State of California
AIR RESOURCES BOARD

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

Resolution 14-32

September 18, 2014

Agenda Item No.: 14-7-6

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, September 20, 2012, and October 25, 2013, 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 the climate change emission inventory, 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 implementation of the Cap-and-Trade Program;

WHEREAS, California has a Cost of Implementation Fee Regulation (title 17, California Code of Regulations, section 95200 et seq.), which relies on GHG emissions data reported under the Regulation for Mandatory Reporting of Greenhouse Gas Emissions;

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, complete, and consistent;

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, ARB staff has proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions that include the following elements:

Clarifications on applicability, reporting requirements, and definitions;

Harmonization with the Cap-and-Trade Regulation to support allowance allocation;

Integration of Cost of Implementation Fee Regulation reporting; and

Minor modifications to support a robust verification process.

WHEREAS, ARB staff conducted a public workshop on June 5, 2014 and participated in various other stakeholder 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; and

WHEREAS, the Initial Statement of Reasons and proposed regulatory language were made available to the public for at least 45 days prior to the September 18, 2014, Board hearing;

WHEREAS, ARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and ARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter 4 of the Staff Report;

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 regulations meet the requirements specified in sections 38530, 39607, and 39607.4 of the Health and Safety Code;

2. The proposed amendments to the regulation were developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;

3. The proposed amendments to the regulations promote consistency, to the extent feasible, with the U.S. EPA GHG reporting rule;

4. 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;

5. Annual reporting of GHG emissions and supporting information, including product data where required, 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, 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 per year from stationary source combustion and process emissions is necessary in order to identify and characterize the most significant California GHG emission sources;

6. Accurate GHG emissions reporting, along with reporting of supporting information and product data, is necessary to support a rigorous cap-and-trade program and California's other GHG emission reduction programs, including the statewide GHG emission inventory;

7. Accurate GHG emissions reporting, along with reporting of supporting information, is necessary to support operation of the cost of implementation fee regulation;

8. The proposed amendments promote consistency between the mandatory reporting regulation, cap-and-trade program, and cost of implementation fee regulation and will further enhance the operation of these programs;

9. 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;

10. The proposed amendments are not a major regulation under California law and, in fact, represent an overall cost savings to California businesses;

11. The reporting requirements of the proposed regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State because they support GHG emissions reduction programs;

12. 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, than the proposed regulation, and no

performance standard alternative could support comprehensive rigorous data collection as is required by law;

13. The proposed amendments are consistent with ARB's environmental justice policies and do not disproportionately impact people of any race, culture, or income; and

14. The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption 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, California Code of Regulations as set forth in Attachment A, including the proposed modifications set forth in Attachment B.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to make modified regulatory language based on the concepts presented in Attachment B, and any additional conforming modifications that are appropriate, available for public comment, with any additional supporting documents and information, for a period of at least 15 days. The Executive Officer shall 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. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate modifications.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15 day public comment periods may 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 California Code of Regulations, title 17, sections 60000-60007, and prepare written responses to any comments received raising significant environmental issues as necessary, to present to the Board for approval along with the final regulation.

I hereby certify that the above is a true and correct copy of Resolution 14-32 as adopted by the Air Resources Board.

Tracy Jensen, Clerk of the Board

Resolution 14-32

September 18, 2014

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, 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 as set forth in Appendix A to the Initial Statement of Reasons, released July 29, 2014.

Attachment B: Staff's Proposed Topics for 15-day Changes to the Original Proposal (Distributed at the September 18, 2014, ARB hearing)

Attachment B to Resolution 14-32

Mandatory Reporting Regulation

Topics Subject to Potential 15-Day Changes

Introduction

This document provides an overview of the topics ARB staff now intends to propose for further public consideration as part of a subsequent 15-day comment period. This list is not exhaustive and does not include minor technical changes that may be proposed. Staff will continue to coordinate with stakeholders in the development of the regulatory text. This list in no way limits ARB's authority to make other changes to the proposed regulatory amendments, consistent with the requirements of California law.

Definitions

Staff is proposing updates to product data and other definitions to clarify reporting requirements and to align with the Cap-and-Trade Regulation.

Electric Power Entities

Transmission Line Loss: Staff will propose further clarifications to the requirements for accounting for transmission line loss associated with specified source electricity. Staff will continue to work with stakeholders to evaluate these requirements and craft appropriate language.

Hourly Meter Generation Data: Staff has worked with stakeholders to craft the proposed hourly meter generation requirements and included exemptions. Staff will continue to work with stakeholders to refine the language in 15-day changes.

Sales into the CAISO Market: Staff will propose to clarify the requirements related to reporting retail sales information into the California Independent System Operator market based on stakeholder comments. Specifically, staff will propose to exempt entities that that consign all allowances to auction from these reporting requirements. Staff is working with stakeholders to determine what reporting method(s) to specify in the regulation

Imported Electricity Specified Source Emission Factors: In the proposed amendments staff clarified which data sources are used to develop ARB's specified source emission factors for imported power. Staff is proposing additional 15-day changes in this area to further clarify ARB's process and to ensure consistency with the proposed 111(d) federal GHG power plant reduction requirements.

Refineries and Hydrogen Producers

Product Data: Staff will propose additional clarifications to definitions related to product data for refineries and hydrogen producers. Staff will propose to clarify that CWB liquid throughputs should be corrected for temperature. Staff is working with stakeholders to determine what method(s) to specify in the regulation.

Product Data Reporting Requirements for Bathroom Tissue

Staff will propose a clarification that water absorptive capacity for bathroom tissue must be measured in each data year in which tissue covered product data are reported.

Petroleum and Natural Gas Systems

Staff will be clarifying what constitutes a sub-facility and the applicability of reporting requirements for small gas processing plants as part of onshore oil and gas production facilities. Staff will also clarify the high heat value measurement frequency requirements related to product data reporting and that gas-water ratio is required for associated gas estimation using flash liberation tests. Also, staff will propose to change the reporting units for dry gas from MMBtu to Mscf.

In the proposed regulation staff inadvertently removed a requirement that would allow reporters to use engineering estimates for reporting emissions associated with compressor startup emissions. Staff will propose to add that requirement back in the 15-day changes. Staff will also propose to clarify what constitutes a "dig-in" and what equipment leaks are to be reported based on stakeholder comments.