

State of California
AIR RESOURCES BOARD

Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER THE PROPOSED REGULATION FOR
ENERGY EFFICIENCY AND CO-BENEFITS ASSESSMENT OF
LARGE INDUSTRIAL FACILITIES

Public Hearing Date: July 22, 2010
Public Availability of Modified Text Date: September 29, 2010
Deadline for Public Comment: October 14, 2010

At its July 22, 2010, public hearing, the Air Resources Board (ARB or Board) approved the adoption of the Regulation for Energy Efficiency and Co-Benefits Assessment of Large Industrial Facilities, (sections 95150 to 95162, title 17, California Code of Regulations (CCR)) (regulation or Energy Efficiency Assessment Regulation). The primary purpose of the regulation is to require an energy efficiency assessment of California's largest industrial facilities to determine the potential for greenhouse gas (GHG) emission reductions and other pollution reduction co-benefits. The regulation is necessary to carry out the Board's responsibilities and goals under Assembly Bill 32, the Climate Change Scoping Plan, and other emission reduction programs that address criteria pollutants and toxic air contaminants.

The Board's Action

At the July 22, 2010, hearing, the Board adopted Resolution 10-30 (Resolution) (appended to this notice as Attachment 1), approving the adoption of the regulation. Appended to the Resolution are the initially noticed regulatory text (as Attachment A) and the staff's suggested modifications to that text (as Attachment B), all of which were made available during the hearing. In approving the proposed regulation, the Board directed the Executive Officer to incorporate the approved modifications to the initially noticed text, making modifications available for a supplemental comment period of at least 15 days. The modifications to the initially noticed regulatory language provide clarification to several provisions within the regulation and additional flexibility for the time requirements associated with third-party assessments, when applicable.

The staff's proposed substantive modifications are discussed below and set forth in detail in the document appended to this notice as Attachment 2. Additions to the initially noticed regulatory text are denoted by underline and deletions by ~~strikethrough~~.

Modified Text Being Made Available

Board Resolution 10-30 approved sections 95150 to 95162, title 17, CCR, as modified. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2010/energyeff10/energyeff10.htm>

In accordance with the Government Code, section 11346.8, the Board directed the Executive Officer to adopt in the CCR, sections 95150 to 95162, title 17, after making them available to the public for comment for a period of at least 15 days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Summary of Proposed Modifications

The following is a summary of the proposed substantive modifications to the regulation.

Section 95151. Applicability: Subsection (a)(1) was modified to clarify that the regulation applies to operators of a California facility, where the facility has stationary sources that meet the applicability threshold.

Section 95153. Definitions: The definition for “criteria air pollutant” in subsection (a)(13) was modified to remove ozone as an example of a criteria air pollutant. The regulation requires facility operators to provide previously reported facility criteria air pollutants, and ozone is not a reported pollutant.

Section 95154. Energy Efficiency Assessment Requirements: Staff modified this section to provide multiple clarifications as described below:

1. Subsection (a)(8)(D) was modified to require greenhouse gas emissions be provided for the 2009 calendar year, as reported by the facility to comply with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, CCR. This modification ensures that the GHG emissions data submitted is verified emissions data and that the regulation is not creating a new facility emissions inventory, as discussed in the Initial Statement of Reasons (Staff Report);
2. As specifically directed by the Board, Subsections (a)(8)(E), (a)(8)(F), and (a)(10) were modified to allow criteria air pollutant and toxic air contaminant emissions data from either 2009 or the most recent 12-month period, since some facilities report their emissions to the local air pollution control or air quality management districts (Districts) on a 12-month schedule versus a calendar year schedule;
3. Subsection (a)(11) was added to provide guidance for facilities who were not required to report their criteria air pollutant and/or toxic air contaminant emissions

- data to the District. Those facilities will still be required to provide the most recent District-calculated emissions, indicating to which year the emissions are assigned;
4. The numbering in Subsection (b) was corrected;
 5. Subsection (b) was also modified as follows:
 - a. to allow, but not require, implemented projects to be included in the energy efficiency improvement analysis;
 - b. to clarify that the estimated time frame for project implementation is not required for projects identified as being under investigation, as specifically directed by the Board;
 - c. to clarify the actual completion year instead of completion date is required for projects that have been implemented, as specifically directed by the Board; and
 - d. several other minor typographical and clarifying modifications.

Section 95155. Reporting Requirements: As specifically directed by the Board, staff modified subsection (c) to clarify that the third party assessor must certify that they are authorized to represent the facility and operator on all matters related to the Assessment Report.

Section 95159. Third Party Assessment Report: Staff modified subsections (a)(1) and (3) to allow the facility operator and the Executive Officer to mutually agree to a longer time period for submitting the written application for a third party assessor and submitting the third party assessment report. A mutually agreed longer period will allow flexibility for facilities that must adhere to pre-established requirements associated with contracting with third parties.

Comments and Subsequent Action

Written comments will only be accepted on the modifications approved by the Board 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. Additionally, this information may become available via Google, Yahoo, and any other search engines.

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 (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

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 ARB's website at www.arb.ca.gov.