow for the use of engineering methods for pressure and temperature measurements (§95153(g)).

Additional changes were made to harmonize with the U.S. EPA greenhouse gas reporting rule. These changes include modifications to acid gas removal vents (§95153(c)), associated gas venting and flaring (§95153(k)), and greenhouse gas

volumetric emissions methods (§95153(s)). Finally, several typographic errors and incorrect section citations have been corrected.

Modifications to Section 95154. Monitoring and QA/QC Requirements.

Staff has proposed a modification to section 95154(f)(1) to more accurately describe the type of method that is allowed for best available monitoring methods. This change was necessary to clarify the reporting terminology.

Modifications to Section 95156. Additional Data Reporting Requirements.

In response to stakeholder comments, staff has proposed modifications to the reporting requirements for cogeneration plants associated with onshore petroleum and natural gas production facilities (§95156(a)(3)). These changes add clarity as to what must be reported for cogeneration sources. Also, staff has clarified the steam generator source terminology to more clearly describe the reporting requirement (§95156(a)(4)). Finally, staff has modified section 95156(e) to clarify that operation of natural gas processing facilities is included in this requirement.

Modifications to Section 95157. Activity Data Reporting Requirements.

Staff has proposed a modification in section 95157(c)(3) to more accurately reference the equations which must be used in reporting the information required by this section. This change was necessary to ensure accurate reporting.

D. Modifications to the AB 32 Cost of Implementation Fee Regulation and Cap-and-Trade Regulation.

As described above, staff has amended the definition of “asset-controlling supplier” in section 95102 of the reporting regulation. In order to ensure consistent use of terminology between the reporting regulation, fee regulation, and cap-and-trade regulation, staff has also proposed identical conforming amendments to the definition of “asset-controlling supplier” in the fee regulation and cap-and-trade regulation.

Availability of the Attachments

By this notice, the modified regulatory language, provided as Attachments 1-3 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/2012/ghg2012/ghg2012.htm>

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 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.

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 modifications identified in this notice will be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) 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 (por decir, sistema Braille, o en impresión grande) 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