

UPDATED INFORMATIVE DIGEST

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

Sections Affected

Proposed amendments to California Code of Regulations title 17, sections 95101, 95102, 95103, 95104, 95105, 95110, 95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157. Proposed adoption to California Code of Regulations, title 17, of new section 95124 and Appendix B.

Background

In this rulemaking, the Air Resources Board (ARB or Board) has approved proposed revisions to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.) (reporting regulation). The regulation was originally developed pursuant to the California Global Warming Solutions Act of 2006 (the Act). The reporting regulation was adopted by the Board in December 2007, with additional modifications approved for adoption by the Board in December 2010 and September 2012.

On September 4, 2013, ARB issued a notice of public hearing to consider the proposed amendments at the Board's October 25, 2013 hearing. A "Staff Report: Initial Statement of Reasons for Rulemaking" (Staff Report) was made available for public review and comment starting September 4, 2013. The Staff Report contained a description of the rationale for the proposed amendments. The text of the proposed amendments was included as Appendix A to the Staff Report. All references relied upon and identified in the Staff Report were also made available to the public on September 4, 2013. The Staff Report and Appendix A were also posted to ARB's web site at: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>.

At its October 25, 2013 public hearing, the Air Resources Board (ARB or Board) approved for adoption amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.).

At the hearing, the Board received written and oral comments. The Board approved Resolution 13-43, which endorsed the revisions proposed in the Staff Report: Initial Statement of Reasons released on September 4, 2013 with a small number of modifications proposed by staff, some of which were identified at the hearing. In Resolution 13-43, the board directed the Executive Officer to adopt the proposed regulation 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, in

accordance with Government Code section 11346.8(c). Resolution 13-43 also directed the Executive Officer to consider written comments as may be submitted during this period, and to make such modifications as may be appropriate in light of the comments received, and to present the regulation to the Board for further consideration if the executive Officer determined this was warranted in light of the comments received.

Further modifications to the reporting regulation were released on October 28, 2013 in a "Notice of Public Availability of Modified Text," together with a copy of the full text of the regulation modifications, with the modifications clearly indicated. The comment period extended from October 28, 2013 to November 15, 2013, pursuant to Government Code section 11346.8. The approved amendments clarify existing calculation methods and reporting requirements and support the Cap-and-Trade program.

Description of the Regulatory Action

The purpose of the proposed amendments to the reporting regulation is to carry out the goals of AB 32 and maintain a robust and accurate greenhouse gas (GHG) reporting program. The mandatory reporting program tracks the GHG emissions from reporting entities over time, demonstrating the progress in reducing GHG emissions and providing supplemental data to support the implementation of the Cap-and-Trade program. The proposed amendments will further support the Cap-and-Trade program by collecting additional information to ensure the accuracy of the data used for benchmarking, allocation of allowances, and the covered emissions calculation. Additionally, the amendments will help to make certain that the reported GHG emissions data are accurate and complete. Anticipated benefits of the proposed revisions include improved clarity of the reporting and verification requirements, more accurate GHG emissions estimates from updated emissions calculation methods, improved methods to support the accuracy of the statewide greenhouse inventory program and new robust methods for reporting emissions and product data in order to support ARB's Cap-and-Trade regulation. These benefits may also result in indirect benefits to the health and welfare of California residents, worker safety, and the state's environment by ensuring that the state has an accurate inventory of GHG emissions to support programs which will reduce emissions and directly improve the health and welfare of California residents, worker safety, and the state's environment.

All data specified in the reporting regulation will be reported to the ARB annually by either the April 10 or June 1 reporting deadlines.

Complete details are provided in the regulation and Staff Report, which are available here: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>.

The Board's Action

At its October 25, 2013 public hearing, the Board adopted Resolution 13-43, which approved the amendment of Division 3, Chapter 1, Subchapter 10, Article 2,

Sections 95101, 95102, 95103, 95104, 95105, 95110, 95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, title 17, California Code of Regulations; and added new sections 95124 and Appendix B, title 17, California Code of Regulations.

At the hearing, the staff presented and the board approved modifications to the regulation that were originally proposed in the Staff Report released on September 4, 2013, in response to comments received since the Staff Report was published. In addition, based on public comments received, the board directed staff to provide additional modifications to the regulation. The board also directed staff to make the modified text available for a supplemental public comment period of at least 15 days.

Fifteen-Day Changes

In accordance with Government code section 11346.8, in Resolution 13-43 the Board directed the Executive Officer to adopt the proposed regulation, 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. Resolutions 13-43 also directed the Executive Officer to consider written comments as may be submitted during this period, and to make such modifications as may be appropriate in light of comments received, and to present the regulations to the board for further consideration of the Executive Officer determined this was warranted in light of the comments received.

Further modifications to the reporting regulation were released on October 28, 2013 in a "Notice of Public Availability of Modified Text," together with a copy of the full text of the regulation modifications, with the modifications clearly indicated. The comment period extended from October 28, 2013 to November 15, 2013, pursuant to Government Code section 11346.8. These further modifications to regulation text were based on direction from the Board and stakeholders comments in order to clarify existing calculation methods, measurement accuracy requirements and product data reporting to support the Cap-and-Trade program.

Additional Modifications

After the close of the 15-day comment period, the Executive Officer determined that no additional modifications should be made to the regulation, with the exceptions of nonsubstantial changes, including punctuation and formatting corrections and corrections of typographical errors which are fully describes in the Final Statement of Reasons for the Rulemaking, available here: <http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm>.

The Executive Officer subsequently issued Executive Order No. R-13-007 on November 18, 2013, approving the regulations with the proposed modifications.

Comparable Federal Regulations

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). ARB's GHG reporting regulation was revised in December 2010 to harmonize with U.S. EPA's reporting rule in order to minimize, to the greatest extent possible, duplicative and redundant reporting requirements while still supporting California's Cap-and-Trade program. The December 2010 changes, and further aligning regulatory changes in September 2012, were made so reporters would not have to submit duplicative GHG emissions reports based on wholly different requirements, estimation methods, and reporting systems, in order to comply with different ARB and U.S. EPA reporting requirements for GHG data.

Changes to Underlying Laws or Effect of the Regulations

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.