

State of California
AIR RESOURCES BOARD

**STAFF REPORT: INITIAL STATEMENT OF REASONS
FOR RULEMAKING**

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

Date of Release: July 19, 2016

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EXECUTIVE SUMMARY

Air Resources Board (ARB or Board) staff is proposing to amend the Regulation for the Mandatory Reporting of Greenhouse Gas (GHG) Emissions (reporting regulation or MRR) to ensure the reported GHG data are accurate and fully support the California Cap on Greenhouse Gas Emissions and Market Based Compliance Mechanisms (title 17, California Code of Regulations, section 95800 et seq.) (Cap-and-Trade Regulation). Staff is also proposing revisions to ensure the data that are collected for ARB's other climate change programs are complete, accurate, and comply with the U.S. EPA Clean Power Plan.

This staff report presents ARB staff's proposal to amend the reporting regulation. The staff report discusses the reasons for the proposed amendments and the potential impacts from the regulatory changes. The proposed amendments represent minor but necessary revisions to the current reporting regulation. The proposed changes correct or clarify the reporting requirements necessary for submittal of complete and accurate emissions data reports, and add or clarify data elements for product and other data reporting necessary to support the Cap-and-Trade Regulation. In addition, the proposed changes include revisions to ensure full accounting for emissions from imported electricity resulting from transfers within the California Independent System Operator's (CAISO) Energy Imbalance Market (EIM). These amendments are not intended to address the final accounting rules associated with a future day-ahead electricity market that would rely on the EIM as the full structure of that proposed market is not known at this time. Staff is proposing additional modifications to harmonize with the U.S. Environmental Protection Agency (U.S. EPA) Clean Power Plan (CPP) reporting requirements.

Background

The Global Warming Solutions Act of 2006 (Assembly Bill 32, or AB 32) requires California to cut greenhouse gas emissions to 1990 levels by 2020, to continue and maintain reductions beyond 2020, and to develop a comprehensive strategy to reduce dependence on fossil fuels, stimulate investment in clean and efficient technologies, and improve air quality and public health. AB 32 also requires ARB to adopt regulations for the mandatory reporting of greenhouse gas emissions in order to monitor and enforce compliance with ARB's GHG emissions reduction actions, including market based compliance mechanisms.

The reporting regulation was originally developed and adopted by ARB in December 2007. In December 2010, the Board adopted amendments to the reporting regulation in order to harmonize with the GHG reporting requirements of U.S. EPA, to support California's Cap-and-Trade Regulation, and to ensure consistency with the Western Climate Initiative reporting structure.

In September 2012, the Board adopted amendments to the reporting regulation in order to continue harmonization with U.S. EPA, as well as add conforming definitions to the Cap-and-Trade Regulation and the Cost of Implementation Fee Regulation (COI). In September 2013, the Board adopted amendments to clarify the reporting requirements,

support the Cap-and-Trade Regulation, and other updates. In September 2014, the Board adopted amendments to clarify the reporting requirements, integrate the COI reporting requirements, and collect additional information to support ARB's various climate change programs, such as the statewide GHG emissions inventory.

Since the Board's September 2014 action, ARB staff has identified additional clarifications to the California regulatory requirements that are needed to support the Cap-and-Trade Regulation and harmonize MRR and U.S. EPA Clean Power Plan reporting.

Objectives of the Proposed Amendments

ARB staff has proposed amendments to the regulations in order to:

- Support California's Cap-and-Trade Regulation by requiring further information to ensure consistency with allocation and the calculation of compliance obligations.
- Ensure that reported GHG emissions data are accurate and complete in order to support California's GHG reduction programs, including the statewide GHG emissions inventory.
- Ensure full accounting of emissions from electricity imports within the EIM.
- Include reporting requirements for electricity generating facilities to implement the U.S. EPA Clean Power Plan.

The proposed amendments to MRR do not change the overall reporting structure. These proposed amendments improve upon, clarify, and add to the existing requirements.

Overview of the Proposed Amendments

Table ES-1 provides a summary of the key amendments proposed to the regulations. More complete descriptions of the proposed amendments are found in the succeeding chapters of this report.

Table ES-1
Summary of Proposed Regulatory Amendments to the
Regulation for Mandatory Reporting of Greenhouse Gas Emissions

Topic/Sector	Proposed Regulatory Updates
General	<ul style="list-style-type: none"> • Minor updates for typographical errors and clarifications that do not materially affect the reporting requirements • Definition updates and additions, as needed • Update the global warming potential (GWP) values to be used beginning with 2021 data reported in 2022 • Updates to clarify requirements for method changes and calibration requirements for differential pressure devices at refineries • Clarify cessation provisions for reporting and verification • Require facilities to provide facility schematic diagrams indicating fuel flows and metering locations. • Clarify timing for implementation of proposed reporting and verification requirements
Applicability	<ul style="list-style-type: none"> • Minor applicability changes for abbreviated petroleum and natural gas system reporters, including reporting flaring emissions • Change the point of regulation for importers of liquefied petroleum gas (LPG), compressed natural gas (CNG), and liquefied natural gas (LNG), to align with the Cap-and-Trade Regulation • Clarify requirements for reporters that have activities both in a fuel supplier category and a direct-emissions related category • Clarify applicability for emissions that must be reported for natural gas processing plants
Electric Generators	<ul style="list-style-type: none"> • Implement reporting, metering, and other requirements of the U.S. EPA Clean Power Plan, 40 Code of Federal Regulations Part 60, Subpart UUUU (CPP 2015)
Product Data Reporting for Refineries, Hydrogen, and Others	<ul style="list-style-type: none"> • Product data definition and reporting clarifications for several sectors including milk production, tomato products, poultry, and others, to align with the Cap-and-Trade Regulation • Clarify requirements for Complexity Weighted Barrel (CWB) throughput and hydrogen production data reporting, including hydrogen sales reporting • Consolidate finished product and primary refinery product reporting
Petroleum and Natural Gas Production	<ul style="list-style-type: none"> • Clarify reporting requirements for converting volumetric data to standard conditions • Clarify use of a default value for the fraction of gas combusted • Incorporate a revised Flash Test procedure • Clarify reporting for sorbent emissions

Topic/Sector	Proposed Regulatory Updates
Fuel Suppliers	<ul style="list-style-type: none"> • Clarify reporting requirements in cases where fuel is delivered over multiple racks • Require reporting of fuel volumes that are exported out of California or are excluded from emissions reporting due to use for aviation or marine purposes • Remove requirement for enterers and in-State producers of ethanol and biodiesel to report those fuels • Clarify the reporting requirements for intrastate pipeline suppliers • Clarify reporting requirements for facilities that deliver or “pass through” natural gas received from utilities and interstate pipelines to other facilities • Clarify reporting requirements for in-State producers of LNG and CNG • Revise the reporting requirements to allow biomethane to be reported by a utility that transports the fuel
Electric Power Entities	<ul style="list-style-type: none"> • Clarify requirements for the “lesser of” analysis, including removal of several exemptions • Clarify requirements for reporting sales into the CAISO markets • Clarify requirements for generation providing entities for reporting specified source electricity • Clarify definition of “first point of receipt,” and requirements for reporting specified power • Include CAISO as a reporting entity for electricity imports data related to transfers within the EIM • Clarify reporting of REC serial numbers for specified imports • Remove provisions associated with the qualified export (QE) adjustment • Clarify requirements related to the Renewable Portfolio Standard (RPS) adjustment
Verification	<ul style="list-style-type: none"> • Adjust timing requirements for verifier submittal of documentation and ARB review of documentation to streamline verification process • Modify the accreditation requirements to streamline the process • Change verification deadline to August 1 to support the Cap-and-Trade Regulation implementation

Staff Recommendation

Staff recommends that the Board adopt the proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

I. INTRODUCTION AND BACKGROUND

This staff report presents proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas (GHG) Emissions, developed pursuant to the California Global Warming Solutions Act of 2006 (Assembly Bill 32 or AB 32).

A. Overview of Prior Regulatory Actions

The Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (reporting regulation or MRR) was originally developed pursuant to AB 32, and adopted by the Air Resources Board (ARB or Board) in December 2007. In December 2010, ARB adopted substantial revisions to the original regulation to harmonize with the U.S. Environmental Protection Agency (U.S. EPA) federal mandatory GHG reporting requirements contained in title 40, Code of Federal Regulations (CFR), Part 98; to support the California cap-and-trade program; and to align with the Western Climate Initiative reporting structure, which became effective on January 1, 2012.

Revisions were made in 2012 to continue alignment with U.S. EPA, further support the cap-and-trade program, the COI Fee Regulation and the statewide GHG inventory. These revisions became effective January 1, 2013. Further revisions were made in 2013 to clarify the reporting requirements and support cap-and-trade program needs which became effective on January 1, 2014. Additional revisions were made in 2014 to clarify the reporting requirements and support cap-and-trade program needs which became effective on January 1, 2015. The full regulatory record and background for these five previous GHG reporting regulation rulemakings is available here:

<http://www.arb.ca.gov/regact/2007/ghg2007/ghg2007.htm> (ARB MRR 2007)

<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm> (ARB MRR 2010)

<http://www.arb.ca.gov/regact/2012/ghg2012/ghg2012.htm> (ARB MRR 2012)

<http://www.arb.ca.gov/regact/2013/ghg2013/ghg2013.htm> (ARB MRR 2013)

<http://www.arb.ca.gov/regact/2014/ghg2014/ghg2014.htm> (ARB MRR 2014)

B. Specific Purpose for the Adoption of the Proposed Regulatory Revisions

ARB staff has proposed amendments to the regulations in order to:

- Support California's Cap-and-Trade Regulation by requiring further information to ensure consistency with allocation and the calculation of compliance obligations.
- Ensure that reported GHG emissions data are accurate and complete to support California's GHG reduction programs, including the statewide GHG emissions inventory.
- Ensure full accounting of emissions from imported electricity resulting from transfers within the CAISO EIM.
- Include reporting requirements for electricity generating facilities to implement the U.S. EPA Clean Power Plan.

The proposed amendments to the reporting regulation are necessary to further ensure complete and accurate GHG reporting by clarifying reporting requirements, updating emission estimation methods for imported electricity, clarifying verification

requirements, streamlining the reporting requirements with the Cap-and-Trade Regulation for allowance allocation, and including additional or modified definitions reflecting the other modifications. The proposed amendments do not change the overall reporting structure or requirements of the reporting regulation.

II. STATEMENT OF REASONS

A. DESCRIPTION OF PROBLEM PROPOSAL IS INTENDED TO ADDRESS

In order to carry out the goals of AB 32, a robust and accurate greenhouse gas reporting program is necessary to track emissions from reporting entities over time and to demonstrate progress in reducing GHG emissions. Additionally, the reported data are the foundation of the California cap-and-trade program and must be complete and accurate in order to successfully implement the market program.

The proposed amendments clarify the existing requirements, add targeted new requirements necessary to support the GHG emissions reduction goals of AB 32 and the cap-and-trade program, support compliance with federal legal requirements in CPP, and support the statewide GHG emissions inventory and other ARB climate change programs.

In addition to the summary information in this chapter, each update is discussed individually in Chapter VII, Summary and Rationale.

B. PROPOSED SOLUTIONS TO THE PROBLEM

This section summarizes the key proposed revisions to the reporting regulation. The general rationale for the updates is to support the cap-and-trade program, to implement the reporting requirements of CPP, and to support the statewide GHG emissions inventory and other ARB programs. In supporting the cap-and-trade program, data are needed to calculate reporting entities' compliance obligations and for allowance allocation. For the statewide GHG emissions inventory support, additional requirements give a clearer picture of the current portfolio of GHG emissions in the state, and a better understanding of the progress towards future GHG emissions goals.

General: Staff proposes modifications to clarify the provisions for the cessation of reporting and verification. Staff also proposes an update related to changes in methodology and to the calibration frequency requirements for certain devices located at refineries. Staff also proposes altering the global warming potential (GWP) values to move from the Second Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) values specified in the U.S. EPA Mandatory Greenhouse Gas Reporting Regulation to the Fourth Assessment Report of the IPCC values to be used beginning with 2021 data reported in 2022. These values reflect more current data and are consistent with other jurisdictions with GHG reporting programs. Staff also proposes a requirement for facilities to provide a facility schematic diagram indicating fuel flows and metering locations. Staff also proposes modifications in a number of sections to correct typographical errors, clerical oversights, and internal referencing. None of these minor modifications are intended to alter the requirements. Staff proposes clarifications to existing definitions and added a small number of new definitions to support updated provisions described in the ISOR and to harmonize with Cap-and-Trade Regulation definitions.

Applicability: Staff proposes that flaring emissions be included for the purposes of determining reporting applicability at petroleum and natural gas system facilities, and the emissions must be reported if the applicability threshold is exceeded. In addition, to align with the Cap-and-Trade Regulation, staff proposes a modification to the point of regulation for importers of LPG and LNG. Staff proposes a modification to specify that emissions from supplier categories must be included when evaluating applicability relative to reporting thresholds, and that facilities must report such supplier emissions if the applicability threshold for a facility is exceeded. Staff also proposes a clarification that specifies an applicability requirement for emissions from natural gas processing equipment that is part of a petroleum and natural gas production facility. Additionally, staff proposes clarification on the classification of facility types as either a petroleum and natural gas production facility or a natural gas processing facility.

Electric Generators: As federally mandated, for electricity generation facilities meeting certain criteria, States must implement reporting and other requirements specified under the U.S. EPA Clean Power Plan Final Rule, Subpart UUUU—Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units; 40 CFR Part 60, Subpart UUUU, published in the Federal Register on October 23, 2015. The new MRR sections 95160 to 95163 are added for the ARB to comply with the federal requirements for identifying affected electricity generating units (EGUs), requiring affected EGUs to calculate and report specified data using specified methods, and to implement other CPP requirements. Detailed descriptions of the changes are provided in the Summary and Rationale section of this document.

Product Data Reporting: Because the data used to calculate allocation under the Cap-and-Trade Regulation's product-based benchmarks for industrial allocation are reported pursuant to MRR, and because the proposed 2016 amendments to the Cap-and-Trade Regulation include changes or potential changes to product-based benchmarks, changes to covered product data definitions and reporting requirements for these products are proposed in MRR. In some cases, staff proposes to eliminate the reporting of some covered product data because the product-based benchmarks for these covered products are eliminated from the Cap-and-Trade Regulation. Products slated for removal include "almond," "bathroom tissue," "concentrated milk," "dairy product solids for animal feed," "delicate task wiper," "evaporated milk," "facial tissue," "nonfat dry milk and skimmed milk powder (low heat)," "nonfat dry milk and skimmed milk powder (medium heat)," "nonfat dry milk and skimmed milk powder (high heat)," "paper towel," "pistachio," "primary refinery products," "Solomon Energy Intensity Index®," "tissue produced adjusted by water absorbency capacity," and "water absorption capacity."

Staff also proposes changes to some covered product data definitions to clarify the language in the definitions and/or to align the definitions with the products produced by the cap-and-trade program's industrial entities. Covered product data definitions with such changes include "aseptic tomato paste," "aseptic whole and diced tomatoes," "condensed milk," "dehydrated garlic," "diced tomatoes," "tomato juice," "tomato puree," "tomato soluble solids," "whole chicken and chicken parts," and "whole tomatoes."

The definition for sulfuric acid regeneration is included in section 95102(b) and references the refinery definitions in 95102(c) to indicate that non-refineries and

refineries alike report sulfuric acid regeneration. Further, reporting for this product is moved from section 95113 to 95115(n)(19) so it is clearer that both refineries and non-refineries will report these covered product data.

Staff also proposes new definitions for “fluid milk product,” milk powder (high heat),” “milk powder (low heat),” and “milk powder (medium heat),” as proposed amendments to the Cap-and-Trade Regulation would streamline product data reporting and product-based benchmarks for the fluid milk manufacturing sector. Calculation of new benchmarks may require recalculation of all other fluid benchmarks to ensure that the same emissions aren’t attributed to more than one product and that all products are properly benchmarked. Thus, all fluid milk product benchmarks and fluid milk reporting are flagged for changes that will be calculated over the next few months. Proposed changes will be included in the official rulemaking record for public review.

Proposed amendments to the Cap-and-Trade Regulation also indicate that cap-and-trade program staff are investigating the necessity for changes to the “calcium ammonium nitrate solution,” “freshwater diatomite filter aids,” “lead and lead alloys,” “nitric acid,” and “soda ash equivalent” benchmarks. Because benchmarks changes can potentially lead to covered product data definition and reporting changes, these sections of MRR are flagged for potential changes that may be calculated over the next few months. Any proposed changes will be included in the official rulemaking record for public review.

These potential changes have been discussed in open workshops, and will be reflected in the proposed regulation, including via additional notice periods going forward. However, to ensure that proposed amendments are as accurate and comprehensive as possible, in some instances sections to which more precise changes will be made, but for which regulatory development is ongoing, are flagged at a high level in this proposed text. Staff will continue to develop proposals in these areas throughout this regulatory process.

All product data changes would be implemented starting in data year 2017; reporting for data year 2017 is done in calendar year 2018.

For refinery product data, staff proposes updates to reporting primary refinery products and finished products to consolidate product reporting. Also, staff clarifies the Complexity Weighted Barrel (CWB) data reporting requirements to specify that liquid CWB throughputs must be reported at a standard temperature.

Staff proposes changes to clarify hydrogen production data requirements, but does not add any new requirements. Staff also proposes updates to clarify the reporting of hydrogen sales data, in part to adjust reporting requirements in ways responsive to stakeholder concerns.

Petroleum and Natural Gas Systems: For petroleum and natural gas systems, staff proposes several minor modifications to clarify the correct conversion of volumetric data to standard conditions. Staff proposes an amendment to clarify the acceptable use of a default value for combustion efficiency when calculating combustion emissions. Staff also proposes the replacement of the existing flash emissions test method in Appendix B of MRR with a revised method to improve data quality, and provide consistency with

other ARB programs. Finally, staff proposes requirements to include additional sorbent emissions sources when reporting sorbent emissions.

Fuel Suppliers: Staff proposes amendments to clarify reporting requirements for fuel that is delivered over multiple racks. Staff also adds a requirement to report the volume of fuels exported from California. Staff also clarifies the definition and reporting requirements for intrastate pipeline suppliers, and the reporting requirements for facilities that deliver, or “pass through,” natural gas received from utilities or interstate pipelines. Staff removes a requirement for enterers and in-State producers of ethanol and biodiesel to report the volume of those fuels. Staff proposes an amendment to provide local distribution companies with the option to report eligible biomethane that is purchased by customers and delivered by the local distribution companies (LDC) on behalf of the biomethane vendors. Finally, to align with the Cap-and-Trade Regulation, staff proposes amendments to clarify the requirements for in-state LNG and CNG producers, and to change the point of regulation for importers of LPG and LNG.

Electric Power Entities: For electric power entities (EPE), staff proposes revisions to clarify requirements in several areas. Staff proposes revisions to clarify the requirements for the “lesser of” analysis, including eliminating several exemptions to the analysis to ensure accurate reporting of electricity imports. Staff proposes revisions to clarify requirements for reporting sales into the CAISO system to describe the provision in more specific terms. In order to more accurately report specified source electricity, staff has proposed clarifications to the requirements for generation providing entities. Staff clarifies the consequences of not reporting REC serial numbers for specified imports. Staff added requirements for CAISO to report additional information related to imported electricity in the EIM to ensure full accounting of emissions from electricity imports, and as discussed further below, discussions around EIM accounting are ongoing, and may be reflected in further regulatory proposals as this process continues. Following changes to the cap and trade regulation, staff removed references and provisions associated with the qualified export adjustment. Finally, staff clarifies the definition of “first point of receipt” and that imported power must be disaggregated by generation source, such that this is not a change in current reporting practice as it is already being implemented by reporting entities and reflects current reporting practices.

Verification Requirements: Staff proposes to change the verification deadline from September 1 each year, to August 1, to support implementation of the cap-and-trade program. Currently, obtaining the necessary verified data on September 1 does not provide ARB staff sufficient time to reasonably perform quality assurance checks, calculations, analysis, and the data notifications and postings needed to complete all mandated activities under the cap-and-trade program. Providing an additional month after the verification deadline allows ARB sufficient time to assess a compliance obligation to all covered entities, as well as calculate allowance allocation amounts, prior to the November 1 Cap-and-Trade Regulation compliance deadline. This additional time will provide covered entities time to review their compliance obligation, assess how many allowances they receive, and make arrangements to acquire any additional compliance instruments needed for timely compliance. The net result is that reporters have 8 months to report and verify their emissions, leaving ARB staff about 2 months to process the information and distribute millions of dollars in allowance value.

Timing for Implementation of Reporting Requirements: The proposed amendments to the regulation are anticipated to become effective on January 1, 2018. For product data needed to determine allowance allocations for 2017, entities would begin reporting this information in 2018, for 2017 data. For almost all industries and sectors the proposed amendments will not require entities to collect additional information to comply. For a couple sectors, where reporting of new products is added, staff will work with those sectors to determine whether best available methods are needed for the first year of reporting under the new provisions and will address it as part of this regulatory process. These would primarily be product data related, needed to determine allowance allocations for 2017. Other provisions under the proposed revisions would take effect for 2018 data reported in 2019, with the exception of additional requirements implemented to comply with the U.S. EPA Clean Power Plan requirements, which, if approved for compliance by U.S. EPA, take effect for 2021 data reported in 2022, and requirements for metering or measuring continuous bleed pneumatic devices, which would take effect in calendar year 2019 for data reported in 2020.

C. RATIONALE SUPPORTING THE PROPOSED SOLUTIONS

The amendments are being made to ensure the most accurate GHG data are reported and verified to support the cap-and-trade program, ARB's GHG emissions inventory, and other ARB climate change programs. Anticipated benefits of the proposed amendments include improved clarity for reporting entities as to their reporting requirements, more complete and accurate GHG emissions estimates, improved clarity and data to support the statewide greenhouse inventory program, and continued robust methods for reporting emissions and product data in order to support ARB's cap-and-trade program and other related programs.

D. ALTERNATIVES CONSIDERED

California Government Code section 11346.2 requires ARB to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. This section discusses alternatives evaluated and provides reasons why these alternatives were not included in the proposed revised regulation. ARB staff did not find any of the alternatives considered to be more effective in carrying out the purpose for which the revised regulation is proposed, or to be as effective or less burdensome to affected businesses, than the proposed revised regulation.

Take No Action Alternative for Complete Regulation. An overall "no action" alternative means that no revisions would be made to the existing California GHG reporting regulation. Under this alternative, ARB and reporting entities would continue to operate pursuant to the requirements of the existing regulation. If ARB were to take no action, reporting entities subject to the existing GHG regulation would prepare California-specific emissions data reports which are not fully supportive of the ARB GHG inventory and cap-and-trade program. In addition, without action, the clarifications and updates proposed would not be implemented, leading to incomplete and potentially incorrect data reporting. Further, if no action were taken, ARB could not support compliance with CPP. For these reasons, the take no action alternative is neither practical nor beneficial to ARB and its affected reporters.

The following sections provide additional discussion of alternatives considered for proposed changes that may lead to additional requirements or costs for reporters.

Performance Standards in lieu of MRR Amendments. California Government Code 11346.2(b)(4)(A) provides that “In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.” A non-prescriptive performance standard would not meet the purposes required by MRR, or the underlying statute. The reporting regulation must set forth a well-defined and consistent set of procedures for emission estimation, reporting, and verification in order to meet specific ARB requirements under AB 32 and in support of the cap-and-trade program. A general performance standard, which does not define specific means of compliance, would not be reasonable because it would not allow ARB to maintain the necessary GHG reporting and verification requirements that support critical ARB program requirements. Therefore, because these core requirements are not compatible with flexible performance standards, it was not considered further.

Additional Qualitative Data Collection Requirements. Staff has proposed requirements to include additional descriptive and qualitative information that has a minimal impact on reporters or costs, but which significantly improve the usefulness of collected data. This primarily includes clarifications or minimal additional data for electricity generators subject to the U.S. EPA Clean Power Plan, fuel suppliers, and EPEs.

Two alternatives were considered in making these revisions. The first was to not collect the additional data (no action alternative). This alternative would reduce the utility of data being collected and needed for the cap-and-trade program and GHG inventory analysis purposes. The second alternative considered was to collect the data from other sources. This alternative would require contacting affected facilities, air districts, or obtaining other data sources, which would be extremely resource intensive for both ARB and for the reporting entities. Instead, the most efficient and cost effective approach is to update the regulation as proposed, and require reporting of the additional information via the existing GHG mandatory reporting regulation, through the existing ARB greenhouse gas reporting tool. Therefore, neither of the alternatives considered by the agency would be more effective in carrying out the purpose for which the revisions are proposed or would be as effective, or less burdensome, to affected private persons than the proposed revisions.

Product Data Reporting Updates for Industry Sectors. In order to support the cap-and-trade program and provide free allocation to reporting facilities, it is crucial to collect accurate and complete product data. The proposed changes include clarifications to covered product data reporting for tomato and other fruit, nut, and vegetable processors, dairy products, poultry, paper products, minerals producers, metal forging facilities, sulfuric and nitric acid production, and refineries. Other minor changes and additions to product data definitions were made to conform to the Cap-and-Trade Regulation.

Two alternatives were considered in making these revisions. The first was to not include the clarifications or collect the additional data (no action alternative). This alternative would reduce the utility of data being collected, potentially lead to inaccurate data reporting, and prevent certain sectors from receiving free allowances under the cap-and-trade program, which would not allow ARB to meet its statutory requirement , pursuant to Assembly Bill 32 (Nuñez; Stats 2006, Ch. 488; Government Code § 38500 –

38599) to prevent emissions leakage to the extent feasible. The second alternative considered was to collect the data from other sources. This alternative would require separately contacting affected facilities individually, which would be extremely resource intensive and duplicative for both the ARB and for the reporting entities. Instead, the most efficient and cost effective approach is to update the regulation as proposed, and require reporting of the information via the existing GHG mandatory reporting regulation, through the existing ARB greenhouse gas reporting tool. Therefore, neither of these alternatives considered by the agency would be more effective in carrying out the purpose for which the revisions are proposed or would be as effective, or less burdensome, to affected private persons than the proposed revisions.

Petroleum and Natural Gas Systems. The proposed changes for this sector were included to update typographical errors, clarify the method for reporting combustion emissions, and clarify the conversion of volumetric data to standard conditions. In addition, staff proposed that flaring emissions be included for the purposes of determining reporting applicability, and the emissions must be reported if the applicability threshold is exceeded. Staff has also proposed a requirement for facilities to provide a facility schematic diagram indicating fuel flows and metering locations. Staff has also replaced the existing flash emissions test method in Appendix B of MRR with a revised method to improve data quality, and provide consistency with other ARB programs. Finally, staff has proposed changes related to reporting sorbent emissions, and gas processing plant emissions. The two alternatives considered were taking no action and directly adopting the associated U.S. EPA regulations. Not taking action would provide incomplete and inaccurate data reporting. Adopting the associated U.S. EPA requirements is an inadequate alternative because the data collected would not be sufficiently accurate or complete to meet ARB program needs, including for the cap-and-trade program. Therefore, neither of these alternatives considered by the agency would be more effective in carrying out the purpose for which the revisions are proposed or would be as effective, or less burdensome, to affected private persons than the proposed revisions.

Fuel Suppliers Revisions. Staff proposed updates to the regulation to clarify the fuel supplier data reporting requirements as discussed previously. Proposed revisions include a modification to change the point of regulation for importers of LPG and LNG, a clarification of the reporting requirements for fuel that is delivered over multiple racks, an additional requirement to report the volume of fuels exported from California, clarified definitions and reporting requirements for intrastate pipeline suppliers, clarified reporting requirements for facilities that “pass through” natural gas received from utilities or interstate pipelines, and removal of the requirement for enterers and in-State producers of ethanol and biodiesel to report the volume of those fuels. Two alternatives were considered in making these revisions. The first was to not include the clarifications or collect the additional data (no action alternative). This alternative would provide incomplete and potentially inaccurate data needed to support ARB programs. The second alternative considered was to collect the data from other sources. This alternative would require separately contacting affected facilities individually, which would be very resource intensive and duplicative for both the ARB and for the reporting entities. Instead, the most efficient and cost effective approach is to update the regulation as proposed, and require reporting of the information via the existing GHG

mandatory reporting regulation, through the existing ARB greenhouse gas reporting tool. Therefore, neither of these alternatives considered by the agency would be more effective in carrying out the purpose for which the revisions are proposed or would be as effective, or less burdensome, to affected private persons than the proposed revisions.

Electric Power Entity Revisions. Staff proposed updates to MRR for electric power entities. Proposed revisions include modifications to the reporting requirements for sales into CAISO markets, revisions to clarify the requirements for the “lesser of” analysis, revisions to clarify the requirements for reporting REC serials numbers for specified imports, and reporting requirements for imported electricity to ensure full accounting of emissions from imported electricity resulting from transfers within the CAISO EIM, which are discussed in the next section under “CAISO Reporting Requirements.” Finally, staff clarified the definition of “first point of receipt” and that imported power must be disaggregated by generation source.

The proposed changes require minimal additional resources across the sector and provide data necessary to support the California cap-and-trade program. Two alternatives were considered in making these revisions. The first was to not include the clarifications or collect the additional data (no action alternative). This alternative would provide incomplete and potentially inaccurate data needed to support ARB programs. The second alternative considered was to collect the data from other sources. This alternative would require separately contacting affected facilities individually, which would be very resource intensive and duplicative for both the ARB and for the reporting entities. Instead, the most efficient and cost effective approach is to update the regulation as proposed, and require reporting of the information via the existing GHG mandatory reporting regulation, through the existing ARB greenhouse gas reporting tool. Therefore, neither of these alternatives considered by the agency would be more effective in carrying out the purpose for which the revisions are proposed or would be as effective, or less burdensome, to affected private persons than the proposed revisions.

CAISO Reporting Requirements. Staff is proposing to include CAISO as a reporting entity for electricity imports data related to transfers within the EIM. In previous years, this type of data was acquired through a formal subpoena process. Since the EIM may not be providing ARB or its participating members some of which are reporting entities under MRR, all of the data to support full accounting of GHG emissions experienced by the atmosphere when there is dispatch to serve California load during periods of imbalances, staff worked with CAISO to identify the additional type of data that would be needed to support full GHG accounting. As this data will be provided by CAISO directly and used in the cap-and-trade program to assess compliance obligations, the timeliness and verification of the data must be the same as other data collected for the same purpose. The regulatory amendments provide one way to support full GHG accounting. Staff will continue to coordinate with CAISO and stakeholders to provide any alternatives or refinements to the proposed amendments. Further options have been

provided to stakeholders in a recent workshop,¹ and may be explored later in this regulatory process, with an opportunity for notice and comment, as an alternative to the option currently proposed. An alternative to not address this issue would not support the purpose of the revisions.

Verification Requirements. The proposed changes to the verification requirements include a change to the verification deadline each year, from September 1 to August 1. This modification of the verification deadline will allow sufficient time for ARB staff to review and analyze verified emissions and product data, which is necessary to support the cap-and-trade program, and the timely implementation of calculating compliance obligations and allowance allocations for covered entities. One alternative was considered in making these revisions, which was to not include the changes (no action alternative). This alternative would not allow the timely and efficient implementation of the cap-and-trade program, and therefore, would not be more or as effective in carrying out the purpose for which the revisions are proposed. While the implementation of the change to the verification deadline may allow less time for reporting entities to verify their data, it will provide these entities more time to review their compliance obligation, assess how many allowances they receive, and make arrangements to acquire any additional compliance instruments needed for timely compliance. Therefore, the alternative would be no less burdensome overall, to affected private persons than the proposed revisions.

III. SUMMARY OF PROPOSED ACTION

Staff proposed the amendments to the reporting regulation to continue to support the cap-and-trade program through the reporting of complete and robust GHG emissions data, harmonize the reporting requirements for MRR and the CPP, and to continue supporting the statewide GHG emissions inventory, to the extent feasible. A summary of the proposed amendments is included previously in Section B of Chapter II (Proposed Solutions to the Problem) and in detail in Chapter VII. Staff is recommending that the Board approve the revisions to the regulation, as proposed.

IV. ENVIRONMENTAL IMPACTS ANALYSIS

A. Introduction

ARB's regulatory program, which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the State's ambient air quality, has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of CEQA (14 CCR § 15251(d)). Public agencies with certified regulatory programs are exempt from certain CEQA requirements, including but not limited to, preparing environmental impact reports, negative declarations, and initial studies. ARB, as a lead agency, prepares a

¹ See http://www.arb.ca.gov/cc/capandtrade/meetings/062016/arb_and_caiso_staff_presentations.pdf.

substitute environmental document (referred to as an “Environmental Analysis” or “EA”) as part of the Staff Report prepared for a proposed action to comply with CEQA (17 CCR §§ 60000-60008).

This EA section provides the basis for ARB’s determination that the proposed amendments are exempt from the requirements of the California Environmental Quality Act (CEQA). A brief explanation of this determination is provided below. If the proposed amendments are finalized, a Notice of Exemption will be filed with the Office of the Secretary for the Natural Resources Agency and the State Clearinghouse for public inspection.

B. Analysis

ARB has determined that the proposed amendments are exempt from CEQA under the “general rule” or “common sense” exemption (14 CCR § 15061(b)(3)). The common sense exemption states a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The regulation, as modified by the proposed amendments, continues to provide regulated entities with a reporting program for submitting GHG emissions data reports to ARB. The proposed amendments affect only program administration and contents of databases, and do not involve or result in any changes to the physical environment. The proposed amendments make administrative and procedural changes to clarify and amend existing requirements and definitions in MRR. Based on ARB’s review it can be seen with certainty that the proposed changes do not alter compliance with MRR in any way that could affect air emissions, the physical environment, or result in adverse impacts to the environment, therefore this activity is exempt from CEQA.

V. ENVIRONMENTAL JUSTICE

State law defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Senate Bill 115, Solis; Stats 1999, Ch. 690; Government Code § 65040.12(c)). The Board approved Environmental Justice Policies and Actions on December 13, 2001, to establish a framework for incorporating environmental justice into the ARB’s programs consistent with the directives of State law. These policies apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low-income and minority communities.

Actions of ARB, local air districts, and federal air pollution control programs have made substantial progress towards improving the air quality in California. However, some communities continue to experience higher exposures than others because of the cumulative impacts of air pollution from multiple sources.

Adoption and implementation of the proposed amendments to the reporting regulation will have no negative environmental impacts on environmental justice communities. Facilities throughout the state will be required to report their GHG emissions, with the focus on those facilities producing the highest levels of emissions. The amended regulations continue to include mandatory reporting for over 90 percent of the stationary source GHG emissions in California, including specified combustion, process, and fugitive emissions. Emissions information from these reports is made available to the public at large, providing accurate and transparent greenhouse gas emissions data to environmental justice communities, and to support ARB's Adaptive Management Plan for the Cap-and-Trade regulation.

VI. ECONOMIC IMPACTS ANALYSIS/ASSESSMENT

In this chapter, ARB staff provides the estimated costs to businesses and public agencies to comply with staff's proposed amendments to MRR. The amendments are expected to affect approximately 122 business entities, including 14 local government entities and one state government entity. The total cost impact to all affected entities, including private businesses and local and state government entities is projected to be a cost of \$298,880 over an eight-year period.

The cost estimates are based on approximations of the amount of time required to comply with each of the amended provisions for each affected industry sector. The approximations of costs provide a general estimate of the economic impacts that typical businesses subject to the proposed amendments might encounter. Individual companies may experience different impacts than those calculated here depending on various factors such as the specific industry sector, the regulation changes that apply to them, the complexity of operation, the types of emission sources on-site, and existing compliance practices.

Because of the minimal additional costs, ARB staff does not expect businesses to be affected adversely by the costs of the proposed amendments. As a result, staff does not expect a noticeable change in employment, business creation, expansion, or elimination, or business competitiveness in California.

A. ANALYSIS OF ECONOMIC IMPACTS

1. Summary of Economic Impacts

The primary costs associated with complying with the proposed amendments to the reporting regulation are costs incurred for recordkeeping activities and preparation of an annual emissions data report.

In developing the amendments to the GHG reporting regulation, staff attempted to minimize costs, while complying with the specific reporting requirements of AB 32 and collecting data of high quality to support the market-based cap-and-trade program and the Cost of Implementation Fees Program. Amendments were also needed to comply with the U.S. EPA CPP. The amended regulation will have minimal cost impacts for reporters affected by the revisions, and the vast majority of reporters will not experience a noticeable change in the cost of compliance.

Over eight years, ARB staff estimates that the amended requirements will affect 122 unique businesses, with a statewide net cost of \$298,880. This cost includes the net

total of some amendments that lead to cost savings, and some that lead to increased costs. The cost to 14 local agencies is estimated to be approximately \$19,709 over eight years. The five local entities that operate affected power plants are estimated to have a combined cost increase of \$1,403 over eight-years to make minor changes in how their GHG data are reported for the first year that the updates take effect. The nine local government electric power entities affected by the changes are estimated to incur an additional net cost of approximately \$18,306 over eight-years to comply with the proposed revisions, which includes some minor cost savings.

The proposed amendments will not require additional ARB funding. The amendments will be implemented using existing ARB staffing. Any ARB fiscal expenses needed for implementing the proposed amendments are already accounted for in the current operational budget that was approved as a part of the previous rule amendments.

None of the businesses affected by the proposed amendments are small businesses. The cost of this amendment is not expected to have a significant material impact on any affected businesses. As a result, ARB staff does not expect a noticeable change in employment, business creation, elimination or expansion, consumer prices, or business competitiveness in California due the reporting requirements. ARB staff also expects no job or business losses due to the reporting regulation because most of the job creation associated with GHG reporting was gained following implementation of the original rule in 2007.

The reporting regulation amendments would have no discernable impact on the ability of California businesses to compete with businesses in other states. This is because the regulation does not impose a significant cost impact on California businesses.

2. Legal Requirements for Fiscal Analysis

Section 11346.3 of the Government Code requires that, in proposing to adopt or amend any administrative regulation, State agencies must assess the potential for adverse economic impacts on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. The assessment must also include the potential impact of the regulation on California jobs, business expansion, elimination or creation, and the ability of California business to compete with businesses in other states.

Also, State agencies are required to estimate the costs or savings to any State or local agency and school district in accordance with instructions adopted by the Department of Finance. The estimate shall include any non-discretionary cost or savings to local agencies, and the cost or savings in federal funding to the State.

Health and Safety Code section 57005 requires ARB to perform an economic impact analysis of submitted alternatives to the proposed regulation before adopting any major regulation. A major regulation is defined as a regulation that will have a potential cost to California business enterprises in an amount exceeding ten million dollars in any single year. ARB staff has determined that the amendments to the proposed regulations are not a major regulation as defined above.

The following is a description of the methodology used to estimate costs, as well as ARB staff's analysis of the economic impact on California businesses and State and local agencies.

3. Costs to State Government and Local Agencies

GHG reporting is mandatory for any facility or entity that meets the regulation's applicability requirements, including state and local agencies. The cost to 14 local agencies is estimated to be approximately \$19,709 over eight years. The five local entities that operate affected power plants are estimated to have a combined cost increase of \$1,403 over eight-years to make minor changes in how their GHG data are reported for the first year that the updates take effect. One state-operated power plant is also affected by this change, with an estimated state cost of \$221 over eight years. The nine local government electric power entities affected by the changes are estimated to incur an additional net cost of approximately \$18,306 over eight-years to comply with the proposed revisions, which includes some minor cost savings.

Adoption of the proposed amendments is expected to require continued funding for ARB to administer the program. The amendments will be implemented using existing ARB staffing, and no change in staffing level is needed to administer the program under the amended rule. Any ARB fiscal expenses needed for implementing the proposed amendments are already accounted for in the current operational budget that was approved as a part of the previous rule amendments.

Local government entities face no new legal requirements specific to them under this regulation. Instead, the proposed amendments simply implement general requirements (which are required by federal law) in an even-handed way, and so include these entities like any other. Thus, because the regulation applies generally to all entities operating affected sources, not local government entities in particular, and so does not impose unique new requirements on local agencies, this is not a reimbursable mandate. (*County of Los Angeles v. State of California*, 42 Cal. 3d 46 (1987)). In addition, the state fiscal impacts are the result of generally applicable requirements, imposed by federal and state law, and are not uniquely focused on state government entities.

4. Costs to Small Businesses

ARB staff confirmed the small business status of each reporting entity by conducting a detailed review of their corporate owner information, as well as conducting research on their parent company to determine the size and dominance. It was determined that none of the affected reporters qualify for small business status based on the California Government Code Section 11342.610 definition.

5. Estimating Costs for Compliance

As a part of developing the regulatory amendments, ARB staff estimated the costs of compliance for facilities subject to the amendments.

The reporting regulation focuses on the largest stationary sources of GHG emissions and other sources that provide for an effective cap-and-trade program. The specific cost for a facility subject to GHG reporting can vary significantly depending on each facility's unique situation in terms of its sector designation, type and size of its fuel

combustion equipment, facility complexity, emissions level, and its current monitoring and sampling practices as compared to its requirements under this proposal.

For an individual reporting entity (which may either be an industrial facility or a fuel supplier, as defined in the reporting regulation), the cost per entity may range widely. Additional costs for typical businesses subject to the proposed amendments will generally be small, because the bulk of the baseline costs are incurred complying with the existing ARB reporting regulation.

The main steps taken to estimate costs for facilities and entities are as follows:

- Review individual amended requirements to identify those that may have noticeable cost impact on affected reporting entities.
- Identify the new tasks that each facility type will need to perform to comply with the amended regulation, as well as the existing tasks that each facility type will no longer need to perform.
- Estimate the incremental time requirements of different compliance tasks that are expected for each amended rule provision.
- Compile the cost components and calculate the cost impacts for each amended requirement that has been identified to lead to a noticeable cost impact.
- Review the list of reporting entities (facilities, fuel suppliers, and electric power entities) and the information they included in their previous emissions data reports to identify the reporting entities affected by each amended requirement.
- Review the list of affected facilities to identify those owned by local and state government entities. Group these facilities by their common local government entity owner. Quantify costs similar to private industry sector described above.
- Calculate the total costs over eight years.

Some of the proposed updates produce a minor cost savings, while others impose minor additional costs. The proposed amendments that lead to changes in cost to comply with the regulation are described below for each affected industrial sector.

B. Major Regulations

For a major regulation proposed on or after January 1, 2014, a standardized regulatory impact analysis is required. (A major regulation is one “that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000), as estimated by the agency.” (Govt. Code Section 11342.548) – Note: Health and Safety Code Section 57005(b) For purposes of this section, “major regulation” means any regulation that will have an economic impact on the state’s business enterprises in an amount exceeding ten million dollars (\$10,000,000), as estimated by the board, department, or office within the agency proposing to adopt the regulation in the assessment required by subdivision (a) of Section 11346.3 of the Govt. Code. ARB staff has determined that the amendments to the proposed regulations are not a major regulation as defined above.

C. Reasonable Alternatives to the Regulation and the Agency's Reason for Rejecting those Alternatives

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, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Because the proposed amendments are made to the existing reporting regulation, and given that these proposed amendments do not have a significant adverse fiscal or economic impact, the need for an alternative approach is limited. However, alternatives considered included making no changes, or attempting to obtain required data from other third-party sources. Alternatives considered and staff's recommendations regarding these alternatives are found in section D of Chapter II of this report. As that section describes, these alternatives would be ineffective in serving the purposes of MRR, and so would not produce cost-savings in carrying out those purposes. In conclusion, no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective, or less burdensome, to affected private persons than the proposed regulation.

D. Significant Adverse Economic Impact Directly Affecting Business

ARB staff estimates that the amended requirements will lead to a total net cost increase of approximately \$298,880 for affected reporters over an eight-year time period, which includes cost increases and decreases. The changes are anticipated to have fiscal impacts on 122 unique businesses, including the CAISO – a proposed new reporting entity. Some industrial sectors will have overall net minor cost increases, such as for oil and gas production, certain electricity generators, nitric acid production facilities, and fuel suppliers. Other sectors will have minor net cost savings, such as for refineries, general industrial sources, and certain electric power entities.

For those sectors that have cost increases, approximately 33 percent of the overall cost is to oil and gas production facilities, 23 percent to electric power entities, 16 percent to fuel suppliers, 10 percent to general industry sources, 9 percent to electricity generators, and 9 percent to refineries. (See Table 1)

On an average basis, a typical reporter affected by the proposed revisions will have an initial first year net cost increase of \$984, with an annual ongoing cost increase of \$224 per year. In estimating costs, staff determined the first year cost, which is typically higher in order to implement new procedures, measurements, or other changes, and then the ongoing annual costs for a typical business. Staff estimated costs by determining the number of reporting entities affected by each specific regulation change, and the time/labor required to implement each revised requirement. The time factor was then multiplied by a weighted wage rate for California to determine the cost (or savings in some cases) for each proposed change.

The actual cost range for individual reporters can vary substantially, depending on the sector and the proposed regulatory changes. In addition, some of the proposed revisions result in cost savings for some reporters, but the total of all changes produces an overall cost increase.

For the total net costs, which result in an overall cost of \$298,880, both costs and savings are included. But, for computing the share of costs for each industry sector as shown in Table 1, staff only included elements of the regulation changes that impose cost increases. This removes the need to account for negative cost increases (which can create ambiguity), and focuses strictly on the revisions that are expected to produce an additional cost for reporting sectors. Table 1, summarizes the cost increases for each sector and the percentage share of the total cost increases of the proposed regulation. Table 1 only includes changes that increase costs, so the total value in Table 1 does not match the overall net cost (which includes cost reductions).

Table 1. Share of Cost Increases for Affected Industry Sectors Over Eight-Years

Source Category	Cost Increases Resulting from Regulation Updates (\$)	Share of Total Cost Increase
General Industrial (includes nitric acid production)	47,242	10%
Oil & Gas Production	148,000	33%
Refineries	38,532	9%
Fuel Suppliers	70,273	16%
CPP Electricity Generators	38,827	9%
Electric Power Entities	101,570	23%
Totals	444,444*	100%

*Increases only. Does not include proposed changes that result in cost decreases.

Based on this analysis, the Executive Officer has made an initial determination that proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses. In addition, the Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide economic impact directly affecting representative private persons.

E. Justification for Adopting Regulations Different from Federal Regulations

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). CPP also requires GHG reporting for affected EGUs. Staff believe the proposed regulation is consistent with existing federal law. In fact, this proposed amended regulation was developed to minimize, to the greatest extent possible, any redundant State and federal reporting. All remaining differences are necessary, however, to ensure that ARB is collecting the

necessary additional information required by California's various GHG programs, including the Cap-and-Trade Regulation, COI Fee Regulation, and the statewide GHG inventory.

VII. SUMMARY AND RATIONALE FOR EACH REGULATORY PROVISION

This section discusses the summary and rationale for each provision of the proposed amendments to the reporting regulation.

Subarticle 1. General Requirements for Greenhouse Gas Reporting.

Section 95101. Applicability.

Summary of Section 95101(a)(1)(D)

Section 95101(a)(1)(D) is modified to remove a reference to 2011 data reporting.

Rationale for Section 95101(a)(1)(D)

The year 2011 was included in the original drafting of the regulation. A specific year reference is no longer relevant because the threshold is based on the emissions during any year.

Summary of Section 95101(a)(2)

Section 95101(a)(2) is modified to include a comma in the text.

Rationale for Section 95101(a)(2)

This change was included to improve readability of the requirement.

Summary of Section 95101(b)

Section 95101(b) is modified to make it clear that the section specifically applies to facilities.

Rationale for Section 95101(b)

This change is needed for clarity so reporters know this section only applies to facility operators.

Summary of Section 95101(b)(2)

Section 95101(b)(2) is modified to specify that flaring emissions must be included when evaluating facility emissions against the 10,000 MT CO₂e reporting threshold for petroleum and natural gas systems. In addition, the text was modified for clarity.

Rationale for Section 95101(b)(2)

This change is necessary to provide reporting and applicability consistency for the petroleum and natural gas sector. It ensures that a potentially significant source of combustion GHG emissions (i.e., flaring) is included in reporting for all facilities emitting more than 10,000 MT CO₂e from combustion sources and process emissions in the petroleum and natural gas sector. The workload in preparing the estimates is minimal because the flaring emissions estimate needs to be performed regardless, to determine the quantity of the flaring emissions as it pertains to the reporting thresholds. The term “emissions captured” was confusing, and the term was changed to “emissions emitted” because generally speaking, facilities are not capturing GHG emissions.

Summary of Section 95101(b)(3)

Section 95101(b)(3) is modified to delete the existing text referring to threshold

requirements for facilities with only stationary combustion emissions. This section is also modified to require that facilities must include any supplier emissions when determining applicability relative to the thresholds for emissions reporting, and to report both facility and supplier emissions if the reporting threshold is exceeded.

Rationale for Section 95101(b)(3)

The text referring to facilities with only stationary combustion emissions was removed because prior regulation updates that directly identify facility categories in sections 95101(a)(1)(A)-(B), as well as the requirements specified in section 95101(b)(2), cause section 95101(b)(3) to be redundant. The additional text requiring facilities to include certain supplier emissions when determining applicability, and to report such emissions when the threshold is exceeded, is necessary to specify that such emissions are subject to reporting. This added text supports the Cap-and-Trade Regulation by ensuring all applicable emissions required to be reported under MRR are reported. This is consistent with the existing language in section 95101(a)(2).

Summary of Section 95101(b)(4)

Section 95101(b)(4) is modified to remove the reference to section 40 CFR §98.2(b)(2).

Rationale for Section 95101(b)(4)

With the deletion of text in section 95101(b)(3), the reference to the U.S. EPA regulation is unnecessary in this section. The ARB requirements to include biomass and other biofuels in the applicability and other determinations are included in MRR and we do not need to reference the U.S. EPA section.

Summary of Section 95101(c)(5)

Section 95101(c)(5) is modified to change the point of regulation from consignees to importers for liquefied petroleum gas, compressed natural gas, or liquefied natural gas.

Rationale for Section 95101(c)(5)

This change is necessary to ensure more complete emissions coverage in the reporting program for LPG, LNG, and CNG imported into California. Under the current regulation, some consignees of the imported fuels are receiving relatively small quantities of imported fuel annually and are falling below the reporting threshold resulting in inadequate reporting of total volumes of imported fuel. By moving the point of regulation upstream to the importer, this issue will largely be resolved. This change is also necessary to align with the terminology used in the Cap-and-Trade Regulation and ensure equal treatment of in-State and out-of-state fuel producers.

Summary of Section 95101(c)(10)

Section 95101(c)(10) is modified to align terminology for related facilities that make LNG and CNG products with the terminology proposed to be used in the Cap-and-Trade Regulation.

Rationale for Section 95101(c)(10)

This change is necessary to ensure clarity and consistency of the requirements in MRR and the Cap-and-Trade Regulation for facilities that make LNG products.

Summary of Section 95101(e)

Section 95101(e) is modified to specify that flaring emissions must be included when evaluating facility emissions for determining reporting applicability under the 10,000 MT CO₂e reporting threshold for petroleum and natural gas systems.

Rationale for Section 95101(e)

This change is necessary to provide reporting and applicability consistency for the petroleum and natural gas sector. It ensures that a potentially significant source of combustion GHG emissions (i.e., flaring) is included in reporting for all facilities emitting more than 10,000 MT CO₂e from combustion sources and process emissions in the petroleum and natural gas sector. The workload in preparing the estimates is minimal because the flaring emissions estimate needs to be performed regardless, to determine the quantity of the flaring emissions as it pertains to the reporting thresholds. The term “emissions captured” was confusing, and the term was changed to “emissions emitted” because generally facilities are not capturing GHG emissions.

Summary of Sections 95101(h), 95101(i), and 95101(j) – Overview

The existing text for sections 95101(h), 95101(i), and 95101(j) is either deleted and replaced with new text, or substantially reorganized. There are not substantial changes to the underlying requirements except for fuel suppliers and electric power entities, as indicated in each summary and rationale below.

Rationale for Sections 95101(h), 95101(i), and 95101(j) – Overview

In order to reorganize the reporting and verification cessation requirements for clarity, and to make changes to the requirements for fuel suppliers and electric power entities to align with the cap-and-trade regulation, it was most efficient to either delete the existing text and create new text, or reorganize existing text. The changes restructure the requirements to address those reporters that are subject to a compliance under the cap-and-trade regulation, those that are not subject to the cap-and-trade regulation, and those that shutdown. The summary and rationale for individual changes follow, which identify any changes in the cessation requirements.

Summary of Section 95101(h)

Section 95101(h) replaces the previous section by providing an overview of the cessation requirements for entities that reduce emissions below 25,000 MTCO₂e. These entities include facility operators, fuel suppliers, and electric power entities.

Rationale for Section 95101(h)

This change is needed to improve the organization and clarity of the cessation requirements. This new section establishes that the provisions in section 95101(h) apply to reporting entities whose emissions drop below 25,000 MTCO₂e. This is needed to clearly identify the cessation requirements that apply to reporters subject to the cap-and-trade regulation.

Summary of Section 95101(h)(1)

Section 95101(h)(1) provides a heading to identify that the provisions in section 95101(h)(1) apply to reporting entities subject to a compliance obligation under the cap-and-trade regulation. These entities include facility operators, fuel suppliers, and electric power entities.

Rationale for Section 95101(h)(1)

This change is needed to improve the organization and clarity of the cessation requirements.

Summary of Section 95101(h)(1)(A)

Section 95101(h)(1)(A) is added to specify when a facility operator or fuel supplier subject to a compliance obligation may cease reporting and verification under MRR.

Rationale for Section 95101(h)(1)(A)

This section is needed to describe the specific requirements that must be met before reporting and verification can cease for a facility operator or fuel supplier under MRR. The requirements are consistent with the previous requirements, but reorganized to make them more clear, particularly as they integrate with the cap-and-trade regulation cessation requirements.

Summary of Section 95101(h)(1)(A)(1.)

Section 95101(h)(1)(A)(1.) is added to specify the cessation requirements when emissions from a facility operator or supplier subject to a compliance obligation drops below 25,000 MTCO_{2e} but remains above 10,000 MTCO_{2e} for three years.

Rationale for Section 95101(h)(1)(A)(1.)

This change is needed to explain how the cessation requirements apply to reporters that drop below the 25,000 MTCO_{2e} for the cap-and-trade program but remain above the 10,000 MTCO_{2e} reporting threshold. These entities must still continue to report until they are fully below the 10,000 MTCO_{2e} reporting threshold for three consecutive years before exiting the program as described in section 95101(h)(2).

Summary of Section 95101(h)(1)(A)(2.)

Section 95101(h)(1)(A)(2.) is added to specify the cessation requirements for certain industrial sectors that do not have a reporting threshold under MRR and are also subject to a compliance obligation.

Rationale for Section 95101(h)(1)(A)(2.)

Cessation for certain sectors without a reporting threshold were previously addressed in the now deleted text of original section 95101(h)(1). The new text is provided to explain and modify what is required by these reporters prior to exiting the reporting program. If they are subject to a compliance obligation, they effectively cannot cease reporting until they shut down since they have a zero reporting threshold. This requirement has changed from the original requirement in that these entities may only exit once they meet the cessation requirements for a zero threshold (section 95101(i)), and under the current regulation they would be allowed to leave the program after being below the

10,000 MTCO₂e reporting threshold for a three-year period. This change is needed to ensure consistency in reporting across sectors and entity types, as well as entities within the same sector.

Summary of Section 95101(h)(1)(A)(3.)

Section 95101(h)(1)(A)(3.) is added to specify the cessation requirements for opt-in covered entities.

Rationale for Section 95101(h)(1)(A)(3.)

This new section is added to provide explicit requirements regarding the cessation requirements for opt-in covered entities. There is no change to the existing requirement, but the requirement was not directly spelled out for this group of reporters.

Summary of Section 95101(h)(1)(A)(4.)

Section 95101(h)(1)(A)(4.) is added to specify the cessation requirements for fuel suppliers that cease to supply fuel in California and have a compliance obligation.

Rationale for Section 95101(h)(1)(A)(4.)

This new section is added to clarify and modify the cessation requirements for fuel suppliers with a compliance obligation. Under the proposed revisions, fuel suppliers that cease to supply fuel in California and have a compliance obligation whose emissions drop to zero must now report and verify until their emissions are zero for an entire compliance period. Under the existing requirements these reporters only have to report until they have reported a value of zero for one year, and the zero value was not subject to verification. The new cessation requirements are needed to reduce the possibility of reporting entities entering and exiting the MRR and cap-and-trade programs simply due to year-to-year variations in fuel deliveries. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the programs.

Summary of Section 95101(h)(1)(B)

Section 95101(h)(1)(B) is added to specify the cessation requirements for electric power entities with a compliance obligation.

Rationale for Section 95101(h)(1)(B)

New section is added to clarify and modify the cessation requirements for electric power entities with a compliance obligation. Under the proposed revisions, electric power entities that are subject to a compliance obligation whose emissions drop to zero must now report and verify until their emissions are zero for an entire compliance period. Under the existing requirements these reporters only have to report until they have reported a value of zero for one year, and the zero value was not subject to verification. The new cessation requirements are needed to reduce the possibility of reporting entities entering and exiting the MRR and cap-and-trade programs simply due to year-to-year variations in electricity imports. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the programs.

Summary of Section 95101(h)(1)(C)

Section 95101(h)(1)(C) is added to specify the requirements that entities with a compliance obligation must meet for notifying ARB of cessation.

Rationale for Section 95101(h)(1)(C)

The intent of this section is to specify the requirements that entities with a compliance obligation must meet for notifying ARB that they have met the requirements for cessation. The provisions in this new section are consistent with the provisions in original section 95101(h)(1) and have minor edits for clarity and consistency with the newly drafted cessation text. Specifically, this change only moves the deadline by about 10 days, and eliminates a separate deadline that reporters and ARB would have to track.

Summary of Section 95101(h)(1)(D)

Section 95101(h)(1)(D) is added to specify the requirements for maintaining records that entities subject to a compliance obligation must meet when they exit the reporting program.

Rationale for Section 95101(h)(1)(D)

This section is required to specify record retention requirements of 10 years for entities with a compliance obligation that exit MRR. This is not a new requirement, as covered entities are already required to retain records for a period of 10 years. This is meant to specifically identify it for cessation entities.

Summary of Section 95101(h)(2)

Section 95101(h)(2) provides a heading to identify that the provisions in section 95101(h)(2) apply to reporting entities that are not subject to a compliance obligation under the cap-and-trade regulation. These entities include facility operators, fuel suppliers, and electric power entities.

Rationale for Section 95101(h)(2)

This change is needed to improve the organization and clarity of the cessation requirements.

Summary of Section 95101(h)(2)(A)

New section 95101(h)(2)(A) is added to specify when a facility operator or fuel supplier that is not subject to a compliance obligation may cease reporting under MRR.

Rationale for Section 95101(h)(2)(A)

This section is needed to describe the specific requirements that must be met before reporting can cease for a facility operator or fuel supplier not subject to a compliance obligation. The requirements are consistent with the previous requirements, but reorganized to make them more clear, particularly as they integrate with the cap-and-trade regulation cessation requirements.

Summary of Section 95101(h)(2)(A)(1.)

Section 95101(h)(2)(A)(1.) is added to specify when a facility that has covered emissions of less than 25,000 MTCO₂e, but total reported emissions over 25,000 MTCO₂e may cease verification.

Rationale for Section 95101(h)(2)(A)(1.)

This section is needed to describe the specific requirements that must be met before verification can cease for a facility operator or fuel supplier with covered emissions of less than 25,000 MTCO₂e, but total reported emissions over 25,000 MTCO₂e, under MRR. These types of emissions could include CO₂ from biomass-derived fuels and geothermal sources. The requirements are the same as the previous requirements in original section 95101(i)(3), but reorganized to make them more clear.

Summary of Section 95101(h)(2)(A)(1.)(a.)

Section 95101(h)(2)(A)(1.)(a.) is added to specify when a facility that has met the cessation requirements to cease verification must again resume verification.

Rationale for Section 95101(h)(2)(A)(1.)(a.)

This section is needed to describe the requirement to resume verification of reported emissions if they are greater than 25,000 MTCO₂e for entities that have previously met the cessation of verification requirements in the preceding section of MRR. This section is implicit in the requirements of the current regulation but stating it explicitly makes the requirement more clear to entities that meet the cessation of verification requirements. Therefore, this clarification does not change any current regulatory requirements.

Summary of Section 95101(h)(2)(A)(1.)(b.)

Section 95101(h)(2)(A)(1.)(b.) is included to require facility operators and fuel suppliers captured under section 95101(h)(2)(A)(1.) that do not have a compliance obligation to notify ARB if they meet the verification cessation requirements and choose to cease verification.

Rationale for Section 95101(h)(2)(A)(1.)(b.)

The intent of this section is to specify the requirements that facility operators and fuel suppliers not subject to a compliance obligation and captured under section 95101(h)(2)(A)(1.) must meet for notifying ARB of cessation of verification. The provisions in this new section are consistent with the provisions in original section 95101(i) and have minor edits for clarity and consistency with the newly drafted cessation text. This new section does not change the current requirements, and is included to reorganize and clarify the existing notification requirements. Specifically, the change in timing is provided to clarify that entities subject to this provision must notify ARB by the reporting deadline of the year following cessation activities. This change only moves the deadline by about 10 days, and eliminates a separate deadline that reporters and ARB would have to track.

Summary of Section 95101(h)(2)(A)(2.)

Section 95101(h)(2)(A)(2.) is added to specify the requirements that a fuel supplier that is not subject to a compliance obligation and reports zero emissions must meet to cease reporting.

Rationale for Section 95101(h)(2)(A)(2.)

This new section is added to clarify and modify the cessation requirements for fuel suppliers that are not subject to a compliance obligation and report zero emissions. Under the proposed revisions, fuel suppliers that are not subject to a compliance obligation whose emissions drop to zero must now report until their emissions are zero for a consecutive three-year period. Under the existing requirements these reporters only have to report until they have reported a value of zero for one year, and the zero value was not subject to verification. The new cessation reporting requirements are needed to reduce the possibility of reporting entities from entering and exiting MRR simply due to year-to-year variations in fuel deliveries. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the program.

Summary of Section 95101(h)(2)(B)

Section 95101(h)(2)(B) is added to identify the cessation requirements for entities that do not have a reporting threshold as identified in section 95101(a)(1)(A).

Rationale for Section 95101(h)(2)(B)

Cessation for certain sectors without a reporting threshold were previously addressed in the now deleted text of original section 95101(h)(1). The new text is provided to explain and modify what is required by these reporters prior to exiting the reporting program. They effectively cannot cease reporting until they shut down since they have a zero reporting threshold. This requirement has changed from the original requirement in that these entities may only exit once they meet the cessation requirements for a zero threshold (section 95101(i)), and under the current regulation they would be allowed to leave the program after being below the 10,000 MTCO₂e reporting threshold for a three-year period. This change is needed to ensure consistency in reporting across sectors and entity types, as well as entities within the same sector.

Summary of Section 95101(h)(2)(C)

Section 95101(h)(2)(C) is added to specify the cessation requirements for electric power entities that only report electricity exports.

Rationale for Section 95101(h)(2)(C)

Under the existing requirements these reporters only have to report until they have reported a value of zero exports for one year. The new cessation requirements are needed to reduce the possibility of reporting entities from entering and exiting MRR simply due to year-to-year variations in electricity exports. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the program.

Summary of Section 95101(h)(2)(D)

Section 95101(h)(2)(D) is added to specify the cessation requirements for retail providers, ESPs, WAPA, and DWR.

Rationale for Section 95101(h)(2)(D)

This section is needed to describe the specific requirements that must be met before reporting can cease for retail providers, electric service providers (ESP), Western Area Power Administration (WAPA), and California Department of Water Resources (DWR) under MRR. The requirements are consistent with the previous requirements in original section 95101(h)(3)(D), but reorganized to make them more clear, particularly as they integrate with the cap-and-trade regulation cessation requirements. It does not create any additional requirements.

Summary of Section 95101(h)(2)(E)

Section 95101(h)(2)(E) is added to specify the notification requirements for entities not subject to a compliance obligation if reporting or verification cessation requirements have been met.

Rationale for Section 95101(h)(2)(E)

The intent of this section is to specify the requirements that entities not subject to a compliance obligation must meet for notifying ARB of cessation of reporting and verification. The provisions in this new section are consistent with the provisions in original section 95101(i) and have minor edits for clarity and consistency with the newly drafted cessation text. This new section includes only minor changes to the current requirements, and is included to reorganize and clarify the existing notification requirements. Specifically, the change in timing is provided to clarify that entities subject to this provision must notify ARB by the reporting deadline of the year following cessation activities. This change only moves the deadline by about 10 days, and eliminates a separate deadline that reporters and ARB would have to track.

Summary of Section 95101(h)(2)(F)

Section 95101(h)(2)(F) is added to specify the requirements for maintaining records that entities not subject to a compliance obligation must meet when they exit the reporting program.

Rationale for Section 95101(h)(2)(F)

The change is necessary so that if needed, ARB may confirm based on the records that are retained that the entity has maintained a status such that they are no longer subject to reporting, or verification if applicable.

Summary of Section 95101(i)

Section 95101(i) replaces original section (95101(i)) and the requirements for cessation of verification have been included throughout the new text in sections 95101(h) through (j). The individual changes to verification requirements for cessation entities are explained throughout the summary and rationale in these new sections. This new section provides an overview of the cessation requirements for facilities that permanently shut down or cease to operate.

Rationale for Section 95101(i)

This change is needed to improve the organization and clarity of the cessation requirements. This new section establishes that the provisions in section 95101(i) apply to facilities that cease to operate or permanently shut down. This is needed to clearly identify the cessation requirements that apply to facilities that shut down. These requirements for shut down facilities have not changed from the current regulation, except that fuel suppliers and electric power entities cannot be considered shut down facilities. Under the existing requirements fuel suppliers and electric power entities only have to report until they have reported a value of zero for one year, and the zero value was not subject to verification – at which time they are considered a shut down entity. The new cessation requirements for fuel suppliers and electric power entities are needed to reduce the possibility of entities from entering and exiting the MRR and cap-and-trade programs simply due to year-to-year variations in fuel deliveries or electricity imports. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the programs.

Summary of Section 95101(i)(1)

Original section 95101(i)(2), now new section 95101(i)(1) is modified to remove the supplier category for these shut down cessation requirements, adds definitions for “cease to operate” and “shut down,” and changes the timing for when a facility must notify ARB of a shut down.

Rationale for Section 95101(i)(1)

The change in timing for notification of shutdown is provided to clarify that facilities must notify ARB by the reporting deadline of the year following cessation activities. This change only moves the deadline by about 10 days, and eliminates an additional deadline that reporters and ARB would have to track. Under the existing requirements fuel suppliers only have to report until they have reported a value of zero for one year, and the zero value was not subject to verification – at which time they are considered a shut down entity. The new cessation requirements for fuel suppliers are needed to reduce the possibility of entities from entering and exiting the MRR and cap-and-trade programs simply due to year-to-year variations in fuel deliveries. The expectation with the change is that once an entity meets the long-term cessation requirements, they will be unlikely to return to the programs.

The term “cease to operate” is now explicitly described in the proposed revisions in order to provide clarity to reporters regarding what constitutes a cessation of operations under MRR. The change is needed because in prior reporting years, reporters were sometimes uncertain if they met the cessation of operations requirement. Similarly, the term “shut down” is now explicitly described in the proposed revisions to provide clarity to reporters regarding what constitutes a shut down facility under MRR, and some examples of what constitute a shutdown. As with “cease to operate” the change is needed because in prior reporting years, reporters were sometimes uncertain if they met the shut down requirements. Also, for both the “cease to operate” and the “shut down” criteria, revisions are included to allow for facilities to meet these criteria even while having minor incidental emissions sources, which are typically unrelated to primary industrial activities. This change is proposed to address real-world situations in

which reporters were unable to cease reporting and verification when they only had a small office building or other insignificant emitting sources on site (such as space heating or water heating).

Summary of Section 95101(i)(2)

Section 95101(i)(2) is changed to add numbering to support the restructuring of the cessation requirements and to correct a reference.

Rationale for Section 95101(i)(2)

This update is needed to implement the reorganization of the requirements and correct a reference due to the renumbering, and it does not alter the existing requirements for affected entities.

Summary of Section 95101(i)(3)

Section 95101(i)(3) is existing text that has been renumbered as part of the reorganization of the requirements and an obsolete reference has been deleted.

Rationale for Section 95101(i)(3)

Renumbering and the removal of the obsolete reference are needed to implement the reorganization of existing requirements for this section and it does not alter the existing requirement for affected entities.

Summary of Section 95101(i)(4)

New section 95101(i)(4) replaces the text in original section 95101(i)(1) and specifies the cessation requirements related to verification for shutdown facilities.

Rationale for Section 95101(i)(4)

The intent of this section is to specify the cessation requirements related to verification for facilities that cease to operate or shut down. The provisions in this new section are consistent with the original provisions in section 95101(i)(1) and have minor edits for clarity and consistency with the newly drafted cessation text. The requirements have not changed.

Summary of Section 95101(j)

Section 95101(j) is added to specify the requirements for entities that are complying with account closure requirements in the cap-and-trade regulation.

Rationale for Section 95101(j)

This section is added to specify that entities that meet the cessation requirements under MRR do not need to continue to report and verify in the time period for which the entity is complying with the account closure requirements in section 95835(f) of the cap-and-trade regulation. Since these activities do not incur additional compliance obligations, reporting and verification is not needed in this time period.

Section 95102. Definitions.

Summary of Section 95102(a) through (c)

Additions and edits to the definitions in sections 95102(a) through 95102(c) are included to ensure consistent interpretation of the reporting requirements. These modifications include the following: One definition for fuel suppliers was modified to clarify which entities must report as intrastate pipeline operators, and one definition was added to ensure consistent reporting of imported fuels. Several definitions for terms related to upstream petroleum and natural gas production and processing facilities were added or revised to provide clarity, and ensure consistent and accurate reporting. Definitions related to hydrogen production were also added or revised to provide clear descriptions of the terms related to hydrogen facility reporting requirements. Several definitions in this section were revised to clarify the correct classification and quantification of complexity weighted barrel product data parameters, without changing any reporting requirements. Several definitions related to electric power entities have been modified to reflect changes to the point of disaggregation for the reporting of imported power. These changes clarify existing reporting procedures and further align with industry practice. Several definitions related to product data were modified, and marked for further modification, in order to better reflect industry classifications, and may be further modified in response to stakeholder comments or staff analysis. One definition associated with verification requirements was changed to reflect that a correctable error in data that does not affect covered emissions or covered product data does not result in an adverse verification statement.

Rationale for Section 95102(a) through (c)

These sections including definitions are necessary to ensure that those subject to the regulation are able to understand and interpret the regulation correctly, and to avoid ambiguity and improve compliance with the regulation. ARB staff has attempted to include all key terms used in the regulation. Deletions, additions, reordering, and modifications are necessary to ensure clear interpretation of terms related to the other amendments to the regulation in this rulemaking.

Section 95103. Greenhouse Gas Reporting Requirements.

Summary of Section 95103(a)

Section 95103(a) is modified to remove a reference to 2011 data.

Rationale for Section 95103(a)

It is no longer necessary to reference 2011 data, which was the initial year of reporting under the current regulatory structure.

Summary of Section 95103(a)(2)

Section 95103(a)(2) is modified to require operators of petroleum and natural gas systems to report flaring emissions, even if they meet the requirements for abbreviated reporting. In addition, minor changes were made to clarify that the requirements apply to all reporting entities.

Rationale for Section 95103(a)(2)

This change is necessary to provide reporting and applicability consistency for the petroleum and natural gas sector. It ensures that a potentially significant source of combustion GHG emissions (i.e., flaring) is included in reporting for all facilities emitting more than 10,000 MTCO₂e from combustion sources and process emissions in the petroleum and natural gas sector. These changes are also needed for clarity, to ensure that the modified sentences apply to any facility or entity, not just a specific subset of facilities or entities.

Summary of Section 95103(f)

Section 95103(f) is modified to clarify the verification requirements as it relates to cessation. This section is also modified to correct an incorrect reference. This section is also modified to change the verification deadline from September 1 to August 1 of each year.

Rationale for Section 95103(f)

These changes make it clear that any reporter that does not meet the verification cessation requirements must complete the verification requirements. Previously, there was some ambiguity because only electric power entities that are importers or exporters were specifically mentioned. This clarification does not change the current requirements. In addition, a change was made to ensure that it is clear that specified facilities that are also fuel suppliers as specified in section 95101(b)(3) are also subject to the 25,000 MTCO₂e verification thresholds. The changes also correct an incorrect reference.

The change in verification deadline is needed to support the cap-and-trade program. Currently, obtaining the necessary verified data on September 1 does not provide ARB staff sufficient time to reasonably perform quality assurance checks, calculations, analysis, and the data notifications and postings needed to complete all mandated activities under the cap-and-trade program. Providing an additional month after the verification deadline allows ARB sufficient time to assess a compliance obligation to all covered entities, as well as calculate allowance allocation amounts, prior to the November 1 Cap-and-Trade Regulation compliance deadline. This additional time will provide covered entities time to review their compliance obligation, assess how many allowances they receive, and make arrangements to acquire any additional compliance instruments needed for timely compliance. The net result is that reporters have 8 months to report and verify their emissions, leaving ARB staff about 2 months to process the information and distribute millions of dollars in allowance value.

Summary of Section 95103(h)

Section 95103(h) is modified to reflect when the proposed revisions for this amendment cycle take effect.

Rationale for Section 95103(h)

The change is needed to have the effective dates reflect the requirements currently being proposed.

Summary of Section 95103(h)(1)

Section 95103(h)(1) is new text to specify the first year under which reports must be verified by the revised August 1 deadline.

Rationale for Section 95103(h)(1)

This change is needed to provide clarity to reporters regarding the initial year in which the updated verification deadline takes effect. All subsequent annual reports must also be verified by the August 1 deadline.

Summary of Section 95103(h)(2)

Section 95103(h)(2) specifies that covered product data, including any requirements proposed under the revisions, must be reported for 2017 data submitted in 2018, and for each subsequent year.

Rationale for Section 95103(h)(2)

Because product data are used for allowance allocations under the cap-and-trade regulation, it is important to obtain the information as soon as possible. And, because facility operators are already collecting the specified product data, it does not create a burden by having the data reported a year earlier than when the other requirements take effect.

Summary of Section 95103(h)(3)

Section 95103(h)(3) is added to specify that the method in section 95153(a) for quantifying emissions from continuous bleed pneumatic devices applies to 2019 data reported in 2020.

Rationale for Section 95103(h)(3)

This specification is necessary to establish consistency between MRR requirements, the Cap-and-Trade Regulation, and the requirements set forth in other ARB programs.

Summary of Section 95103(h)(4)

Section 95103(h)(4) is added to specify when the requirements of the new Subarticle 6 take effect.

Rationale for Section 95103(h)(4)

The new section is added to specify that data required to be collected to comply with the Clean Power Plan is first required to be reported in 2022 for the 2021 calendar year.

Summary of Section 95103(i)

Section 95103(i) is modified to remove the ability for suppliers to use the de minimis provisions in reporting emissions data. Section 95103(i) is also updated to reference the ARB's definition of GWP, rather than referencing U.S. EPA's Table A-1 of CFR Part 98.

Rationale for Section 95103(i)

The de minimis reporting provisions are provided for reporters to estimate emissions from minor sources that may be difficult, costly, or inefficient to quantify in a manner that

fully meets MRR accuracy requirements. However, fuel suppliers typically use invoice or other sales data (which is assumed to be 100 percent accurate) to quantify associated emissions data, making the use of de minimis provisions unnecessary. The change is to ensure that any fuel supplier data meets the full accuracy requirements of the regulation.

This revision is proposed because beginning with 2021 data reported in 2022, under the revisions reporters would be required to use updated GWP values. The use of updated GWP values as provided in the revised “global warming potential” definition of MRR is needed to reflect current science related to GWP values, and to provide compatibility with other GHG reporting programs.

Summary of Section 95103(k)(4)(C)

Section 95103(k)(4)(C) is modified to remove the requirement to recalibrate meters every three year compliance period, and instead require recalibration once every 36 months.

Rationale for Section 95103(k)(4)(C)

Because compliance periods are proposed under the Cap-and-Trade Regulation to vary between two and three year timeframes for future years, staff clarified that calibrations must be performed every 36 months instead of each compliance period to provide consistency for reporters. Currently compliance periods are three-year periods, and therefore, the frequency is not proposed to increase under this proposal, but to remain the same.

Summary of Section 95103(k)(6)(A)(1.)

Section 95103(k)(6)(A)(1.) is modified to adjust the frequency of inspection of pressure differential metering devices located at refineries that operate continuously with infrequent outages.

Rationale for Proposed Updates Section 95103(k)(6)(A)(1.)

This change is needed to provide refineries the opportunity to better align their planned unit shutdowns with metering device inspection requirements.

Summary of Section 95103(k)(6)(A)(1.)(a.)

Section 95103(k)(6)(A)(1.)(a.) is modified to clarify that metering inspection records must include an as-found condition.

Rationale for Proposed Updates Section 95103(k)(6)(A)(1.)(a.)

This change is needed to ensure consistent implementation of meter inspection record keeping requirements.

Summary of Section 95103(k)(10)

Section 95103(k)(10) is modified to correct references to “percent.”

Rationale for Section 95103(k)(10)

This change is needed to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95103(l)

Section 95103(l) is modified to remove the ability to not report accurate covered product data.

Rationale for Section 95103(l)

This change is needed to ensure that representative data are reported for potential updates to Cap-and-Trade Regulation product-based benchmarks. Cap-and-trade program staff have proposed to update benchmarks before the fourth compliance period. These benchmarks will not accurately represent emissions per unit product if all accurate covered product data are not reported.

Summary of Section 95103(m)

Section 95103(m) is modified to remove a reference to past dates, clarify the intent regarding method changes so it includes both ARB approved changes, as well as methods in which ARB is provided notice of an improved method, and to clarify when a change in methodology is allowed under the Regulation.

Rationale for Section 95103(m)

These changes are needed because the program is now mature and past dates are no longer applicable for future reporting activities, nor is the reference to future reports. Some method changes required ARB approval. "Improvements" in methods require that ARB be notified, but ARB approval is not required. Therefore, section 95103(m) was modified to clarify that the method selection and use provisions apply both to methods approved by ARB, as well as methods in which ARB was provided notice of an improved method. These changes are also needed to provide clarity and correct references for when a change in methodology is allowed under the Regulation.

Summary of Section 95103(m)(1)

Section 95103(m)(1) is modified to include subsections that describe what constitutes a change in method under the Regulation and sets up a hierarchy for several options to change methods prescribed in the Regulation. New sections 95103(m)(1)(A) through (C) distinguish between the different types of methodology changes allowed, specify which types of methodology changes require ARB approval and which only require notification, and clarify the timing of when a method can be submitted to ARB and used for reporting data.

Rationale for Section 95103(m)(1)

These changes are needed for clarity and more clearly defines a change of method.

Summary of Section 95103(m)(1)(A)

New section 95103(m)(1)(A), original section 95103(m)(1), is modified to specify that these requirements only apply to permanent improvements in methods for emissions data, and to remove an obsolete date reference. This section is also modified to specify which methods this section apply and when reporting entities must notify ARB of a permanent improvement in method.

Rationale for Section 95103(m)(1)(A)

Under the exiting provision, in some situations it was unclear when a reporter was required to notify ARB of a new method, and when they could begin using an approved method for collecting and reporting data. For clarity, renumbering of section 95103(m) was needed to clearly distinguish between emissions methodology improvements, emissions methodology changes that are not considered improvements, and changes to product data methodologies. This change makes it clear when a reporter is required to either submit a methodology request or to notify ARB of methodology improvements, and makes it clear when the reporting entity may begin using the new methodology for data reporting. The historical reference to January 1, 2013, is no longer necessary now that the reporting program has been in effect for several years. This section also clarifies that improved methods for emissions data do not require ARB approval; however, the reporter must notify ARB by the reporting deadline of the first year data is reported using the improved method so ARB and the verifier understand if there are any differences in data calculations from the prior reporting year. These changes simplify the process for reporters who chose to implement an improvement in an emissions calculation or monitoring methodology.

Summary of Section 95103(m)(1)(B)

Section 95103(m)(1)(B) is added to distinguish the requirements for emissions method changes that are not considered improvements, but instead are a permanent change to a lower-tier methodology for emissions data. This new section clarifies the timing for submitting this type of method change request, as well as the type of information that a reporting entity must include in its request. For changes to lower-tier methods, ARB must approve the method change prior to the method being used for estimating emissions or reporting to allow staff enough time to review the method change prior to reporting. As an example, if a reporting entity wants to change from a Tier 3 to a Tier 2 emissions calculation methodology for reporting 2018 data; the reporter must submit a request to ARB prior to January 1, 2019. If approved, the lower-tier method can be used to report 2018 emissions data in 2019.

Rationale for Section 95103(m)(1)(B)

These changes are necessary to distinguish the requirements for improved emissions method changes from the requirements for requesting changes to a lower-tier methodology for emissions data, and to clarify the notification requirements.

Summary of Section 95103(m)(1)(C)

Section 95103(m)(1)(C) is added to distinguish the requirements for emissions method changes from the requirements for covered product data method changes. This new section requires method changes for covered product data to be submitted as an alternative method pursuant to section 95103(m)(2), and clarifies the timing for submitting covered product data method change requests, as well as the type of information that a reporting entity must include in its request.

Rationale for Section 95103(m)(1)(C)

This change is necessary to distinguish the requirements for emissions method changes from the requirements for covered product data method changes. This change

requires product data method changes to be submitted as an alternative method because product data calculation and monitoring methods do not follow a clear tiered system; therefore, ARB must review the method to ensure the new method will provide accurate and verifiable data prior to the reporting entity implementing the method for data collection and reporting.

Summary of Section 95103(m)(2)

Section 95103(m)(2) is revised to clarify the timing for submitting alternative method change requests. This section also provides an option to implement an alternative method for the prior reporting year, if approved by ARB at the request of stakeholders.

Rationale for Section 95103(m)(2)

This change is needed to provide clarity on when the request must be submitted and when the reporter will be able to use the new method. Reporting entities were inconsistently interpreting the alternative method submittal and implementation requirements, so the new change is necessary to ensure consistent implementation. The option to implement an alternative method for the prior reporting year upon ARB approval is necessary to provide additional flexibility for reporters that have collected the necessary data to implement the approved methodology prior to the reporting year. As an example, if a reporting entity submits an alternative method prior to January 1, 2018 and has collected data necessary for using that method during the entirety of 2017, ARB could consider whether the reporter would be allowed to use the method upon approval for reporting the 2017 data in 2018. If not, the alternative methodology could first be used for submitting 2018 data in 2019, per the new requirements.

Summary of Section 95103(m)(3)

Section 95103(m)(3) is revised to clarify when a method change must be implemented.

Rationale of Section 95103(m)(3)

This change is needed to clarify when method changes may be implemented for readability but the requirements remain unchanged.

Summary of Section 95103(m)(4)

Section 95103(m)(4) is revised to specify that the CEMS equipment breakdowns are relevant to emissions data only, clarify when a reporter may submit a temporary method as a permanent change, and correct references given the new numbering in this section.

Rationale for Section 95103(m)(4)

This change is needed to improve clarity about which methods apply to CEMS equipment breakdowns, how reporters submit temporary methods for approval as permanent methods, and to correct references.

Summary of Section 95103(o)

Section 95103(o) is updated to clarify the types of information and where information submitted via mail related to the MRR program should be mailed.

Rationale for Section 95103(o)

Rather than only specifying mail and package deliveries, the section was revised to add clarity, indicating that necessary notifications or other materials are to be submitted to the specified address. Because the materials submitted are typically routine transactions, it is efficient to have the materials submitted to the MRR section manager, instead of to the Executive Officer. The manager is directly responsible for taking action on, or responding to, the materials provided to the Executive Officer, and therefore forwards materials to the section manager. This change removes an unnecessary administrative step and ensures that important documentation reaches the appropriate staff in a timely manner.

Section 95104. Emissions Data Report Contents and Mechanism.

Summary of 95104(d)(1)(A)

Section 95104(d)(1)(A) is added to require reporting of the MWh from each electrical distribution utility that provides transmission and/or distribution service and the MWh from each electricity generation provider. These provisions are applicable only to facilities that report NAICS codes listed in table 8-1 of the cap-and-trade regulation.

Rationale for 95104(d)(1)(A)

This update is needed to help determine emissions associated with purchased electricity for entities that receive industrial allocation under the cap-and-trade regulation. These data are used to determine post-2020 industrial product- and energy-based benchmarks and electrical distribution utility allocation. Although electrical distribution utilities often provide both transmission/distribution service and generation (the electrons), many large customers purchase generation from another entity. The electricity generation provider may be an electricity service provider (direct access), a community choice aggregator, or a nearby cogeneration facility.

Summary of Section 95104(d)(2)

Section 95104(d)(2) is modified to correct references to “percent.”

Rationale for Section 95104(d)(2)

This change is needed to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Sections 95104(f)(2) through (f)(2)(D)

Sections 95104(f)(2) through (f)(2)(D) are deleted from the regulation.

Rationale for Sections 95104(f)(2) through (f)(2)(D)

This detailed information is no longer needed for meeting ARB program needs, so the reporting requirement was deleted.

Summary of Section 95104(f)(3)

Section 95104(f)(3) is renumbered to reflect the deletion of section 95104(f)(2). The text is edited to clarify the reporting requirement due to the deletion.

Rationale for Section 95104(f)(3)

With the removal of the options specified in section 95104(f)(2), it was necessary to clarify this requirement so ARB can collect a narrative description of emissions changes.

Summary of Section 95104(f)(4)

Section 95104(f)(4) is renumbered to reflect the deletion of section 95104(f)(2). This section is revised to clarify that the information reported pursuant to section 95104(f)(1) is reviewed by a verifier for conformance.

Rationale for Section 95104(f)(4)

This change is needed to ensure that reporting entities that had a change in emissions of more than five percent appropriately report this information to ARB by indicating “yes” or “no,” in the emissions data report and to specify that the narrative information submitted under section 95104(f)(2) is not subject to verification.

Section 95105. Recordkeeping Requirements.

Summary of Section 95105(a)

Section 95105(a) is modified to more fully define which types of documents and data must be retained by entities subject to the cap-and-trade program.

Rationale for Section 95105(a)

These changes are needed to ensure information relevant to allocation and other Cap-and-Trade data are retained for a period of 10 years. In general, the information is already maintained by reporters, so the change should have little or no impact on existing practices.

Summary of Section 95105(b)

Section 95105(b) is modified to reduce the time in which requested records must be provided to ARB, and to provide examples of the types of information that ARB may potentially request.

Rationale for Section 95105(b)

Often, when ARB makes data requests of reporters, the data is needed to support a reporting or verification deadline, an enforcement action, a set aside verification, or other activities. Therefore, staff reduced the time to provide materials from twenty days to 10 days. This is a timeframe that reporters have rarely had difficulty meeting in prior data requests. Typically, before a formal request is made, other interactions have occurred prior to the request with the reporter, which provides more than sufficient overall time to prepare final data. To provide transparency and clarity to reporters, we listed examples of the types of data that ARB could potentially request, so reporters can be better prepared should they be requested to provide information. This is not an exhaustive list. This timeframe for turning over information to ARB is consistent with the Cap-and-Trade Regulation. Timely resolution to any reported data concerns is critical to the implementation of the cap-and-trade program.

Summary of Section 95105(c)(3)

Section 95105(c)(3) is modified to require entities to document facility measurement devices, sampling locations, and other information needed in a simplified block diagram.

Rationale for Section 95105(c)(3)

This revision is included to more fully specify the requirements for the types of graphical and other facility information that must be prepared regarding facility measurement devices, emissions sources, and overall configurations. Many entities have already been including this level of detail, but the revision is included to ensure greater consistency and completeness in the information that is prepared by the entity and used by the verifier during verification.

Summary of Section 95105(d)(6)

Section 95105(d)(6) is modified to specify that EPEs must indicate how they determined the electricity associated with the RECs they are claiming for an RPS adjustment was not directly delivered to California.

Rationale for Section 95105(d)(6)

This change is necessary to ensure that EPEs document and provide their verifiers with information related to the RPS adjustment to ensure there is no double counting of zero emissions power under MRR and is needed to support the cap-and-trade program.

Subarticle 2. Requirements for the Mandatory Reporting of Greenhouse Gas Emissions from Specific Types of Facilities, Suppliers, and Entities.

Section 95111. Data Requirements and Calculation Methods for Electric Power Entities.

Summary of Section 95111(a)(2)

Section 95111(a)(2) is modified to clarify that delivered electricity must be disaggregated by generation source when known, and to make minor edits.

Rationale for Section 95111(a)(2)

These changes are needed to clarify the requirement to disaggregate by generation source and are consistent with the changes to the first point of receipt and the source of generation definitions in section 95102(a). This is not a change in current reporting practice and is already being implemented by reporting entities and reflects current reporting practices. The acronym "POR" was added to refer to "point of receipt." The phrase, "and final points of delivery (POD)," was also removed, consistent with the changes to disaggregate by generation source.

Summary of Section 95111(a)(3)

Section 95111(a)(3) is modified to add references to "generation source," and to make a clarifying edit.

Rationale for Section 95111(a)(3)

These changes are needed to clarify the requirement to disaggregate by generation

source and are consistent with the changes to the first point of receipt and the source of generation definitions in section 95102(a). Unspecified imports must be reported by generation source, or first point of receipt if the generation source is unknown. This is not a change in current reporting practice and is already being implemented by reporting entities and reflects current reporting practices.

Summary of Section 95111(a)(3)(A)

Section 95111(a)(3)(A) is modified to add references to “generation source,” and to correct a reference to the ARB website.

Rationale for Section 95111(a)(3)(A)

The generation source changes are needed to clarify the requirement to disaggregate by generation source and is consistent with the changes to the first point of receipt and the source of generation definitions in section 95102(a). This is not a change in current reporting practice and is already being implemented by reporting entities and reflects current reporting practices. The reference to the “ARB Mandatory Reporting website” should simply be to the “ARB website.”

Summary of Section 95111(a)(4)

Section 95111(a)(4) is modified to clarify that the seller warranty provision does not apply to a Generation Providing Entity (GPE) for imported power from a facility in which the importer is a GPE. The term “generation source” replaced the term “first point of receipt” and redundant text was removed, and the term “Seller Warranty” was added.

Rationale for Section 95111(a)(4)

The first change is needed to clarify that a GPE must report specified electricity as such and may not structure imported power transactions in a manner that would identify power as unspecified that was sourced from a generation facility for which the importer is a GPE. This is not a new requirement; however, given some confusion on behalf of reporters, ARB is clarifying this requirement to make it more clear.²

Second, the term “generation source” replaced the term “first point of receipt,” in order to clarify the requirement to disaggregate by generation source and is consistent with the changes to the first point of receipt and the source of generation definitions in section 95102(a). This is not a change in current reporting practice and is already being implemented by reporting entities and reflects current reporting practices. Related to this change the now redundant text, “by facility or unit and,” was removed because both refer to the generation source, the new term that was added.

Third, the term “Seller Warranty” was added to distinguish the seller warranty provision

² ARB’s long-standing intent regarding GPE reporting requirements is explained in the 2012 FSOR from the MRR rulemaking, which states that GPEs have a regulatory responsibility to claim power from GPE resources imported to California as from a specified source. (MRR FSOR, November 2, 2012, ARB Response, A-8a, page 22.)

in this section. The latter change will allow all parties to readily identify the seller warranty provision in section 95111(a)(4), which currently consists of a single sentence at the end of the section.

Summary of Section 95111(a)(5)(A)

Section 95111(a)(5)(A) is modified to add the full term, “purchasing-selling entity.”

Rationale for Section 95111(a)(5)(A)

This language is needed to add the full term, “purchasing-selling entity,” where only the PSE acronym is currently used.

Summary of Section 95111(a)(5)(E)

Section 95111(a)(5)(E) is modified to add references to “generation source,” and to make a clarifying edit.

Rationale for Section 95111(a)(5)(E)

These changes are needed to clarify the requirement to disaggregate by generation source and are consistent with the changes to the first point of receipt and the source of generation definitions in section 95102(a). Unspecified imports must be reported by generation source, or first point of receipt if the generation source is unknown. This is not a change in current reporting practice and is already being implemented by reporting entities and reflects current reporting practices.

Summary of Section 95111(a)(6)(C)

Section 95111(a)(6)(C) is modified to correct a reference to the ARB website.

Rationale for Section 95111(a)(6)(C)

This change is needed to correct the reference to the “ARB Mandatory Reporting website” as it should simply be to the “ARB website.”

Summary of Section 95111(a)(6)(E)

Section 95111(a)(6)(E) is modified to clarify that the requirement to report qualified exports has been removed.

Rationale for Section 95111(a)(6)(E)

These changes are needed to clarify that there is no longer a requirement to report qualified exports because the qualified export adjustment provision has been removed from section 95852(b)(5) of the Cap-and-Trade Regulation.

Summary of Section 95111(a)(8)

Section 95111(a)(8) is modified to clarify that the reporting of wheeled power is only required by EPEs that import and/or export electricity to California, and to make a minor edit.

Rationale for Section 95111(a)(8)

These changes are needed to clarify that the reporting of wheeled power is only required by EPEs that import and/or export electricity to California, pursuant to section 95101(d). Thus, an EPE with only reportable wheels, but no imports or exports is not

required to report under MRR. In addition, the word “electric” was added prior to “power entity” in the second sentence.

Summary of Section 95111(a)(12)

Section 95111(a)(12) is modified to specify what the meaning of “compliance obligation” as it relates to reporting under this provision and to clarify that the 95111(a)(12) reporting requirements also apply to EDUs that direct ARB to deposit allocated allowances into a generator’s compliance account.

Rationale for Section 95111(a)(12)

These changes are required to clarify what is meant by the term “compliance obligation” as it relates to reporting under this provision. These changes are also required to ensure that EDUs that direct ARB to deposit allocated allowances into a generator’s compliance account are required to report on CAISO sales; this reporting allows ARB to ensure that EDUs are not using allowance value to cover the compliance obligation associated with sales into CAISO markets, which is prohibited pursuant to section 95892(d)(5) of the cap-and-trade regulation.

Summary of Section 95111(a)(12)(A)

Section 95111(a)(12)(A) is modified to clarify that the 95111(a)(12) reporting requirements also apply to EDUs that direct ARB to deposit allocated allowances into a generator’s compliance account.

Rationale for Section 95111(a)(12)(A)

These changes are required to ensure that EDUs that direct ARB to deposit allocated allowances into a generator’s compliance account are required to report CAISO sales; this reporting allows ARB to ensure that EDUs are not using allowance value to cover the compliance obligation associated with sales into CAISO markets, which is prohibited pursuant to section 95892(d)(5) of the cap-and-trade regulation.

Summary of Section 95111(a)(12)(A)(1.)

Section 95111(a)(12)(A)(1.) adds requirements for the reporting EDU to use emission factors calculated by ARB pursuant to section 95111(b)(2) when reporting emissions from out-of-State resources associated with CAISO sales.

Rationale for Section 95111(a)(12)(A)(1.)

These changes are needed to establish clear and consistent requirements for the reporting of all CAISO sales associated with out-of-State resources.

Summary of Sections 95111(a)(12)(A)(2.) through (a)(12)(A)(2.)(ii.)

Sections 95111(a)(12)(A)(2.) through (a)(12)(A)(2.)(ii.) add emission factor calculation requirements for in-State resources associated with CAISO sales, depending upon whether the EDU has access to annual emissions and electricity production data for the resource.

Rationale for Sections 95111(a)(12)(A)(2.) through (a)(12)(A)(2.)(ii.)

These changes are needed to establish emission factor calculation requirements for in-State resources associated with CAISO sales. For EDUs that have access to annual

emissions and electricity production data, the EDU is required to calculate an emission factor for the resource and is subject to verifier review for reasonableness. However, when the EDU does not have access to this data, it must report using the default emissions factor.

Summary of Section 95111(a)(12)(A)(3.)

Section 95111(a)(12)(A)(3) makes minor clarifying edits to existing language.

Rationale for Section 95111(a)(12)(A)(3.)

These changes are needed to set this existing language apart in a separate paragraph. This requirement pertains to reporting CAISO sales associated with unknown or unspecified resources.

Summary of Section 95111(a)(12)(C)

Section 95111(a)(12)(C) is added to clarify what constitutes a sale into CAISO markets that must be reported under this provision.

Rationale for Section 95111(a)(12)(C)

These changes are needed to clarify what is considered a sale into CAISO, as defined by CAISO Fifth Replacement Tariff section 11.29(a)(iii).

Summary of Section 95111(a)(12)(D)

Section 95111(a)(12)(D) is added to prohibit netting as it pertains to CAISO sales reporting.

Rationale for Section 95111(a)(12)(D)

These changes are needed to prohibit netting of electricity across intervals for CAISO sales reporting, which is consistent with the current prohibitions for electricity netting included elsewhere in MRR.

Summary of Section 95111(a)(12)(E)

Section 95111(a)(12)(E) is added to specify requirements for the GHG inventory plan related to CAISO sales reporting.

Rationale for Section 95111(a)(12)(E)

These changes are needed to ensure that the data sources and procedures used to report CAISO sales are properly documented and included in the GHG inventory plan of each EDU.

Summary of Section 95111(b)(2)

Section 95111(b)(2) is modified to correct a minor typo.

Rationale for Section 95111(b)(2)

This change is needed to correct a typo and is a non-substantial change.

Summary of Section 95111(b)(2)(B)

Section 95111(b)(2)(B) is modified to allow the use of Energy Information Administration (EIA) emissions data instead of U.S. EPA emissions data to calculate specified source

emission factors, if U.S. EPA data is not sufficient.

Rationale for Section 95111(b)(2)(B)

This change is needed to ensure the accurate calculation of emission factors, when data reported to U.S. EPA pursuant to 40 CFR Part 98 does not contain sufficient detail to allow ARB to effectively discern emissions directly related to electricity production. In the absence of such detailed U.S. EPA emissions data, ARB may calculate specified source emission factors using more detailed, and thereby more accurate for this purpose, data reported to EIA.

Summary of Section 95111(b)(2)(E)(1.)

Section 95111(b)(2)(E)(1.) is modified to remove several exclusions from the meter data requirements and lesser of analysis, including EIM imports, grandfathered contracts, and dynamically tagged power deliveries.

Rationale for Section 95111(b)(2)(E)(1.)

A requirement to conduct a lesser of analysis for imported electricity is needed, because the actual generated or metered amounts (MWh) of power generated from certain resources do not always match the tagged or the EIM model designated quantities, which have been reported as imported power. In some cases, the difference between the actual metered versus tagged or EIM model amounts can be significant. Such inaccuracies do not allow for accurate greenhouse gas accounting. Significant discrepancies have resulted in reported data for resources under the first three exemptions: (1) grandfathered RPS contracts, (2) dynamically tagged power deliveries; (3) untagged power deliveries, which include EIM imports. Some significant discrepancies were corrected by EPEs that opted to voluntarily conduct a lesser of analysis. However, absent a rule change, these problematic exemptions remain in place, and potential for inaccurate GHG reporting and accounting remains as well.

For EIM imports, the amount of electricity reported as from specified sources can be overstated by the EIM model, when compared to meter data. This can result in the over-reporting of zero emission, or low GHG emission power relative to the default emission factor for unspecified power. For example, the EIM model may forecast a wind resource to be at an output level of 10 MW in a given interval; however, the wind resource may have only actually only generated 8 MW in that interval, where 2 MW of unspecified power may have been supplied from the native balancing authority area (BAA) to make up the difference. EPEs that report EIM imports have confirmed that meter data information is available and that a lesser of analysis can be conducted. The same numerical example applies to metered versus tagged amounts for grandfathered RPS contracts and dynamically tagged resources.

For dynamically tagged resources, it should be noted that, while some EPEs may minimize differences between metered and tagged amounts, such procedures may not be standard practice or even required. In fact, business practice standards for dynamic tagging may allow for relatively large deviations. In section (B)(R2)(2.1) of NERC Standard INT-004-3.1, a Purchasing-Selling Entity must ensure that the confirmed interchange (MW) associated with a Dynamic Schedule deviates by no more than 10 percent of actual vs. tagged MW. Such a potentially large deviation in power delivered

from a specified source is not stringent enough for GHG accounting purposes. As such, even dynamically tagged RPS imports must be subject to the meter data requirement and lesser of analysis. See

<http://www.nerc.com/pa/Stand/Reliability%20Standards/INT-004-3.1.pdf>.

Summary of Section 95111(b)(2)(E)(2.)

Section 95111(b)(2)(E)(2.) is added to allow EPEs to voluntarily report imported electricity amounts using a lesser of analysis from resources where a lesser of analysis is not required.

Rationale for Section 95111(b)(2)(E)(2.)

These changes are needed to allow EPEs to voluntarily report imports using a lesser of analysis from resources excluded under section 95111(b)(2)(E)(1.). In order to improve report accuracy, some EPEs requested permission to report imports using a lesser of analysis from excluded resources. These requests were granted in the interest of accuracy. EPEs should have the option to report more accurately using a lesser of analysis, and that language would be explicitly added.

Summary of Section 95111(b)(5)

Section 95111(b)(5) is modified to remove several components of the covered emissions equation from MRR, and just reference to the cap-and-trade regulation for other components, because they already appear in the cap-and-trade regulation, and use the same terminology for “CO₂e_{RPS adjustment}” as a specified term in the Cap-and-Trade Regulation, to correct a typo, and to define the term “EF_{unsp.}”

Rationale for Section 95111(b)(5)

These changes are needed to ensure consistency with the covered emissions calculation in the Cap-and-Trade Regulation, and to provide consistent definitions of factors in equations.

Summary of Section 95111(c)(3)(C)(2.)

Section 95111(c)(3)(C)(2.) is modified to replace the percent symbol “%” with the word “percent.”

Rationale for Section 95111(c)(3)(C)(2.)

The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95111(d)

Section 95111(d) is modified to remove an extra space and fix a minor grammatical error.

Rationale for Section 95111(d)

This change is needed to remove an extra space in between “in section” at the end of the second sentence and add an “s” to the word section, as it lists multiple sections.

Summary of Section 95111(f)(1)

Section 95111(f)(1) is modified to correct a section reference.

Rationale for Section 95111(f)(1)

This change is needed to correct a reference to section 95111, which currently and incorrectly appears as section 95112.

Summary of Section 95111(g)

Section 95111(g) is modified to correct two typos. This section is also modified to explain that information related to the RPS adjustment is no longer required to be reported beginning with 2021 data reported in 2022.

Rationale for Section 95111(g)

These changes are needed to correct two typos. First, the word “and” is removed from the first sentence. Second, the typo “aspecified” should read as “a specified” in the second sentence. These changes are also needed to explain that that information related to the RPS adjustment is no longer required to be reported beginning with 2021 data reported in 2022. The requirements for the RPS Adjustment were removed from section 95852(b)(4) of the Cap-and-Trade Regulation beginning with 2021 data.

Summary of Section 95111(g)(1)(M)(3.)

Section 95111(g)(1)(M)(3.) is modified to clarify the effect on the verification statement and emission factors for the failure to report REC serial numbers.

Rationale for Section 95111(g)(1)(M)(3.)

This change is needed to clarify that the failure to report REC serial numbers associated with specified source imports represents a nonconformance, but will not result in an adverse verification statement, while the specified source emission factors assigned by ARB must still be used to calculate emissions associated with the imported electricity. This is not a new requirement and was established in original rulemaking records when the reporting of REC serial numbers were added to MRR and has been implemented accordingly.³

Summary of Section 95111(g)(3)

Section 95111(g)(3) is modified to clarify the requirement to claim a specified source.

Rationale for Section 95111(g)(3)

This change is needed to clarify that an EPE with a written power contract, as described, must report specified electricity as such and may not structure imported power transactions in a manner that would identify power as unspecified that was sourced from a generation facility for which the importer is a GPE. The word “may” is replaced with “must” in order to clarify the requirement to claim a specified source. This is not a new requirement; however, given some confusion on behalf of reporters, ARB is

³ According to the 2010 Cap and Trade FSOR, “If the electricity importer’s verifier cannot confirm that the RECs are retired, the reporting entity will be in non-conformance, but the claim to the zero GHG emission factor (0 MT of CO₂e/MWh) remains valid” (p.2110, 2115).

clarifying this requirement to make it more clear.

Summary of Section 95111(g)(3)(B)

Section 95111(g)(3)(B) is modified to clarify the requirements for claiming specified source power.

Rationale for Section 95111(g)(3)(B)

This change is needed to clarify that claiming a specified source is subject to meeting all requirements of MRR. This is not a new requirement and is added to provide additional clarity.

Summary of Section 95111(h)

New section 95111(h) includes reporting requirements for CAISO.

Rational for Section 95111(h)

This section is needed to ensure there is full accounting of GHG emissions associated with electricity generated to serve California load from resources participating in the EIM. Operation of the EIM market generates emissions associated with California demand that the current regulation does not fully capture. Without capturing the full GHG emissions associated with transfers to balance California load, the program will experience emissions leakage where the GHGs appear to be reduced within the State's accounting framework, but do not reflect real emission reductions from the perspective of the atmosphere. AB32 requires ARB to minimize emissions leakage of this sort, as well as to accurately account for emissions associated with electricity serving California load. Importantly, the caps for the cap-and-trade program are established with the expectation of full accounting of GHGs related to in-state electricity generation and emissions associated with imports of power to serve CA load. Under reporting for this source of emissions has the potential to dampen the price signal in the cap-and-trade program as the demand for compliance instruments will be lower than expected relative to the amount of established supply. As is noted above, staff continue to explore several options to address this issue. Further amendments may be proposed later in this regulatory process.

Summary of Sections 95111(h)(1) and (h)(1)(A)

New sections 95111(h)(1) and (h)(1)(A) direct CAISO to use the 5 minute interval data in the EIM to calculate the difference in emissions between what the atmosphere experiences versus the emissions associated with EIM deemed delivered MWhs when there is a need to balance CA load. The section provides the formula and which emission factor to use to calculate the emissions difference.

Rational for Sections 95111(h)(1) and (h)(1)(A)

In review of EIM data and as part of discussions with CAISO, staff identified situations where the EIM model does not capture and report the full GHG profile of the transfers used to balance CA load. By calculating the full amount of GHG emissions associated with balancing CA load and subtracting out the emissions associated with the model's deemed delivered MWhs, the "remaining emissions" provide the missing emissions that need to be accounted for within the reporting program and for use in establishing

compliance obligations within the cap-and-trade program. As this data will be used to support the cap-and-trade program, timely submittal is critical and is proposed to be on the same schedule as all other entities that report under MRR.

Summary of Section 95111(h)(2)

New section 95111(h)(2) is needed to specify the information CAISO must report to ARB.

Rational for Section 95111(h)(2)

This section is needed to set up the hierarchy for the types of data that CAISO must report to ARB.

Summary of Section 95111(h)(2)(A)

New section 95111(h)(2)(A) states that the five-minute interval “remaining emissions” shall be provided in an annual number to ARB.

Rational for Section 95111(h)(2)(A)

Even though CAISO is directed to calculate the “remaining emissions” using 5-minute interval data, staff is proposing that the values be summed over the year and only the annual value be provided to ARB. This limits the amount of data CAISO must provide to ARB and ensures staff has access to the annual value based on the highest resolution of data within the EIM.

Summary of Section 95111(h)(2)(B)

New section 95111(h)(2)(B) directs CAISO to provide the identity of the entities that purchase power through the EIM to balance CA load and the total amount of annual MWhs they acquire.

Rational for Section 95111(h)(2)(B)

This information is needed to proportionately assign the compliance obligation under the cap-and-trade program to the entities that utilize the EIM to balance load for serving CA. ARB staff will use the annual amount of “remaining emissions” and distribute those as a compliance obligation based on the each entities share of total EIM transfers for each year.

Summary of Section 95111(h)(3)

New section 95111(h)(3) requires the third-party verification of the data reported under 95111(h)(2).

Rationale for Section 95111(h)(3)

This section is necessary to ensure all data used to support a compliance obligation in the cap-and-trade program is subject to independent review by an ARB-accredited verifier similar to existing requirements for all other data used in the cap-and-trade program.

Section 95112. Electricity Generation and Cogeneration Units.

Summary of Section 95112(a)(4)(A)

Section 95112(a)(4)(A) is modified to correct a punctuation error.

Rationale for Section 95112(a)(4)(A)

This change is needed to correct punctuation to make it consistent with other punctuation throughout MRR and is a non-substantial change.

Summary of Section 95112(a)(4)(B)

Section 95112(a)(4)(B) is modified to correct a punctuation error.

Rationale for Section 95112(a)(4)(B)

This change is needed to correct punctuation to make it consistent with other punctuation throughout MRR and is a non-substantial change.

Summary of Section 95112(a)(4)(B)(1.)

Section 95112(a)(4)(B)(1.) is added to restructure the regulation text for clarity and to clarify the reporting requirement by relocating the reporting requirement to quantify electricity used for cooling and clarifying requirement to report electricity provided or sold directly to end users.

Rationale for Section 95112(a)(4)(B)(1.)

This change is included so that the requirement to report electricity for other users for cooling energy is identified in this section, rather than in the “on-site” section of the regulation 95112(a)(4)(C)(1.). The update also clarifies that electricity for cooling provided to other users is a subset of the total “other user” electricity reported.

Summary of Section 95112(a)(4)(C)

Section 95112(a)(4)(C) is updated to clarify that total generated on-site electricity is to be reported by adding the word “total” to the description.

Rationale for Section 95112(a)(4)(C)

This change is included to make it explicit that a total value must be reported.

Summary of Section 95112(a)(4)(C)(1.)

Section 95112(a)(4)(C)(1.) is updated to specify the requirements for reporting cooling energy used on-site for industrial applications not related to electricity generation.

Rationale for Section 95112(a)(4)(C)(1.)

This change is to make it explicit that cooling energy used on-site must be reported, and that it is a subset of total electricity used for on-site industrial applications not related to electricity generation. The other user cooling energy reporting requirements were relocated to section 95112(a)(4)(B)(1.) to improve the logical organization of the requirements.

Summary of Section 95112(a)(4)(C)(2.)

Section 95112(a)(4)(C)(2.) is updated to restructure the regulation text for clarity and to clarify the reporting requirement by relocating the end-user cooling energy reporting requirements.

Rationale for Section 95112(a)(4)(C)(2.)

Due to the restructuring of the reporting requirements of this section, text in original section 95112(a)(4)(C)(2.) were moved into section 95112(a)(4)(C)(1.). The reason for the change is to improve the clarity and organization of the regulation.

Summary of Section 95112(a)(5)(A)(1.)

Section 95112(a)(5)(A)(1.) is updated to make explicit that for a cogeneration or bigeneration unit, the subset of generated thermal energy that is used to produce cooling energy (e.g., chilled water) or distilled water to a particular end-user outside of the facility boundary must also be reported. This requirement was relocated from section 95112(a)(5)(C)(2.) to improve the logical flow of the requirements.

Rationale for Section 95112(a)(5)(A)(1.)

This change is included to improve the structure of the regulation by moving the requirement to report thermal energy for “other users” to this section, which is focused on “Other User” data. The update also clarifies that thermal energy used for cooling energy or distilled water for an end-user is a subset of the total “other user” thermal energy reported.

Summary of Section 95112(a)(5)(C)

Section 95112(a)(5)(C) is updated to clarify that total amount of generated thermal energy that is used by on-site industrial processes or operations and heating or cooling applications is to be reported, by adding to word “total” to the sentence.

Rationale for Section 95112(a)(5)(C)

To avoid potential ambiguity this change is included to make it explicit that a total value must be reported.

Summary of Section 95112(a)(5)(C)(1.)

Section 95112(a)(5)(C)(1.) is updated to restructure the regulation text for clarity and to clarify the reporting requirement for thermal energy provided to other users.

Rationale for Section 95112(a)(5)(C)(1.)

This change is included to move the requirement to report thermal energy for other users for cooling energy or distilled water to section 95112(a)(5)(A)(1.), rather than this section. The update also clarifies that thermal energy used for cooling energy or distilled water used on-site is a subset of the total “on-site” thermal energy reported that is not in support of the power generation system. Due to the restructuring of the reporting requirements of this section, text in original section 95112(a)(5)(C)(2.) were moved into this section and text from this section was moved into new section 95112(a)(5)(C)(1.).

Summary of Section 95112(a)(5)(C)(2.)

Section 95112(a)(5)(C)(2.) is updated to restructure the regulation text to clarify the reporting requirement as it pertains to reporting thermal energy.

Rationale for Section 95112(a)(5)(C)(2.)

Due to the restructuring of the reporting requirements of this section, text in original section 95112(a)(5)(C)(2.) were moved into section 95112(a)(5)(C)(1.). This provides better clarity in the reporting requirements and a more logical organization of the requirements.

Summary of Section 95112(b)(3)

Section 95112(b)(3) is updated to clarify the requirement and to align with the definition of total thermal output by explicitly stating that thermal energy that is vented, radiated, wasted, or discharged, must be included in the reporting of total thermal output.

Rationale for Section 95112(b)(3)

This change is included to more fully describe which energy is included in the reporting of “total thermal output.” The definition of “total thermal output” states that it includes, “thermal energy that is otherwise not utilized.” With this revision, we provide examples of energy that is not otherwise utilized such as “thermal energy that is vented, radiated, wasted, or discharged,” to assist reporters in understanding what thermal energy must be included in their reporting.

Summary of Section 95112(e)

Section 95112(e) is modified to require geothermal electricity generation facilities to report the type of facility they are and to remove a notification requirement.

Rationale for Section 95112(e)

The first change is necessary to collect additional information related to the type of geothermal plant being operated because the facility type substantially affects potential emissions levels. For the second change, the ARB and air districts may request and obtain any information related to required emissions or other data. Therefore, it is unnecessary to require facility operators to directly notify ARB or air pollution control officers of testing, so the requirement has been deleted. Any testing or other relevant information can be obtained when, or if, needed by ARB or air district request.

Summary of Section 95112(f)(5)(A)

In section 95112(f)(5)(A) Table 1 is renumbered to Table 3-1.

Rationale for Section 95112(f)(5)(A)

The table was renumbered to provide clarity regarding table labels by identifying tables sequentially within each subpart. For example, because of this change, there will no longer be several tables identified as Table 1 within the regulation.

Summary of Section 95112(i)

Section 95112(i) is modified to remove the mention of legacy contract generators without industry counterparties, and add in legacy contract generators with electrical distribution utility counterparties.

Rationale for Section 95112(i)

Legacy contract generators without industry counterparties are removed from the regulation because these entities are no longer eligible to be legacy contract applicants after the 2016 data year. Legacy contract generators with electrical distribution utility counterparties are added to these reporting requirements because these entities are proposed, in the Cap-and-Trade Regulation 2016 amendments, to be added as entities eligible to be legacy contract applicants starting in 2017.

Section 95113. Petroleum Refineries.

Summary of Section 95113(k)(2)

Section 95113(k)(2) is modified to change an incorrect reference.

Rationale for Section 95113(k)(2)

This change is needed to fix an incorrect reference.

Summary of Section 95113(l)(1)

Section 95113(l)(1) is modified to clarify reporting of annual on-site production amounts for refinery products. Changes to this section also require reporting of annual amounts of refinery products that are produced elsewhere and brought on-site. Changes to this section also adopt the same methods that are used for reporting production and receipts on Part 5 of the federal Energy Information Agency's (EIA) Form EIA-810 that are described by the Monthly Refinery Report Instructions for Form EIA-810 (Revised 2013). New text also states that the reported amounts are not subject to material misstatement evaluation.

Rationale for Section 95113(l)(1)

Changes to this section consolidate reporting of annual on-site production amounts for "Primary Refinery Products" and "Finished Products." The changes clarify the materials for which refineries are required to report annual on-site production amounts by listing them in the new Table 2-1. Reporting of annual amounts of refinery products that are produced elsewhere and brought on-site is required so that ARB can evaluate the effect of this flow of material on reported annual on-site production amounts. ARB expects that any amount of material produced elsewhere and brought on-site is excluded from reported annual on-site production amounts.

On-site production amounts for refinery products and amounts of refinery products that are produced elsewhere and brought on-site are not used for allowance allocation and are therefore not subject to material misstatement evaluation during the verification process. Information about real refinery products (as compared to the conceptual product of total CWB) is needed to confirm that real on-site production of refinery

products is happening and that a primary purpose of allowance allocation to the sector—preventing emissions leakage—is being served.

Adopting the same reporting methods as used for the federal EIA's Form EIA-810 was done to simplify product reporting. Because these amounts are already reported on a monthly basis to EIA, reporting annual amounts to ARB using these same methods is more straightforward than the previously required reporting methods.

Summary of Section 95113(l)(2)

Section 95113(l)(2) is modified to clarify the requirement that the annual mass of calcined coke produced on-site must be reported each year.

Rationale for Section 95113(l)(2)

This amendment changes the sentence structure of the existing regulatory text but does not change the meaning of the section.

Summary of Section 95113(l)(3)

Section 95113(l)(3) is deleted.

Rationale for Section 95113(l)(3)

This change clarifies the materials for which refineries are required to report annual on-site production amounts by eliminating references to Table C-1 and Table MM-1 in 40 CFR Part 98. The reporting that was previously required by section 95113(l)(3) has been consolidated into the new section 95113(l)(1).

Summary of Section 95113(l)(4)

Section 95113(l)(4) is deleted.

Rationale for Section 95113(l)(4)

This change eliminates reporting of the Solomon Energy Intensity Index® value each year by refineries because the value is no longer used to calculate allowance allocation.

Summary of Section 95113(l)(5)

Original section 95113(l)(5) is renumbered to section 95113(l)(3).

Rationale for Section 95113(l)(5)

This change is needed to support the renumbering of this section due to the deletion of original sections 95113(l)(3) and 95113(l)(4).

Summary of Section 95113(l)(5)(A)

Original section 95113(l)(5)(A), now new section 95113(l)(3)(A), is modified to change two references from "Table 1" to "Table 2-2." and to require that liquid CWB throughput volumes must be reported at standard conditions of 60 °F and one atmosphere. This section is also modified to allow recycled material to be included in the CWB throughput volume for isomerization units. Text stating that "CWB is considered covered product data" is removed.

Rationale for Section 95113(l)(5)(A)

The references to “Table 1” are changed to “Table 2-2” because a new Table 1 was inserted and the latter table needed to be re-numbered. The requirement to report liquid CWB throughputs volumes at standard conditions is done to bring consistency to the method of reporting these volumes among refineries. The volumes of the liquid hydrocarbons processed at refineries expand as temperatures increase. Because process temperatures at refineries vary widely, CWB throughput volumes need to be reported at standard conditions to ensure that the reported volumes for all refineries are provided on a consistent basis. The change to allow recycled material to be included in the CWB throughput volume for isomerization units is done to harmonize the reporting for these CWB units with the methods developed by Solomon Associates. Text stating that “CWB is considered covered product data” is removed because the material misstatement evaluation during verification is applied to the total facility CWB, not to individual CWB throughputs. The change is also needed to support the renumbering of this section due to the deletion of original sections 95113(l)(3) and 95113(l)(4).

Summary of Section 95113(l)(5)(B)

Original section 95113(l)(5)(B), now new section 95113(l)(3)(B), is modified to change two references from “Table 1” to “Table 2-2.” This section is also modified to move text that clarifies which materials should be excluded when quantifying “Total Refinery Input” and “Non-Crude Input” volumes from this section to the definitions of those terms in section 95102(c). This section is also changed to add text clarifying that total facility CWB is covered product data and subject to material misstatement.

Rationale for Section 95113(l)(5)(B)

The references to “Table 1” are changed to “Table 2-2” because a new Table 1 was inserted and the latter table needed to be re-numbered. Text that clarifies which materials should be excluded when quantifying “Total Refinery Input” and “Non-Crude Input” volumes is moved from this section to the definitions of those terms in section 95102(c) because that content is more appropriate in the definitions. This section also clarifies that total facility CWB is covered product data and subject to material misstatement. Previous text from section 95113(l)(5)(A) ambiguously stated that “CWB is considered covered product data and subject to material misstatement;” this text is moved to newly renumbered section 95113(l)(3)(B) and it is clarified that only total facility CWB is covered product data and subject to material misstatement, not all reported CWB unit throughputs. The change is also needed to support the renumbering of this section due to the deletion of original sections 95113(l)(3) and 95113(l)(4).

Summary of Section 95113(l)(5)(C)

Section 95113(l)(5)(C) is modified to eliminate an extra space in the subscript to the variable “CWB_{Factor, FCC}.” Also, the reference to “Table 1” is changed to “Table 2-2.”

Rationale for Section 95113(l)(5)(C)

This change makes the variable “CWB_{Factor, FCC}” that is defined in the text consistent with the variable that appears in the equation. Also the reference to “Table 1” is changed to “Table 2-2” because a new table was inserted and the later table needed to be re-numbered.

Summary of Section 95113(l)(5)(E)

Original section 95113(l)(5)(E), now new section 95113(l)(3)(E), is modified to delete the last sentence of the section pertaining to CWB meter postponement requests for 2014 data reported in 2015.

Rationale for Section 95113(l)(5)(E)

The last sentence of this section, pertaining to 2014 data reported in 2015, is now irrelevant, and is deleted to improve clarity.

Summary of Section 95113(m)

Section 95113(m) is modified to add the heading text, "Reporting to Support the Cost of Implementation Fee Regulation" and to clarify that the fuel is reported in volume not quantity.

Rationale for Section 95113(m)

This change clarifies the purpose of this paragraph and that the volume of fuel must be reported. This is not a change in how fuel is currently reported under this provision, but provides clarity.

Summary of Section 95113(m)(1)

Section 95113(m)(1) is modified to move the text "produced and imported."

Rationale for Section 95113(m)(1)

This change clarifies that the dependent clause describes "CARBOB" and not "produced and imported."

Summary of Section 95113(m)(2)

Section 95113(m)(2) is modified to move the text "produced and imported."

Rationale for Section 95113(m)(2)

This change clarifies that the dependent clause describes "finished California gasoline" and not "produced and imported."

Summary of Section 95113(m)(3)

Section 95113(m)(3) is modified to move the text "produced and imported."

Rationale for Section 95113(m)(3)

This change clarifies that the dependent clause describes "California Diesel" and not "produced and imported."

Summary of Section 95113 (New Table 2-1)

New Table 2-1 lists the materials for which refineries are required, pursuant to section 95113(l)(1), to report annual on-site production amounts and annual amounts produced elsewhere and brought on-site.

Rationale for Section 95113 (New Table 2-1)

The new Table 2-1 presents a clear list of materials for which refineries are required, pursuant to section 95113(l)(1), to report annual on-site production amounts and annual amounts produced elsewhere and brought on-site. Refineries previously reported annual amounts of the “primary refinery products” listed in the primary refinery product definition and the “finished products” found in Table C-1 and Table MM-1 in 40 CFR Part 98. Table 2-1 provides a single list of refinery products to report, clarifying which materials should be reported and eliminating potentially duplicative reporting. The materials listed in Table 2-1 are a subset of the materials included in Table C-1 and Table MM-1 in 40 CFR Part 98; Table 2-1 does not introduce any new materials for refineries to report.

Summary of Section 95113 (Original Table 1)

“Table 1 CWB Functions and Factors” is renamed “Table 2-2 CWB Units and Factors.” Also several typographical changes are made that do not alter the content of the table, and the CWB unit “sulfuric acid regeneration” is removed from the table.

Rationale for Section 95113 (Original Table 1)

Table 1 is renamed to make it consistent with the terminology used in the rest of the Regulation, and it is re-numbered because a new Table 2-1 was inserted. Several typographical errors are corrected. The CWB unit “sulfuric acid regeneration” is removed from the table because this product will now be reported under new section 95115(n)(19). This change is required because of a proposed new product-based benchmark in the Cap-and-Trade Regulation that allows for reporting of this product by both refineries and non-refineries.

Section 95114. Hydrogen Production.

Summary of Section 95114(d)

The heading to section 95114(d) is modified. This section is also changed to specify that when using Equation P-1 from 40 CFR 98.163(b) to calculate emissions, the molecular weight values of fuels and feedstocks must be applied with the same frequency as the carbon content values.

Rationale for Section 95114(d)

The heading in section 95114(d) is modified to clarify that this section covers both fuel combustion emissions and process emissions from hydrogen production units. When using Equation P-1 from 40 CFR 98.163(b) to calculate emissions, the application of weighted average molecular weight values must be at the frequency specified in section 95114(e)(2), which is the same frequency required for the application of carbon content values. This was previously implied because these molecular weight values are needed

to calculate emissions by Equation P-1, but this reporting requirement is now made explicit in the Regulation. This change clarifies the emissions calculation for hydrogen production units without changing any requirements.

Summary of Section 95114(e)

Section 95114(e) is modified to clarify the requirements for reporting the contents of fuels and feedstocks used in hydrogen production units.

Rationale for Section 95114(e)

This change clarifies the emissions reporting requirements for hydrogen production units without changing any requirements.

Summary of Section 95114(e)(1)

Section 95114(e)(1) is modified to clarify the requirements for reporting the contents of feedstocks used in hydrogen production units when monitoring emissions with CEMS.

Rationale for Section 95114(e)(1)

This change clarifies the emissions reporting requirements for hydrogen production units when monitoring emissions with CEMS without changing any reporting requirements. The reporting requirements in the previous section 95114(e) were difficult to discern because the requirements, when monitoring emissions without CEMS in section 95114(e)(2), partially overlapped with the requirements when monitoring emissions with CEMS in section 95114(e)(1). The new section 95114(e) more clearly states all reporting requirements in a single section when monitoring GHG emissions without CEMS (section 95114(e)(1)) and when monitoring GHG emissions with CEMS (section 95114(e)(2)).

Summary of Sections 95114(e)(2) through (e)(2)(B)

Sections 95114(e)(2) through (e)(2)(B) are modified to clarify the requirements for reporting the contents of fuels and feedstocks used in hydrogen production units when monitoring emissions without CEMS.

Rationale for Sections 95114(e)(2) through (e)(2)(B)

These changes clarify the emissions reporting requirements for hydrogen production units when monitoring emissions without CEMS without changing any reporting requirements. The reporting requirements in the previous section 95114(e) were difficult to discern because the requirements when monitoring emissions without CEMS in section 95114(e)(2) partially overlapped with the requirements when monitoring emissions with CEMS in section 95114(e)(1). The new section 95114(e) more clearly states all reporting requirements in a single section when monitoring GHG emissions without CEMS (section 95114(e)(1)) and when monitoring GHG emissions with CEMS (section 95114(e)(2)).

Summary of Section 95114(j)

Section 95114(j) is modified to clarify the product data reporting requirements for gaseous hydrogen produced and liquid hydrogen sold. This section is also modified to eliminate the requirement for reporting all hydrogen sales, including all purchasers or

receivers. This section is also modified to specify that reporters only need to report hydrogen sales to petroleum refineries and hydrogen vehicle fueling stations.

Rationale for Section 95114(j)

These changes improve the clarity of the reporting requirements. These changes also reduce the amount of sales data required for reporting to that needed for ARB data analysis, to address stakeholder concerns over reporting confidential information.

Section 95115. Stationary Fuel Combustion Sources.

Summary of Section 95115(c)(1)

Section 95115(c)(1) is modified to change the table numbering.

Rationale for Section 95115(c)(1)

Table numbering was updated throughout the regulation so that tables are numbered to indicate the subpart of the regulation that the table is within, and sequentially within the subpart. This avoids having multiple tables in the regulation with the same table numbers, which improves clarity.

Summary of Section 95115(c)(2)

Section 95115(c)(2) is modified to change the table numbering.

Rationale for Section 95115(c)(2)

Table numbering was updated throughout the regulation so that tables are numbered to indicate the subpart of the regulation that the table is within, and sequentially within the subpart. This avoids having multiple tables in the regulation with the same table numbers, which improves clarity.

Summary of Section 95115(h)

Section 95115(h) is modified to clarify the reporting requirements for aggregated units, including those with CEMS.

Rationale for Section 95115(h)

These changes are included to better explain the intent of the reporting requirements for aggregated units. There is no new reporting requirement, but instead the changes provide further explanation that the unit aggregation requirements can be met by following the primary requirements, and also identifying the percentages of fuel use by units of the same type, which is consistent with published ARB guidance and current implementation of the regulation. In addition, previously only 40 CFR §98.36(c)(2) was indicated, which refers to the requirements for reporters using continuous emissions monitors (CEMS). Insertion of the text “using CEMS” is included to improve readability, making the reference to using CEMS clear without having to refer to the U.S. EPA regulation.

Summary of Section 95115(n)(2)

Section 95115(n)(2) is flagged for potential changes to product data reporting.

Rationale for Section 95115(n)(2)

This change is necessary to indicate that the benchmarks for these products in the Cap-and-Trade Regulation may change, and that product data reporting may change as a result. Any proposed changes will be included in the official rulemaking record for public review.

Summary of Section 95115(n)(10)

Section 95115(n)(10) is modified to replace the percent symbol “%” with the word “percent.”

Rationale for Section 95115(n)(10)

The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95115(n)(14)

Section 95115(n)(14) is flagged for potential changes to product data reporting.

Rationale for Section 95115(n)(14)

This change is necessary to indicate that the benchmarks for these products in the Cap-and-Trade Regulation may change, and that product data reporting may change as a result. Any proposed changes will be included in the official rulemaking record for public review.

Summary of Section 95115(n)(15)

Section 95115(n)(15) is flagged for potential changes to product data reporting.

Rationale for Section 95115(n)(15)

This change is necessary to indicate that the benchmarks for these products in the Cap-and-Trade Regulation may change, and that product data reporting may change as a result. Any proposed changes will be included in the official rulemaking record for public review.

Summary of Section 95115(n)(16)

Section 95115(n)(16) is modified to add new covered products “fluid milk product,” “anhydrous milkfat,” and “milk protein concentrate” to reporting requirements. “Milk,” “buttermilk,” “skim milk,” “cream,” “dairy product solids for animal feed,” and “ultrafiltered milk” are removed from reporting requirements. The term “nonfat dry and skimmed” is removed from the milk powder reporting requirements.

Rationale for Section 95115(n)(16)

These changes are proposed to align reporting of these products with proposed amendments to the associated fluid milk product-based benchmarks in the Cap-and-Trade Regulation. Calculation of new benchmarks may require recalculation of all other fluid benchmarks to ensure that the same emissions aren’t attributed to more than one product and that all products are properly benchmarked. Thus, all fluid milk is flagged for changes that will be determined over the next few months. Proposed changes will be included in the official rulemaking record for public review.

Summary of Section 95115(n)(17)

Section 95115(n)(17) is modified to remove covered product data reporting for almonds and pistachios from the regulation. Also, the requirements of original section 95115(n)(18) are now moved to this section.

Rationale for Section 95115(n)(17)

This change is proposed because the Cap-and-Trade Regulation proposed amendments remove the almond and pistachio product-based benchmarks from the regulation, so product data reporting is no longer required.

Summary of Section 95115(n)(18)

Original section 95115(n)(19), now new section 95115(n)(18), is renumbered.

Rationale for Section 95115(n)(18)

This change is required due to the removal of existing section 95115(n)(17) and subsequent renumbering.

Summary of Section 95115(n)(19)

New section 95115(n)(19) is added to allow for the reporting of sulfuric acid regeneration by refineries and non-refineries alike.

Rationale for Section 95115(n)(19)

This change is required because of a proposed new product-based benchmark in the Cap-and-Trade Regulation that allows for reporting of sulfuric acid regeneration by both refineries and non-refineries.

Summary of Table 1 in Section 95115

The numbering of Table 1 in Section 95115 is updated to Table 2-3.

Rationale for Table 1 in Section 95115

Table numbering was updated throughout the regulation so that tables are numbered to indicate the subpart of the regulation that the table is within, and sequentially within the subpart. This avoids having multiple tables in the regulation with the same table numbers, which improves clarity.

Section 95117. Lime Manufacturing.

Summary of Section 95117(d)

Section 95117(d) is modified to remove lime product data reporting from the regulation.

Summary of Section 95117(d)

Lime product data reporting is removed from the regulation because it is neither used to calculate emissions nor to calculate allowance allocation.

Section 95118. Nitric Acid Production.

Summary of Section 95118(d)

Section 95118(d) is flagged for potential changes to product data reporting.

Rationale for Section 95118(d)

This change is necessary to indicate that the benchmarks for these products in the Cap-and-Trade Regulation may change, and that product data reporting may change as a result. Any proposed changes will be included in the official rulemaking record for public review.

Summary of Section 95118(e)

Section 95118(e) is added to require additional testing of N₂O emissions data for nitric acid production facilities.

Rationale for Section 95118(e)

Through evaluation of several years of nitric oxide (N₂O) process emissions from nitric acid production facilities, it is clear that there can be substantial variations in the emissions over the course of the year. To account for this emissions variability and to improve the accuracy of the estimated emissions, the requirement was added to require at least two source tests of the N₂O process emissions during the course of the data year. The interval between source tests was also specified (i.e., no less than four months) to prevent immediate sequential testing, which could potentially miss emissions variations that may occur over time.

Section 95119. Pulp and Paper Manufacturing.

Summary of Sections 95119(d) through (d)(3)

Sections 95119(d) through (d)(3) are modified to remove product data reporting for tissue products from the regulation.

Rationale for Sections 95119(d) through (d)(3)

Product data reporting for tissue products is removed from the regulation because the Cap-and-Trade Regulation product-based benchmarks for which these covered product data were required are proposed to be removed from the Cap-and-Trade Regulation.

Section 95121. Suppliers of Transportation Fuels.

Summary of Section 95121

Section 95121 is modified to specify that the reporting requirements in section 95121 do not apply to biofuel production facilities.

Rationale for Section 95121

This revision is necessary to ensure that there is not double counting of biofuels in MRR. Biofuels are typically reported by the position holders or refiners delivering the

finished blended products out of the terminal rack, therefore, volumes reported by biofuel producers were resulting in double counting of biofuels.

Summary of Section 95121(a)(2)

Section 95121(a)(2) is modified to remove enterers of biomass fuels and in-state biofuel producers from the reporting requirements. This section is also modified to prevent double counting of fossil fuels when the fuel is delivered across two or more racks prior to delivery for distribution. The revision clarifies that the first entity to deliver the fuel across a rack in California is the entity that must report the fuel. This section is also modified to require reporting of the volumes of fuel that are excluded from emissions reporting due to export out of California, use in marine or aviation applications, or delivery out of an upstream rack. Suppliers do not report the emissions from these fuels, but will be required to report the volume of these excluded fuels. Also the table number was revised to be consistent with other sections of MRR.

Rationale for Section 95121(a)(2)

These revisions are necessary to ensure that there is not double counting of biofuels in MRR. Biofuels are typically reported by the position holders or refiners delivering the finished blended products out of the terminal rack, therefore, volumes reported by biofuel producers and enterers were resulting in double counting of biofuels. These revisions are necessary to ensure that there is not double counting of fossil fuels in the rare circumstance that the fuel is delivered out of a terminal rack, loaded into another terminal storage system, and delivered out of the rack a second time prior to distribution. These revisions are also necessary to ensure that verifiers have access in the emissions data report to the reported volumes of fuel that were excluded from the emissions calculation. This will enable verifiers to include this information in their initial risk assessment and sampling plan. In addition, this information is useful for ARB in performing sector-wide QA/QC and comparing fuel data collected under MRR with data collected by other ARB programs and outside agencies. The table number change was necessary to ensure tables are numbered consistently throughout MRR.

Summary of Section 95121(b)(1)

Section 95121(b)(1) is modified to remove enterers of biomass fuels and in-state biofuel producers from the emissions calculation requirements. Also the table number was revised to be consistent with other sections of MRR, and text was modified to correct references to “percent” and to remove a hyphen from the term “nonconformance.”

Rationale of Section 95121(b)(1)

This revision is necessary to ensure that there is not double counting of biofuels in MRR. Biofuels are typically reported by the position holders or refiners delivering the finished blended products out of the terminal rack, therefore, volumes reported by biofuel producers and enterers were resulting in double counting of biofuels. The table number change was necessary to ensure tables are numbered consistently throughout MRR. The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol. A change is also made to remove the hyphen from the word “nonconformance” to align with the definition of the term.

Summary of Section 95121(b)(3)

Section 95121(b)(3) is modified to remove enterers of biomass fuels and in-state biofuel producers from the emissions calculation requirements. Also the table number is revised to be consistent with other sections of MRR.

Rationale of Section 95121(b)(3)

This revision is necessary to ensure that there is not double counting of biofuels in MRR. Biofuels are typically reported by the position holders or refiners delivering the finished blended products out of the terminal rack, therefore, volumes reported by biofuel producers and enterers were resulting in double counting of biofuels. The table number change was necessary to ensure tables are numbered consistently throughout MRR. The table number change was necessary to ensure tables are numbered consistently throughout MRR.

Summary of Section 95121(b)(4)

Section 95121(b)(4) is updated to reference the ARB's definition of GWP, rather than referencing U.S. EPA's Table A-1 of CFR Part 98.

Rationale for Section 95121(b)(4)

This revision is proposed because beginning with 2021 data reported in 2022, under the revisions reporters would be required to use updated GWP values. The use of updated GWP values as provided in the revised "global warming potential" definition of MRR is needed to reflect current science related to GWP values, and to provide compatibility with other GHG reporting programs.

Summary of Section 95121(d)(1)

Section 95121(d)(1) is modified to prevent double counting of fossil fuels when the fuel is delivered across two or more racks prior to delivery for distribution. The revision clarifies that the first entity to deliver the fuel across a rack in California is the entity that must report the fuel. Also the table number is revised to be consistent with other sections of MRR, and text was modified to correct a reference to "percent."

Rationale for Section 95121(d)(1)

This revision is necessary to ensure that there is not double counting of fossil fuels in the rare circumstance that the fuel is delivered out of a terminal rack, loaded into another terminal storage system, and delivered out of a rack for a second time prior to distribution. The table number change was necessary to ensure tables are numbered consistently throughout MRR. The percent text change is necessary to be consistent with ARB guidelines on referring to "percent" in text rather than the percent symbol.

Summary of Section 95121(d)(2)

Section 95121(d)(2) is modified to prevent double counting of fossil fuels when the fuel is delivered across two or more racks prior to delivery for distribution. The revision clarifies that the first entity to deliver the fuel across a rack in California is the entity that must report the fuel. Also the table number is revised to be consistent with other sections of MRR, and text was modified to correct a reference to "percent."

Rationale for Section 95121(d)(2)

This revision is necessary to ensure that there is not double counting of fossil fuels in the rare circumstance that the fuel is delivered out of a terminal rack, loaded into another terminal storage system, and delivered out of a rack for a second time prior to distribution. The table number change was necessary to ensure tables are numbered consistently throughout MRR. The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95121(d)(3)

Section 95121(d)(3) is revised to clarify that refiners that deliver fuel in bulk to entities not licensed by the California Board of Equalization must report the fuel unless they can demonstrate final destination outside of California, or that the fuel was used exclusively in marine or aviation applications. Also the table number is revised to be consistent with other sections of MRR, and text was modified to correct a reference to “percent.”

Rationale for Section 95121(d)(3)

This change is needed to clarify the emissions reporting requirements for bulk transfers with regards to fuel used for aviation and marine applications, and ensures consistent application of the marine and aviation emissions reporting exemption. The table number change was necessary to ensure tables are numbered consistently throughout MRR, and text was modified to correct a reference to “percent.” The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95121(d)(4)

Section 95121(d)(4) is revised to clarify that only enterers outside the bulk system of fossil fuels and blended finished fuels that contain fossil fuels must report emissions as a transportation fuel supplier. Enterers of biofuel products that do not contain fossil fuels are not required to report emissions. Also, the table number is revised to be consistent with other sections of MRR.

Rationale for Section 95121(d)(4)

This change is needed to ensure that emissions from fossil fuels that are imported into California outside the bulk system are accounted for, but emissions from biomass fuels that are imported by enterers are not required to be reported to avoid double counting of biomass fuel emissions. The table number change was necessary to ensure tables are numbered consistently throughout MRR. The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95121(d)(9)

Section 95121(d)(9) is added to require reporting of volumes of fuel that are excluded from emissions calculations due to export out of California, use in marine or aviation applications, or delivery out of an upstream rack. Suppliers do not report the emissions from these fuels, but will be required to report the volumes of these excluded fuels.

Rationale for Section 95121(d)(9)

This revision is necessary to ensure that verifiers have access in the emissions data report to the reported volumes of fuel that were excluded from the emissions calculation. This will enable verifiers to include this information in their initial risk assessment and sampling plan. In addition, this information is useful for ARB in performing sector-wide QA/QC and comparing fuel data collected under MRR with data collected by other ARB programs and outside agencies.

Summary of Section 95121 Table 2

The table number is revised to be consistent with other sections of MRR.

Rationale for Section 95121 Table 2

The table number change is necessary to ensure tables are numbered consistently throughout MRR.

Section 95122. Suppliers of Natural Gas, Natural Gas Liquids, Liquefied Petroleum Gas, Compressed Natural Gas, and Liquefied Natural Gas.

Summary of Section 95122(a)(2)

Section 95122(a)(2) is modified to clarify that intrastate pipelines are not considered to be LDCs, and must report emissions pursuant to the requirements for intrastate pipelines.

Rationale for Section 95122(a)(2)

This change is necessary to avoid confusion regarding whether intrastate pipelines are considered to be LDCs. This change makes it clear that intrastate pipelines are a separate natural gas supplier reporting entity from LDCs.

Summary of Section 95122(a)(3)

Section 95122(a)(3) is modified to require the importer of liquefied petroleum gas (LPG), liquefied natural gas (LNG), and compressed natural gas (CNG) to report the emissions from these imported fuels. In the current regulation, the consignee of the imported shipment is the entity required to report emissions from these imported fuels.

Rationale for Section 95122(a)(3)

This change is necessary to ensure more complete emissions coverage in the reporting program for LPG, LNG, and CNG imported into California. Under the current regulation, some consignees of the imported fuels are receiving relatively small quantities of imported fuel annually and are falling below the reporting threshold. By moving the point of regulation upstream to the importer, this issue will largely be resolved. This change is also necessary to align with the terminology used in the Cap-and-Trade Regulation.

Summary of Section 95122(a)(4)

Section 95122(a)(4) is modified to align terminology for related facilities that make LNG products with the terminology proposed to be used in the Cap-and-Trade Regulation.

Rationale for Section 95122(a)(4)

This change is necessary to ensure clarity and consistency of the requirements in MRR and the Cap-and-Trade Regulation for facilities that make LNG products.

Summary of Section 95122(b)(5)(A)

Section 95122(b)(5)(A) is modified to correct a reference to “percent.”

Rationale for Section 95122(b)(5)(A)

The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95122(b)(5)(B)

Section 95122(b)(5)(B) is modified to correct a reference to “percent.”

Rationale for Section 95122(b)(5)(B)

The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95122(b)(8)

Section 95122(b)(8) is modified to specify that LDCs have the option to report the biomethane deliveries that are contractually purchased by an end-user and transported to the end-user by the LDC. This option is available if the LDC reports the biomethane information required by section 95103(j)(3) of MRR and is able to provide the necessary documentation to identify the biomethane as exempt or non-exempt as specified in section 95103(j).

Rationale for Section 95122(b)(8)

This change is necessary to provide LDCs the option to report biomethane that is purchased by and delivered to end-users, such as CNG fueling stations or smaller commercial facilities, which are not regulated entities under MRR or the Cap-and-Trade Regulation.

Summary of Section 95122(b)(9)

Section 95122(b)(9) is modified to require the importer of LPG, LNG, and CNG to calculate and report the CO₂ emissions from these imported fuels. In the current regulation, the consignee of the imported shipment is the entity required to report emission from these imported fuels.

Rationale for Section 95122(b)(9)

This change is necessary to ensure more complete emissions coverage in the reporting program for LPG, LNG, and CNG imported into California. Under the current regulation, some consignees of the imported fuels are receiving relatively small quantities of imported fuel annually and are falling below the reporting threshold. By moving the point of regulation upstream to the importer, this issue will largely be resolved. This change is also necessary to align with the terminology used in the Cap-and-Trade Regulation.

Summary of Section 95122(b)(10)

Section 95122(b)(10) is modified to require the importer of LPG, LNG, and CNG to calculate and report the CH₄ and N₂O emissions from these imported fuels. In the current regulation, the consignee of the imported shipment is the entity required to report emission from these imported fuels.

Rationale for Section 95122(b)(10)

This change is necessary to ensure more complete emissions coverage in the reporting program for LPG, LNG, and CNG imported into California. Under the current regulation, some consignees of the imported fuels are receiving relatively small quantities of imported fuel annually and are falling below the reporting threshold. By moving the point of regulation upstream to the importer, this issue will largely be resolved. This change is also necessary to align with the terminology used in the Cap-and-Trade Regulation.

Summary of Section 95122(b)(11)

Section 95122(b)(11) is modified to align terminology for related facilities that make LNG products with the terminology proposed to be used in the Cap-and-Trade Regulation.

Rationale for Section 95122(b)(11)

This change is necessary to ensure clarity and consistency of the requirements in MRR and the Cap-and-Trade Regulation for facilities that make LNG products.

Summary of Section 95122(b)(12)

Section 95122(b)(12) is modified to align terminology for related facilities that make LNG products with the terminology proposed to be used in the Cap-and-Trade Regulation.

Rationale for Section 95122(b)(12)

This change is necessary to ensure clarity and consistency of the requirements in MRR and the Cap-and-Trade Regulation for facilities that make LNG products.

Summary of Section 95122(b)(13)

Section 95122(b)(13) is updated to reference the ARB's definition of GWP, rather than referencing U.S. EPA's Table A-1 of CFR Part 98.

Rationale for Section 95122(b)(13)

This revision is proposed because beginning with 2021 data reported in 2022, under the revisions reporters would be required to use updated GWP values. The use of updated values as provided in the revised "global warming potential" definition of MRR is needed to reflect current science related to GWP values, and to provide compatibility with other GHG reporting programs.

Summary of Section 95122(c)(4)

Section 95122(c)(4) is modified to require the importer of LPG, LNG, and CNG to meet the monitoring and QA/QC requirements for reporting these fuels. In the current

regulation, the consignee of the imported shipment is the entity required to report emission from these imported fuels.

Rationale for Section 95122(c)(4)

This change is necessary to support the new reporting requirements proposed for LPG, LNG, and CNG importers. Moving the point of regulation requires these entities to now meet the monitoring and QA/QC requirements of MRR.

Summary of Section 95122(d)(2)(A)

Section 95122(d)(2)(A) is modified to remove the requirement to report data in volumetric units of Mscf in addition to MMBtu.

Rationale for Section 95122(d)(2)(A)

This change is necessary because ARB does not currently use Mscf data, and it is unnecessary to require this data to be reported.

Summary of Section 95122(d)(2)(D)

Section 95122(d)(2)(D) is modified to clearly distinguish that intrastate pipelines are not considered LDCs.

Rationale for Section 95122(d)(2)(D)

This change is necessary to avoid confusion regarding whether intrastate pipelines are considered to be LDCs. This change makes it clear that intrastate pipelines are a separate natural gas supplier reporting entity from LDCs.

Summary of Section 95122(d)(2)(E)

Section 95122(d)(2)(E) is modified to clearly distinguish that intrastate pipelines are not considered LDCs.

Rationale for Section 95122(d)(2)(E)

This change is necessary to avoid confusion regarding whether intrastate pipelines are considered to be LDCs. This change makes it clear that intrastate pipelines are a separate natural gas supplier reporting entity from LDCs.

Summary of Section 95122(d)(3)

Section 95122(d)(3) is modified to remove the requirement for interstate pipelines to report data in volumetric units of Mscf in addition to MMBtu.

Rationale for Section 95122(d)(3)

This change is necessary because ARB does not currently use Mscf data, and it is unnecessary to require this data to be reported.

Summary of Section 95122(d)(4)

Section 95122(d)(4) is modified to remove the requirement for interstate pipelines to report data in volumetric units of Mscf in addition to MMBtu.

Rationale for Section 95122(d)(4)

This change is necessary because ARB does not currently use Mscf data, and it is unnecessary to require this data to be reported.

Summary of Section 95122(d)(5)

Section 95122(d)(5) is modified to require the importer of LPG, LNG, and CNG to report imported volumes and emissions from these fuels. In the current regulation, the consignee of the imported shipment is the entity required to report emissions from these imported fuels.

Rationale for Section 95122(d)(5)

These changes are necessary to ensure more complete emissions coverage in the reporting program for LPG, LNG, and CNG imported into California. Under the current regulation, some consignees of the imported fuels are receiving relatively small quantities of imported fuel annually and are falling below the reporting threshold. By moving the point of regulation upstream to the importer, this issue will largely be resolved. This change is also necessary to align with the terminology used in the Cap-and-Trade Regulation.

Summary of Section 95122(d)(7)

Section 95122(d)(7) is modified to require in-state LNG producers to report LNG delivery information for deliveries to industrial facilities and natural gas utilities.

Rationale for Section 95122(d)(7)

This change is necessary to avoid double counting of compliance obligations for emissions from LNG for Cap-and-Trade Regulation purposes.

Summary of Section 95122(d)(8)

Section 95122(d)(8) is modified to require natural gas liquid fractionators and importers of LPG to report the total quantity of LPG that was excluded from the emissions calculation because of delivery to a final destination outside of California.

Rationale for Section 95122(d)(8)

This revision is necessary to ensure that verifiers have access in the emissions data report to the reported volumes of LPG that was excluded from the emissions calculation. This will enable verifiers to include this information in their initial risk assessment and sampling plan. In addition, this information may be useful for ARB in performing sector-wide QA/QC and comparing LPG data collected under MRR with data collected by other ARB programs and outside agencies.

Section 95124. Lead Production.

Summary of Section 95124(d)

Section 95124(d) is flagged for potential changes to product data reporting.

Rationale for Section 95124(d)

This change is necessary to indicate that the benchmarks for these products in the Cap-and-Trade Regulation may change, and that product data reporting may change as a result. Any proposed changes will be included in the official rulemaking record for public review.

Subarticle 3. Additional Requirements for Reported Data.

Section 95129. Substitution for Missing Data Used to Calculate Emissions from Stationary Combustion and CEMS Sources.

Summary of Section 95129(a)

Section 95129(a) is modified to allow operators that report emissions from units under 40 CFR Part 75 to use the Part 75 missing data procedures for calculating CH₄ and N₂O emissions in addition to reporting missing CO₂ data.

Rationale for Section 95129(a)

This revision is necessary to avoid requiring operators of Part 75 units to apply a different missing data procedure (i.e. MRR 95129 (b) thru (g)) for CH₄ and N₂O emissions, because the Part 75 missing data substitution procedure are typically programmed into the Data Acquisition & Handling System computer. Allowing the use of these procedures avoids potentially unnecessary calculations for comparatively small emissions of CH₄ and N₂O.

Summary of Section 95129(c)(3)(A)(2.)

Section 95129(c)(3)(A)(2.) is modified to change the number of Table 1 to Table 3-1.

Rationale for Section 95129 (c)(3)(A)(2.)

This change is included to make the numbering of tables consistent throughout the document, and does not change any reporting requirements.

Summary of Section 95129(c)(3)(B)

Section 95129(c)(3)(B) is modified to change the number of Table 1 to Table 3-1, and text was modified to correct a reference to “percent.”

Rationale for Section 95129 (c)(3)(B)

This change is included to make the numbering of tables consistent throughout the document, and does not change any reporting requirements. The percent text change is necessary to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary for Section 95129(i)(1)

Section 95129(i)(1) is modified to allow for the use of the Tier 1 Calculation Methodology for pipeline quality natural gas, the use of a clinker-based method for cement kiln units, when requesting approval from the Executive Officer for the use of an interim temporary method, in the event of an unforeseen breakdown of CEMS equipment.

Rationale for Section 95129(i)(1)

This revision is necessary to provide flexibility to use Tier 1 calculations in the event of CEMS equipment breakdown. Tier 1 calculations are of comparable accuracy to higher tier calculations when used for units that combust pipeline quality natural gas. This revision is also necessary to provide cement operators with an option for reporting process emissions from cement kiln units in the event of an unforeseen CEMS breakdown.

Summary of Section 95129(i)(2)(C)

Section 95129(i)(2)(C) is modified to require cement operators to submit an interim monitoring plan that includes the clinker-based process emissions calculation parameters to ARB as part of the temporary method request in the event of an unforeseen CEMS breakdown.

Rationale for Section 95129(i)(2)(C)

This revision is necessary to ensure ARB has sufficient information to review the request for use of a temporary clinker-based process emissions calculation in the event of an unforeseen CEMS breakdown.

Subarticle 4. Requirements for Verification of Greenhouse Gas Emissions Data Reports and Requirements Applicable to Emissions Data Verifiers; Requirements for Accreditation of Emissions Data and Offset Project Data Report Verifiers Section 95130. Requirements for Verification of Emissions Data Reports.

Summary of Section 95130(a)(1)(A)

Section 95130(a)(1)(A) is modified to remove a reference to 2011 data reporting.

Rationale for Section 95130(a)(1)(A)

The year 2011 was included in the original drafting of the regulation but is no longer relevant to the requirements for annual verification.

Summary of Sections 95130(a)(1)(B) through (E)

Original sections 95130(b)(1)(B) through (E), now sections 95130(a)(1)(A) through (D) are renumbered. In addition, original section 95130(a)(1)(E), now section 95130(a)(1)(D), is modified to include covered product data when a verifier determines if full verification is needed.

Rationale for Sections 95130(a)(1)(B) through (E)

These changes are needed due to the deletion of section 95130(a)(1)(A). The change to section 95130(a)(1)(E) is needed to ensure verifiers evaluate significant changes in covered product data as a risk of misreporting, and conduct full verification when needed to ensure accuracy.

Summary of Section 95130(a)(2)

Section 95130(a)(2) is modified to reflect that verifiers may contract for verification services directly with the reporting entity or with an agent of the reporting entity. This

section is also modified to require the reporting entity and the verification body and ARB agree to a schedule that ensures the verification body can complete the verification within the six-year time period allowed for verification engagements.

Rationale for Section 95130(a)(2)

Verification bodies may contract for verification services directly with the reporting entity or with an agent acting on behalf of the reporting entity. This change clarifies that the six-year period for providing verification services begins regardless of whether the contract is in place with the reporting entity or their agent.

The requirement between the reporting entity, the verification body, and ARB regarding a schedule to complete verification is needed to ensure the six-year window for professional engagement is not exceeded except in very limited circumstances, for a short period, and with Executive Officer approval.

Summary of Section 95130(a)(3)(A)

Section 95130(a)(3)(A) is changed to clarify that the three-year period during which verification bodies must not undertake verification services when the reporting entity contracts with another verification is not required when the cause for a new verification body was a set aside verification statement.

Rationale for Section 95130(a)(3)(A)

Currently, existing section 95130(a)(3) requires that, if a reporting entity contracts with a new verification body for any reason, the previous verification body must wait three years before contracting with the reporting entity again. The addition of 95130(a)(3)(A) clarifies the intention of this section by specifying that this three-year break is not required when the cause of the reporting entity contracting with a new verification body is a set aside verification statement. This verification body is still subject to the overall six-year time limit for performing verifications.

Section 95131. Requirements for Verification Services.

Summary of Section 95131(a)

Section 95131(a) is modified to clarify the time when verifiers may begin providing verification services.

The section is also modified to require verifiers to provide at least 14 days advance notice to ARB before a site visit.

The section is further modified to preclude verification services from starting before an emissions data report has been certified by the reporting entity.

Rationale for Section 95131(a)

This change is needed because “working” days was interpreted differently by verifiers. The requirement to provide ARB with 14 days advance notice is necessary to ensure ARB staff can audit the verification body, including attending the site visit as part of an oversight audit.

The requirement that delays verification until after a report is certified is necessary to avoid the perception of conflict of interest when the verification body is reviewing data

that has not yet been reported.

Summary of Section 95131(a)(2)

Section 95131(a)(2) is modified to clarify that the independent reviewer may not be the only verification team member who holds a sector accreditation.

Rationale for Section 95131(a)(2)

This change is needed to clarify to verifiers that are participating on a verification team that requires a sector accreditation, that a verification team member besides the independent reviewer is required to hold the sector accreditation, if applicable.

Summary of Section 95131(a)(2)(C)

Section 95131(a)(2)(C) is modified to only require a sector accreditation for verifying emissions from pulp and paper manufacturing if there are process emissions.

Rationale for Section 95131(a)(2)(C)

This change is needed because pulp and paper manufacturers that do not emit process emissions have simpler emissions data than facilities with process emissions, and therefore, do not need to include a verification team member with a process emissions accreditation.

Summary of Section 95131(a)(4)

Section 95131(a)(4) is modified to simplify the regulatory language, and to clarify that an updated notice of verification service must be submitted to ARB for approval, if any changes are made.

Rationale for Section 95131(a)(4)

This change is needed to remove redundant requirements to notify ARB of changes to conflict of interest. The requirement for ARB to approve changes to the notice of verification service information is unchanged.

Summary of Section 95131(b)(2)

Section 95131(b)(2) is modified to clarify that, as part of their preparation for site visits, verifiers must prepare a draft sampling plan and verification plan.

Rationale for Section 95131(b)(2)

This change is needed to ensure that verifiers have adequately prepared for verification site audits to ensure that they can utilize their time on-site appropriately.

Summary of Section 95131(b)(3)(C)(3.)

Section 95131(b)(3)(C)(3.) is modified to require verifiers to review method changes and meter calibration postponements while conducting verification.

Rationale for Section 95131(b)(3)(C)(3.)

This change is needed to clarify that verifiers must review applicable method changes or postponements for conformance with MRR, including that appropriate approvals from ARB were provided and appropriately implemented.

Summary of Section 95131(b)(4)

Section 95131(b)(4) is modified to correct a typo in a reference to section 95158. This section is also modified to clarify that verification of NAICS codes and associated activities listed in Table 8-1 of the Cap-and-Trade Regulation must be documented, and to clarify that secondary NAICS codes are not required to be reported, but if they are reported and are listed in Table 8-1, the verifier must ensure that the NAICS code is accurate and represents the NAICS-associated activity listed in the table.

Rationale for Section 95131(b)(4)

These changes are needed to correct a typo in a reference to section 95158 so that the entire regulation is referenced as subject to review during verifications.

These changes are also needed to clarify that all reported NAICS codes, if those NAICS codes are listed in Table 8-1 of the cap-and-trade regulation, must be reviewed for conformance with the regulation.

Summary of Section 95131(b)(7)(B)

Section 95131(b)(7)(B) is modified to specify that sampling plans must address the unique risk of incomplete reporting of fuel and electricity transactions.

Rationale for Section 95131(b)(7)(B)

This change is needed to ensure verifiers are including the risk of incomplete reporting in their data checks for reporting entities that report fuel and electricity transactions.

Summary of Section 95131(b)(7)(C)

Section 95131(b)(7)(C) is modified to correct a typo in a reference to section 95158.

Rationale for Section 95131(b)(7)(C)

This change is needed to correct a typo in a reference to section 95158 so that the entire regulation is referenced as subject to review during verifications.

Summary of Sections 95131(b)(8)(F)(3.), 95131(b)(8)(F)(3.)(a.), and 95131(b)(8)(F)(3.)(c.)

Sections 95131(b)(8)(F)(3.), 95131(b)(8)(F)(3.)(a.), and 95131(b)(8)(F)(3.)(c.) are modified to clarify that the verifier must specifically review electricity and steam purchase/acquisition and generation/disposition data reported by entities operating in sectors listed in table 8-1 of the cap-and-trade regulation, legacy contract transition assistance applicants, and entities eligible for a limited exemption of emissions from the production of qualified thermal output (QTO).

Rationale for Sections 95131(b)(8)(F)(3.), 95131(b)(8)(F)(3.)(a.), and 95131(b)(8)(F)(3.)(c.)

These changes are needed to ensure that verifiers specifically review for conformance electricity and steam generation and disposition (sales, offsite delivery, or wasting) and electricity and steam purchase and acquisition data pursuant to the noted sections to ensure accurate reporting in support of cap-and-trade regulation benchmark development and allowance allocation.

With respect to the limited exemption of emissions from the production of QTO-eligible entities, the word “applying” was changed to “eligible” because the application deadline for these entities was in 2014, but entities may still otherwise be eligible for the exemption.

Summary of Section 95131(b)(9)

Section 95131(b)(9) is modified to clarify that failure to fix misreported data that does not affect covered emissions or covered product data does not lead to an adverse verification statement. This section is also modified to remove a hyphen from the defined term “nonconformance.”

This section is further modified to clarify that small differences identified by the verifier that stem from rounding, truncation, or averaging are not considered correctable errors.

Rationale for Section 95131(b)(9)

This change is needed to clarify language used in relation to the consequences of errors that affect covered emissions or covered product data, versus misreporting that does not affect that data.

This change is needed to correct a typo in the spelling of the term “nonconformance.” “Nonconformance” is a defined term in section 95102.

This change is needed to clarify circumstances in which small differences identified between the verifiers’ and reporters’ calculation of emissions do not result in a correctable error. This change is made to be consistent with the definition of correctable in section 95102(a), and the language earlier in the subparagraph in section 95131(b)(9).

Summary of Section 95131(b)(11)

Section 95131(b)(11) is modified to clarify that the verifier should include in the issues log all corrections to reported data, including errors identified by the reporting entity themselves; to clarify that potential nonconformances should be included in the issues log; and to clarify that verifiers must communicate with the reporting entity regarding the issues log during the course of verification activities, and whether an issue could result in an adverse verification statement, if not addressed.

Rationale for Section 95131(b)(11)

This change is needed to ensure each step of verification is well-documented, including communications with the reporting entity, the identification of all potential nonconformances, and the outcome of a data error if not addressed. These steps are currently being implemented, so this change is to clarify minimum requirements.

Summary of Sections 95131(b)(12) and (b)(12)(A)

Sections 95131(b)(12) and (b)(12)(A) are modified to require that covered product data material misstatement calculations/assessments should not be performed on all covered product data in certain situations—specifically, in cases in which a single entity/facility is reporting more than one type of covered product data, and the data are required to be reported in different units (e.g., short tons, proof gallons, gallons), and also in cases in which a single entity/facility is reporting both thermal EOR upstream oil

and gas production and non-thermal EOR oil and gas production.

Rationale for Sections 95131(b)(12) and (b)(12)(A)

These changes are needed to ensure that data reported in different units of measurement are not combined under the same material misstatement equation. It is mathematically inconsistent to compare data reported under different units. Additionally, requiring entities to convert measurements to other units would be administratively onerous since it would require accurate measurement and reporting of additional variables, such as density, that are not currently required to be measured and are not needed for reporting or allocation.

These changes are further needed to ensure that data reported pursuant to 95156(a)(7) and 95156(a)(8) are separately found to be free of material misstatement requirements. Data reported pursuant to 95156(a)(7) receive over ten times the allocation that data reported pursuant to 95156(a)(8) receive, so it's important to ensure that they are separately reviewed for accuracy/conformance. Because these changes to material misstatement assessments for oil and gas production will, in some cases, require metering changes, these provisions are being delayed until 2019 (data year)/2020 (reporting year) to allow facilities reporting both of these covered products time to change their metering.

Summary of Section 95131(b)(13)(C)

Section 95131(b)(13)(C) is also modified to correct references to “percent” and to remove a hyphen from the term “nonconformance.”

Rationale for Section 95131(b)(13)(C)

This change is needed to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol, and to correct a typo in the spelling of the term “nonconformance.” “Nonconformance” is a defined term in section 95102.

Summary of Sections 95131(b)(14)(B) through (b)(14)(B)(5.)

Sections 95131(b)(14)(B) through (b)(14)(B)(5.) are modified to remove information on material misstatement evaluations specific to refinery covered product data.

The text is replaced with a general clarification that verifiers must check each separate type of covered product data to ensure that each type conforms to the definitions, metering requirements, and other reporting requirements of the regulation.

Rationale for Sections 95131(b)(14)(B) through (b)(14)(B)(5.)

The removal of the refinery-specific covered product data material misstatement language is required because it was only necessary to make specific clarifications about material misstatement through the 2014 data year. After 2014, there is no variation among refineries as to which data should be considered covered product data, and thus these clarifications are no longer required.

These changes are also needed to ensure that verifiers check each different type (e.g., CWB) and subtype (e.g., CWB unit) of covered product data to ensure that the data conform to all requirements of MRR. In lieu of performing a risk-based analysis of total covered product data, this revision requires verifiers to sample from within each type

and sub-type of covered product data. Thus, verifiers still may perform risk-based analyses of covered product, but must ensure that each covered is assessed for conformance and accuracy. This change ensures that data that may be small in volume compared to other data but that result in higher amounts of allowance allocation get the same level of scrutiny. This change is necessary because verifiers are not allowed to calculate allowance allocations and are thus unable to perform their risk assessment based on the relative contributions of different covered product data to each entity's allocation.

Summary of Section 95131(c)(3)(C)

Section 95131(c)(13)(C) is modified to remove a hyphen from the defined term "nonconformance."

Rationale for Section 95131(c)(3)(C)

This change is needed to correct typos in the spelling of the term "nonconformance." "Nonconformance" is a defined term in section 95102.

Summary of Section 95131(c)(4)

Section 95131(c)(4) is modified to clarify how many days are required to be provided to reporting entities for correcting errors in reported data, and to require the verification body to provide a copy of the issues log to both the reporting entity and ARB.

Rationale for Section 95131(c)(4)

These changes are needed because "working" days was interpreted differently by verifiers and reporting entities. This change is needed to clarify the time that verification bodies need to provide to reporting entities for data corrections.

Summary of Section 95131(c)(4)(A)

Section 95131(c)(4)(A) is modified to specify that the verification statement is the subject of the petition, not the emissions or product data.

Rationale for Section 95131(c)(4)(A)

This change is made to specify the verification statement is the subject of the petition is needed to clarify that it is not the reported data that is being petitioned but the potential adverse statement that the verification body intends to submit to ARB.

Summary of Section 95131(c)(4)(B)

Section 95131(c)(4)(B) is modified to clarify the timeframe when verifiers are required to respond to requests for information from ARB related to a petition by the reporting entity.

Rationale for Section 95131(c)(4)(B)

This change is needed because "working" days was interpreted differently by reporting entities and verifiers.

Summary of Section 95131(c)(5)

Section 95131(c)(5) is modified to clarify the time when verifiers and reporting entities are required to respond to requests for information from ARB related to an assigned

emissions level.

Rationale for Section 95131(c)(5)

This change is needed because “working” days was interpreted differently by verifiers and reporting entities.

Summary of Section 95131(f)

Section 95131(f) is modified to reduce the time from 20 working days to 5 days that a reporting entity has to provide information to ARB upon request.

Rationale for Section 95131(f)

This change is needed to align with the Cap-and-Trade Regulation which requires information to be evaluated in a shorter timeframe than what is allowed in the current regulation.

Summary of Section 95131(g)

Section 95131(g) is modified to reduce the time a verification body has to provide information to ARB upon request.

Rationale for Section 95131(g)

This change is needed to align with the Cap-and-Trade Regulation which requires information to be evaluated in a shorter timeframe than what is allowed in the current regulation.

Summary of Section 95131(i)(2)(D)(2.)

Section 95131(i)(2)(D)(2.) is modified to clarify the verification requirements for the combustion of biogas and biomethane.

Rationale for Section 95131(i)(2)(D)(2.)

These changes are needed to clarify that the requirements in the Cap-and-Trade Regulation for reporting biogas and biomethane apply both where a contract is in place for the purchase of the fuel, as well as when the fuel is produced and consumed on-site. However, when a contract is used to procure the fuel, the verifier must review the contract to ensure the biomethane meets the requirements of the Cap-and-Trade Regulation.

Section 95132. Accreditation Requirements for Verification Bodies, Lead Verifiers, and Verifiers of Emissions Data Reports and Offset Project Data Reports.

Summary of Section 95132(b)(1)(D)(3.)

Section 95132(b)(1)(D)(3.) is modified to include a requirement for verification bodies to have a written policy that identifies how they intend to comply with existing conflict of interest requirements.

Rationale for Section 95132(b)(1)(D)(3.)

This change is needed because it allows ARB to objectively evaluate whether the verification body is following their own procedures for managing conflict of interest. This helps to inform ARB of risks of the verification body not following the requirements in section 95133, and ensures the verification body understands what the regulation requires of their staff.

Summary of Section 95132(b)(2)(C)

Section 95132(b)(2)(C) is modified to remove the requirement for the applicant to meet the lead verifier requirement at the time of the exam.

Rationale for Section 95132(b)(2)(C)

This change is needed because ARB has reduced the number of opportunities for lead verifier exams, and therefore verifiers are not able to apply to upgrade from verifier to lead verifier when needed. ARB is changing the requirement so that existing accredited verifiers who gain sufficient experience to qualify as a lead verifier can upgrade from verifier to lead verifier as soon as they have the requisite experience rather than waiting until an exam is offered by ARB. This change will alleviate the backlog of verifiers that need to be accredited as a lead verifier.

Summary of Section 95132(b)(2)(C)(1.)

Section 95132(b)(2)(C)(1.) is modified to remove an extra space.

Rationale for Section 95132(b)(2)(C)(1.)

This change is needed to correct formatting.

Summary of Section 95132(b)(2)(C)(2.)

Section 95132(b)(2)(C)(2.) is modified to expand the applicable experience that verifiers can use to qualify for a lead verifier.

Rationale for Section 95132(b)(2)(C)(2.)

This change is needed because experience in the private and public sector should be treated the same for the purposes of determining whether a verifier has the requisite experience as an environmental data or financial auditor.

Summary of Sections 95132(b)(4), (b)(5)(A), (b)(5)(B)(1.), and (b)(5)(B)(2.)

Sections 95132(b)(4), (b)(5)(A), (b)(5)(B)(1.), and (b)(5)(B)(2.) are modified to correct references to “percent.”

Rationale for Sections 95132(b)(4), (b)(5)(A), (b)(5)(B)(1.), and (b)(5)(B)(2.)

This change is needed to be consistent with ARB guidelines on referring to “percent” in text rather than the percent symbol.

Summary of Section 95132(c)(3)

Section 95132(c)(3) is modified to clarify that an Executive Order is not issued when accreditation is withheld by the Executive Officer.

Rationale for Section 95132(c)(3)

This change is also needed to clarify that Executive Orders are only issued for accreditation; withholding accreditation only requires a response and not an Executive Order.

Summary of Section 95132(c)(6)

Section 95132(c)(6) is deleted to remove the option for verifiers to request additional time from the Executive Officer to submit and review accreditation application documents.

Rationale for Section 95132(c)(6)

This change is needed to remove an unnecessary step in the application process. Sections 95132(c)(1) and (3) already allow sufficient time for this process.

Summary of Section 95132(c)(7)

Original section 95132(c)(7), now section 95132(c)(6), is modified to clarify the amount of time a verification body or verifier is required to notify ARB of any nonconformance in another GHG program.

Rationale for Section 95132(c)(7)

This change is needed because “working” days was interpreted differently by verifiers.

This change to notify ARB of nonconformances rather than corrective action clarifies that ARB must be notified when a problem is identified, not when the verification body takes corrective action.

Summary of Section 95132(c)(8)

Section 95132(c)(8) is removed to delete an outdated requirement that is no longer applicable.

Rationale for Section 95132(c)(8)

This change is no longer applicable and verifiers have already completed those requirements.

Summary of Section 95132(d)(2)

Section 95132(d)(2) is modified to clarify the time period that a verification body must inform other entities of a change in their accreditation.

Rationale for Section 95132(d)(2)

This change is needed because “working” days was interpreted differently by verifiers.

Summary of Section 95132(d)(3)

Section 95132(d)(3) is modified to clarify that reporting entities are required to contract with a different verification body within six months of the completion of verification services if that verification body’s accreditation is suspended or revoked.

Rationale for Section 95132(d)(3)

This change replaces the word “new” with “different” to clarify the result of a verification body suspension or revocation.

Section 95133. Conflict of Interest Requirements for Verification Bodies.

Summary of Section 95133(f)(1)

Section 95133(f)(1) is modified to clarify the timing for ARB to notify the verification body that it may proceed with services. It is also modified to correct a typographical error in a reference.

Rationale for Section 95133(f)(1)

This change is needed to shorten the time period ARB has to determine conflict of interest evaluation, which streamlines the verification process for verification bodies.

This change is also being made to correct a typographical error to specify that the criteria for conflict of interest evaluation should be included, not the criteria for subcontracting, which is what the previous version of MRR referenced.

Summary of Section 95133(g)(2)

Section 95133(g)(2) is modified to clarify the time period within which ARB is required to evaluate conflict of interest for an emerging conflict.

Rationale for Section 95133(g)(2)

This change is needed because “working” days was interpreted differently by verifiers.

Subarticle 5. Reporting Requirements and Calculation Methods for Petroleum and Natural Gas Systems.

Section 95150. Definition of the Source Category

Summary of Section 95150(a)(2)

Section 95150(a)(2) is modified to specify that onshore natural gas processing equipment that is owned and/or operated by the facility owner/operator and located in the same basin, but not included as part of a separate gas processing facility, are considered “associated with a well pad.” The facility owner/operator of such equipment must include the equipment with the onshore petroleum and natural gas production facility.

Rationale for Section 95150(a)(2)

This change is needed to ensure that emissions from natural gas processing equipment within a basin are included with the emissions reported from an owner/operator’s petroleum and natural gas production facility, when the owner/operator of such equipment does not report the emissions from the processing equipment under a separate facility identification number.

Summary of Section 95150(a)(3)

Section 95150(a)(3) is modified to clarify that all gas processing plants that process an annual average of 25 MMscf or more per day of natural gas, as well as fractionation facilities that have no production activity in the same basin, must be categorized as onshore natural gas processing facilities.

Rationale for Section 95150(a)(3)

This change is needed to clarify that all natural gas processing plants that process an annual average of 25 MMscf per day or greater, and all natural gas fractionating facilities that have no commonly owned or operated production activity in the same basin, must report as a separate processing facility, and should not be included as part of an onshore production facility.

Section 95153. Calculating GHG Emissions.

Summary of Section 95153(a)

Section 95153(a) is modified to specify that, by January 1, 2019, reported emissions from all continuous bleed pneumatic devices must meet the accuracy requirements in section 95103(k) using the methods set forth in sections 95154(b), (c), and (d), and sections 95153(r), (s), and (t).

Rationale for Section 95153(a)

This change is needed to add a more accurate method for the quantification of emissions from continuous bleed pneumatic devices after 2018. Emissions from continuous low bleed devices will be covered emissions in accordance with proposed modifications to the cap-and-trade regulation, and the more accurate method will support this change to the cap-and-trade program. The change will also provide consistency between the requirements set forth in MRR, the cap-and-trade regulation and the ARB Regulation for Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities with regard to the measurement methodology, as well as the classification of pneumatic devices as either continuous or intermittent.

Summary of Section 95153(b)

Section 95153(b) is modified to specify that Equation 2 in this section continues to be required for quantifying emissions from all pneumatic devices, but only through the 2018 calendar year.

Rationale for Section 95153(b)

This change is needed to provide consistency with proposed revisions to the cap-and-trade regulation. After 2018, the emissions for all continuous bleed devices will be quantified using the method in the revised section 95153(a).

Summary of Section 95153(b)(2)

Section 95153(b)(2) is added to specify that Equation 2 continues to be required for quantifying emissions from all intermittent bleed pneumatic devices beginning January 1, 2019.

Rationale for Section 95153(b)(2)

This new section is needed to specify that Equation 2 continues to be required for quantifying emissions from intermittent bleed pneumatic devices starting in 2019. It is the same methodology that is currently in use for intermittent devices as these emissions are not proposed to be covered under the cap-and-trade regulation.

Summary of Section 95153(c)(5)

Section 95153(c)(5) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(c)(5)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(c)(6)

Section 95153(c)(6) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(c)(6)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(c)(7)(B)

Section 95153(c)(7)(B) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(c)(7)(B)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(f)(4)(A)

Section 95153(f)(4)(A) is modified to correct an error.

Rationale for Section 95153(f)(4)(A)

This correction is needed to reference the appropriate equation in the text. The correction does not change any requirements.

Summary of Section 95153(j)(1)

Section 95153(j)(1) is modified to clarify that the gas-to-oil (GOR) ratio term used to quantify emissions in this section refers to the total ratio of gas to oil, as defined in section 95102.

Rationale for Section 95153(j)(1)

This modification is needed to distinguish the meaning of the gas-to-oil terminology and clarify that the term, when used in this section, is meant to include any gas separated from the product prior to collection of any flash liberation test samples. This change is consistent with the modified definition of “gas-to-oil ratio” in section 95102.

Summary of Section 95153(j)(2)

Section 95153(j)(2) is modified to clarify that the gas-to-oil (GOR) ratio term used to quantify emissions in this section refers to the total ratio of gas to oil, as defined in section 95102.

Rationale for Section 95153(j)(2)

This modification is needed to distinguish the meaning of the gas-to-oil terminology and clarify that the term, when used in this section, is meant to include any gas separated from the product prior to collection of any flash liberation test samples. This change is consistent with the modified definition of “gas-to-oil ratio” in section 95102.

Summary of Section 95153(j)(2)(A)

Section 95153(j)(2)(A) is modified to include the flash liberation test as one possible method to quantify GOR, if the flash liberation test is representative of the total GOR for the production tested.

Rationale for Section 95153(j)(2)(A)

This modification is needed to make the methodology of this section consistent with the methodology in section 95153(k), by specifically identifying the flash liberation test as one possible method choice for quantifying emissions in this section. This change also clarifies that if the flash liberation test is used, it must be representative of the total GOR for the material that is being analyzed.

Summary of Section 95153(j)(3)

Section 95153(j)(3) is modified to change the “GOR” term in Equation 15 to “Total GOR.” This section is also modified to correct the definition of the term “ $E_{s,n}$ ” and the definition of the term “GOR” to indicate that the units are in standard cubic feet, and not cubic feet at actual conditions. The term for GOR is also modified to indicate that the term represents Total GOR, as described in the proposed modification to section 95153(j)(2)(A).

Rationale for Section 95153(j)(3)

These changes are needed to clarify that the “GOR” term in Equation 15 represents “Total GOR,” as described in the proposed modification to Section 95153(j)(2)(A). These corrections are also needed because GOR is measured and reported in standard cubic feet, according to the definition of GOR in section 95102.

Summary of Section 95153(k)(1)

Section 95153(k)(1) is modified to change the “GOR” term to “Total GOR.”

Rationale for Section 95153(k)(1)

This change is needed to clarify that the “GOR” term represents “Total GOR,” as described in the proposed modification to the GOR definition in section 95102.

Summary of Section 95153(k)(2)

Section 95153(k)(2) is modified to change the “GOR” term to “Total GOR.”

Rationale for Section 95153(k)(2)

This change is needed to clarify that the “GOR” term represents “Total GOR,” as described in the proposed modification to the GOR definition in section 95102.

Summary of Section 95153(k)(2)(A)

Section 95153(k)(2)(A) is modified to specify that the flash liberation test must be representative of the total GOR for the production tested, when used to quantify emissions for this source.

Rationale for Section 95153(k)(2)(A)

This change is needed to clarify that if the flash liberation test is used to quantify the volume of associated gas vented or flared, it must be representative of the total GOR for the material that is being analyzed.

Summary of Section 95153(k)(3)

Section 95153(k)(3) is modified to change the term for “GOR_{p,q}” in Equation 17 and the definition of the term “GOR_{p,q}” to “Total GOR_{p,q}” and to correct the definition of the term “E_{a,n}” to indicate that the units are in standard cubic feet, and not cubic feet at actual conditions.

Rationale for Section 95153(k)(3)

These changes are needed to clarify that the “GOR” term in Equation 17 represents “Total GOR,” as described in the proposed modification to the GOR definition in section 95102. The correction to the definition of the term “E_{a,n}” is needed because GOR is measured and reported in standard cubic feet, according to the definition of GOR in section 95102.

Summary of Section 95153(k)(4)

Section 95153(k)(4) is deleted.

Rationale for Section 95153(k)(4)

This section is not necessary, because the results of Equation 17 are already in units of standard cubic feet.

Summary of Section 95153(k)(5)

Section 95153(k)(5) is re-numbered to 95153(k)(4).

Rationale for Section 95153(k)(5)

This change is necessary due to the deletion of the section previously numbered 95153(k)(4).

Summary of Section 95153(k)(6)

Section 95153(k)(6) is re-numbered to 95153(k)(5).

Rationale for 95153(k)(6)

This change is necessary due to the deletion of the section previously numbered 95153(k)(4).

Summary of Section 95153(k)(6)(A)

Section 95153(k)(6)(A) is modified to replace a reference to section 95153(k)(4) with 95153(k)(3).

Rationale for 95153(k)(6)(A)

This change is necessary due to the deletion of the section previously numbered 95153(k)(4).

Summary of Section 95153(l)(2)

Section 95153(l)(2) is modified to correct and clarify the last sentence of the section to indicate that engineering calculations, company records, or best available data may be used to quantify the volume of flared material.

Rationale for Section 95153(l)(2)

This modification corrects the grammar of the last sentence in the section, to clarify how flare flow volume may be quantified. The modification does not change the monitoring and reporting requirements.

Summary of Section 95153(m)(4)

Section 95153(m)(4) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(m)(4)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(n)(4)

Section 95153(n)(4) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(n)(4)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(n)(5)

Section 95153(n)(5) is modified to clarify the definition of the term “ $E_{s,i,m}$,” to indicate that the units are in standard cubic feet, and not cubic feet at actual conditions. The section is also modified to correct the definition of the term “ MT_m ” to specify that the correct

units for the term are standard cubic feet per hour for each operating mode, as described.

Rationale for Section 95153(n)(5)

The modification of the definition of the term “ $E_{s,i,m}$ ” is needed to clarify the correct units for the term. The modification to the definition of the term “ MT_m ” is also necessary to specify the correct units for the term.

Summary of Section 95153(v)(1)(A)(1.)

Section 95153(v)(1)(A)(1.) is modified to include location and frequency criteria for the collection of flash liberation test samples.

Rationale for Section 95153(v)(1)(A)(1.)

This change is needed to establish requirements for the collection of flash liberation test samples, regarding the frequency of sampling, and the location of sample collection.

Summary of Section 95153(w)

Section 95153(w) is modified to clarify that operators are not required to report emissions from the combustion of gas that escapes from pipeline dig-ins.

Rationale for Section 95153(w)

This modification clarifies that if the gas escaping from a pipeline dig-in ignites, the operator is not required to report the emissions from the combustion of the gas. This addition removes ambiguity from the pipeline dig-in reporting requirements.

Summary of Section 95153(y)(2)(C)

Section 95153(y)(2)(C) is modified to clarify the definition of the term “ Γ ” to allow a default value for both internal and external combustion devices. The definition is further modified to clarify the types of information that a reporting entity may use to justify the use of a value other than the default value.

Rationale for Section 95153(y)(2)(C)

The definition of the term “ Γ ” is clarified to specify that a default value can be used for external combustion devices. The modifications clarify the use of default values, as well as the acceptable reference information that may be used to justify the use of an alternate value for “ Γ .”

Summary of Section 95153(y)(2)(D)

Section 95153(y)(2)(D) is modified to replace the term “quarterly” with a more specific description of the frequency requirement for sampling.

Rationale for Section 95153(y)(2)(D)

This change is needed to remove the term “quarterly,” and replace it with every three-month period with at least 30 days in between sampling. The change does not modify the requirement for sampling frequency.

Summary of Section 95153(y)(5)

Section 95153(y)(5) is modified to specify that operators must report sorbent emissions associated with wet flue gas desulfurization as well as other acid gas emissions controls using sorbent, that produce CO₂ emissions due to the sorbent chemical reaction.

Rationale for Section 95153(y)(5)

This modification is necessary to specify that CO₂ emissions contributions from additional unit configurations where sorbent is used must be reported. Previously, the section only specified fluidized bed boilers as units that were subject to sorbent emissions reporting. The modification includes additional unit types, and is consistent with MRR Section 95115 and 40 CFR §98.33(d).

Section 95156. Additional Data Reporting Requirements.

Summary of Section 95156(a)(9)

Section 95156(a)(9) is modified to clarify that the average high heat value (HHV) measurement must be the annual weighted average HHV.

Rationale for Section 95156(a)(9)

This modification is needed to specify how the average HHV for this section is calculated, to ensure accuracy and consistency in reporting.

Summary of Section 95156(a)(10)

Section 95156(a)(10) is modified to clarify that the average HHV measurement must be the annual weighted average HHV.

Rationale for Section 95156(a)(10)

This modification is needed to specify how the average HHV for this section is calculated, to ensure accuracy and consistency in reporting.

Summary of Section 95156(b)

Section 95156(b) is modified to clarify that the average HHV measurement must be the annual weighted average HHV.

Rationale for Section 95156(b)

This modification is needed to specify how the average HHV for this section is calculated, to ensure accuracy and consistency in reporting.

Summary of Section 95156(c)

Section 95156(c) is modified to correct a grammatical error.

Rationale for Section 95156(c)

This modification is needed to correct a grammatical error and is non-substantial.

Summary of Section 95156(d)

Section 95156(d) is modified to clarify that the average HHV measurement must be the annual weighted average HHV. The section is also modified to clarify the acceptable methods for quantifying volume of gas processed as either the annual output volume or the annual throughput volume of gas processed at the facility.

Rationale for Section 95156(d)

This modification regarding the HHV measurement is needed to specify how the average HHV for this section is calculated, to ensure accuracy and consistency in reporting. The modification to the methodology for quantifying the volume of gas processed is to clarify the acceptable method approaches for quantifying this parameter.

Section 95157. Activity Data Reporting Requirements.

Summary of Section 95157(c)(13)(A)(1.)

Section 95157(c)(13)(A)(1.) is modified to remove the letter “s” from the word “wets.”

Rationale for Section 95157(c)(13)(A)(1.)

This change is needed to correct a non-substantive typographical error.

Summary of Section 95157(c)(15)

Section 95157(c)(15) is modified to include a second parenthesis in order to correct a punctuation error.

Rationale for Section 95157(c)(15)

This modification is needed to correct a non-substantive punctuation error.

Summary of Section 95157(c)(19)(H)

Section 95157(c)(19)(H) is modified to correct the units required for reporting the volume of associated gas produced.

Rationale for Section 95157(c)(19)(H)

This modification is needed so that the volume of associated gas is reported in the correct units, Mscf.

Summary of Section 95157(e)

Section 95157(e) is modified to change the “gas-to-oil ratio” term to “total gas-to-oil ratio.”

Rationale for Section 95157(e)

This modification is needed to clarify that the gas-to-oil ratio reporting requirement is to be representative of the total gas-to-oil ratio, as described in the proposed modification to the GOR definition in section 95102.

Subarticle 6. Reporting Requirements and Calculation Methods for Electricity Generating Units Subject to the Clean Power Plan
Overview of Sections 95160 to Section 95163.

Summary of Sections 95160 to Section 95163

Sections 95160 through 95163 are added to implement the requirements of the federally mandated U.S. EPA Clean Power Plan Rule (CPP). These include a description of the source category and applicability (§95160), definitions (§95161), monitoring and record keeping requirements (§95162), and emissions and data calculation requirements (§95163).

Summary Rationale for Sections 95160 to 95163

As federally mandated, States must implement reporting and other requirements specified under the U.S. EPA Clean Power Plan Final Rule, Subpart UUUU—Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units; 40 CFR Part 60, Subpart UUUU, published in the Federal Register on October 23, 2015. The new MRR sections 95160 to 95163 are necessary for the ARB to comply with the federal requirements for identifying affected EGUs, requiring affected EGUs to calculate and report specified data using specified methods, and to implement other CPP requirements.

A summary and rationale is provided below for each new provision added to the regulation.

Section 95160. Definition of Source Category and Applicability.

Summary of Section 95160(a)

Section 95160(a) is added to incorporate by reference the U.S. EPA CPP Final Rule into the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR).

Rationale for Section 95160(a)

This change is needed to specify the U.S. EPA CPP regulation and the specific version which is incorporated, and which must be followed in complying with any specified CPP requirements.

Summary of Section 95160(b)

Section 95160(b) is added to specify when reporters with affected electricity generation units (affected EGUs) must begin complying with the provisions of Subarticle 6 of the MRR if the EPA CPP requirements are approved. The provisions would take effect for 2021 data submitted in 2022 if the EPA requirements are approved.

Rationale for Section 95160(b)

Under the CPP, ARB must collect and report specified data from affected EGUs based on timing specified in the CPP. The first interim step in the CPP is the period from January 1, 2022 to December 31, 2024 (CPP interim period definition), and ARB's compliance period is proposed to begin in 2021. In order for ARB to have the

information necessary to meet the CPP requirements, as well as to ensure consistent information reporting across the entire first compliance period, the provisions of MRR Subarticle 6 must go into effect with 2021 data submitted in 2022, which would make the initial required facility data available to ARB in early 2022, and annually thereafter. It is necessary to include conditional language regarding the implementation of the provisions of Subarticle 6 because this additional reporting is necessary only if U.S. EPA approves California's plan. If the EPA does not approve California's plan none of the provisions of Subarticle 6 will be implemented or required, and so will not be required in order to avoid unnecessary regulatory requirements.

Summary of Section 95160(c)

Section 95160(c) is added to specify which reporters are subject to the MRR Subarticle 6 requirements. The added provision directly follows the CPP applicability requirements to ensure conformance with the Federal requirements.

Rationale for Section 95160(c)

This addition is needed to make it clear which reporters are subject to the requirements and which criteria should be used in determining if an affected EGU is subject to the requirements of Subarticle 6.

Summary of Section 95160(d)

Section 95160(d) is added to require any affected EGU to also comply with all other applicable requirements of MRR, and that verification is required for all affected EGUs.

Rationale for Section 95160(d)

This addition is needed to make it explicit that the provisions of Subarticle 6 are in addition to the MRR requirements, and are not a replacement of the MRR requirements. Also, because of the importance of the CPP data in complying with Federal requirements, any affected CPP EGU is subject to the third-party verification requirements, even if they do not meet other verification criteria in the regulation.

Summary of Section 95160(e)

Section 95160(e) is added to remove reporting flexibility regarding emissions calculation that is provided for power plants that are not subject to the CPP requirements.

Rationale for Section 95160(e)

In order to be compliant with the CPP provisions, it was necessary to remove the option for affected EGUs to use the provisions of section 95115 of this article in estimating GHG emissions. Instead, only the requirements of Subarticle 6 must be implemented.

Summary of Section 95160(f)

Section 95160(f) is added to remove reporting flexibility regarding data aggregation that is provided for power plants that are not subject to the CPP requirements.

Rationale for Section 95160(f)

In order to be compliant with the CPP provisions, it was necessary to remove the option for affected EGUs to estimate and report aggregated GHG emissions for multiple

electricity generating units. Instead, the emissions and other required data for each affected EGU at a facility must be separately identified, quantified, and reported.

Summary of Section 95160(g)

Section 95160(g) is added to prevent affected EGUs from ceasing reporting unless they completely shut down, which is needed to be compliant with the CPP requirements.

Rationale for Section 95160(g)

For EGUs not subject to the CPP, cessation of reporting is allowed after reporting annual emissions of less than 10,000 metric tons of CO₂e for three years or an entire compliance period, depending on whether or not the entity is subject to a cap-and-trade compliance obligation. Under the CPP requirements this is not allowed, and reporting may only cease after a complete shutdown and cessation of all GHG emitting processes operations. Therefore, it was necessary to create separate cessation criteria for CPP-affected EGUs.

Section 95161. Definitions.

Summary of Section 95161(a)

Section 95161(a) is added to reference the CPP definitions and to specify that they supersede the ARB MRR definitions should there be conflicts.

Rationale for Section 95161(a)

In order for the ARB and companies to comply with the CPP requirements, there must be clarity regarding the use of defined terms. Therefore, it was necessary to specify that should there be a conflict in terms, for those entities subject to the CPP, the definitions associated with the CPP take precedence over ARB definitions.

Section 95162. Monitoring and Record Keeping Requirements.

Summary of Section 95162(a)(1)

Section 95162(a)(1) is added to require affected EGUs to prepare monitoring plans meeting requirements specified in the CPP.

Rationale for Section 95162(a)(1)

It is necessary to add the requirement to prepare monitoring plans so that affected EGUs comply with the CPP requirements. The specified monitoring plans include information that is additional to monitoring plans information specified in section 95105 of MRR.

Summary of Section 95162(a)(2)

Section 95162(a)(2) is added to allow CO₂ emissions monitoring at a common stack for one or more affected EGUs if continuous emissions monitoring (CEMS) is used, and to allow reporting of electricity output for the combined units.

Rationale for Section 95162(a)(2)

For facilities with multiple affected EGUs using CEMS, which are vented through a common stack, accurate and complete data can be obtained via monitoring the common stack. Therefore, in this situation it is not necessary or beneficial to require quantification of individual EGU emissions, so consistent with the CPP this provision allows the combined stack emissions to be reported. Similarly, the hourly net electric output may also be reported for the combined system for the same reasons.

Summary of Section 95162(a)(3)

Section 95162(a)(3) is added to specify that when CEMS is used, the CO₂ emissions must be subdivided by affected EGU when there is not a common stack as specified in section 95162(a)(2). The section also identifies how the CO₂ emissions in such situations are divided between affected EGUs for determining compliance with an applicable emissions standard.

Rationale for Section 95162(a)(3)

In order to provide the most accurate and complete data, when there are multiple stacks or multiple ducts, it is necessary to collect and report data for each stack or duct. For clarity, it is also necessary to provide a methodology for evaluating the resulting emissions for an affected EGU, as it applies to compliance with an applicable emissions standard.

Summary of Section 95162(a)(4)

Section 95162(a)(4) is added to describe how to apportion combined hourly net energy to individual affected EGUs if two or more affected EGUs serve a common electric generator.

Rationale for Section 95162(a)(4)

In cases in which two or more affected EGUs serve a common generator, it may be ambiguous as to how to apportion the energy output of the affected EGUs. The addition this provision is needed to define the procedure for apportioning the hourly net energy to individual affected EGUs.

Summary of Section 95162(b)

Section 95162(b) is added to specify the duration that specified records must be retained and how they are to be retained.

Rationale for Section 95162(b)

The data collected under this subarticle are used to determine compliance with the federal CPP and are also used in support of the Cap-and-trade regulation. The CPP has a five year record retention requirement. However, because MRR already has a 10 record retention requirement for cap-and-trade facilities, we have used that existing requirement for affected EGUs (which are nearly all cap-and-trade facilities currently). A period of 10 years record retention ensures that it is possible to analyze historical data for completeness and accuracy, which is necessary to ensure reporting compliance. Consistent with CPP, records must be maintained on-site for at least 2 years to allow for expeditious auditing and data or process checks as needed.

Summary of Section 95162(b)(1)

Section 95162(b)(1) is added to specify a subset of the records and data that must be retained, specifically data used for calculating hourly CO₂ mass, hourly net electric output, and hourly thermal data (if applicable).

Rationale for Section 95162(b)(1)

The most critical data used to ensure compliance with the CPP requirements are the CO₂ emissions, electricity output, and thermal data (if applicable). Therefore, it is absolutely necessary that this specific information be retained for the time frames specified in section 95162(b) to allow for transparency, auditing, and compliance checking.

Summary of Section 95162(b)(2)

Section 95162(b)(2) is added to require specific additional records that must be retained in compliance with the CPP and to meet ARB needs. These records include data used to demonstrate compliance with an affected EGU's emission standard, all reports submitted to the ARB, and data required to be recorded as specified under section 60.5860(c)(2)(iii) of the CPP.

Rationale for Section 95162(b)(2)

In order to be compliant with the CPP, and to meet ARB needs, it is necessary to impose the requirement for reporters to retain records needed to confirm data are accurate and complete, to clearly document materials provided to ARB, and to retain the core measurement data and supporting data that is used to derive all of the required reporting data.

Section 95163. Emissions and Data Calculation and Reporting Requirements.

Summary of Section 95163(a)

Section 95163(a) is added to require affected EGUs to determine their CO₂ mass emissions for the compliance period following the specified provisions.

Rationale for Section 95163(a)

This section is needed to include the requirement for affected EGUs to actually determine their CO₂ emissions. This is necessary because the CO₂ emissions are a critical element of determining affected EGU compliance with the CPP mass-based standards.

Summary of Section 95163(b)

Section 95163(b) is added to allow certain affected EGUs to use a fuel-based method for computing emissions.

Rationale for Section 95163(b)

This provision, which incorporates the CPP requirements, provides a less complex method of estimating CO₂ emissions based on fuel use instead of using CEMS. This option is provided only for facilities that exclusively combust liquid or gaseous fuels.

The option is acceptable because liquid and gaseous fuels are typically fairly homogenous and can be precisely measured and characterized. Therefore, the resulting CO₂ emissions can be accurately and completely quantified, as needed to meet ARB and CPP accuracy requirements.

Summary of Section 95163(c)

Section 95163(c) is added to require affected reporters to measure and calculate net electric output, useful thermal output, and mechanical output, and to determine the net energy output as specified in the CPP.

Rationale for Section 95163(c)

The specified information is critical for determining compliance with the CPP mass-based standards for affected EGUs, and therefore must be measured or computed using the specified protocols to ensure completeness and consistency across affected EGUs.

Summary of Section 95163(d)

Section 95163(d) is added to require affected EGUs to submit required information annually, under the specified schedule.

Rationale for Section 95163(d)

In order for ARB to comply with the CPP, and to determine if affected EGUs have met the relevant standards, certain information must be provided to the ARB. Therefore, this provision specifies that affected EGUs must prepare and submit an annual report to ARB that includes hourly CO₂ emissions, net electric output, and other values as specified under CPP provisions. The reporting schedule for affected EGUs to submit reports is the same as for other major industrial sources and other EGUs to reduce reporting burdens and complexity.

Appendix A. Emission Factors and Calculation Data for Petroleum and Natural Gas Systems Reporting.

Summary of Appendix A

Table 7 in Appendix A is modified to include footnote number 3 in the cell entitled, "Population Emission Factors – Below Grade M&R Components, Gas Service."

Rationale for Appendix A

This change is needed to correct an omission of the footnote indicator. The modification does not change any requirements.

Appendix B. Flash Emissions of Greenhouse Gases and Other Compounds from Crude Oil and Natural Gas Separator and Tank Systems.

Summary of Section 1

This section specifies that the intended purpose of the test procedure is to quantify emissions from crude oil, condensate, and produced water and that it is applicable for use on separator and tank systems.

Rationale for Section 1

This section is required to inform a regulated party of the intended purpose and applicability of the test procedure.

Summary of Section 2

This section describes the test procedure and specifies that testing is conducted by gathering pressurized liquid samples upstream of a separator and tank system. The intent of the test procedure is to replicate flashing inside of a separator and tank system. Therefore, samples must be gathered upstream of the system before emissions can flash from the liquid. After the samples are gathered, they are taken to a laboratory for conducting liquid and gas analyses in accordance with specified test methods and procedures. After the laboratory completes the analyses, the annual methane emissions are calculated using the laboratory results and a calculation methodology.

Rationale for Section 2

This section is required to provide a summary of the test procedure so that a regulated party can understand the test procedure concept.

Summary of Section 3

This section proposes definitions to the terms used in the test procedure.

Rationale for Section 3

It is necessary that ARB defines its terms as they apply to the test procedure.

Summary of Section 4

This section provides a list of each item that may create a bias, or errors, in the final reported results. A bias in the reported results can be introduced by using an incorrect sampling method, gathering samples from the wrong location or type of vessel, using the wrong type of sampling cylinder, or using un-calibrated equipment.

Rationale for Section 4

This section is necessary to inform a regulated party with a list of each bias that has been identified with the procedure so they can avoid errors that will affect the final reported results.

Summary of Section 5

This section provides a list of minimum equipment specifications for equipment that is used to take measurements from liquid that is collected from a pressurized separator.

Rationale for Section 5

This section is required so that all field measurements are performed using instruments that provide a minimum degree of accuracy and provide consistency in the final reported results.

Summary of Section 6

This section specifies the minimum equipment specifications required to gather liquid samples from a pressurized separator. The equipment includes pressure and

temperature gauges, sampling cylinders, and high pressure rated fittings. This section also specifies the need for a portable pressurized separator in the event that no pressurized separator is installed within the separator and tank system. The portable pressurized separator is optional if a pressurized separator is installed and located immediately upstream of the separator and tank system.

Rationale for Section 6

This section is required so that a regulated party can obtain all equipment necessary to conduct the liquid sampling procedure.

Summary of Section 7

This section specifies that a sampling technician must be provided with specific information by the owner or operator at the time of liquid sampling. A list of the required information is provided which includes a system identification number, the daily crude oil and produced water throughput, number of wells in the system, and the days of operation per year.

Rationale for Section 7

This section is required to inform a regulated party that information must be provided to the sampling technician at the time of liquid sampling. The information is required at the time of sampling because the characteristics of a separator and tank system can change daily, and any change in the parameters will affect the final reported results. Failure to provide the technician with the required information at the time of sampling will prevent the laboratory from conducting its analysis and will not provide the information necessary to calculate the annual methane emissions and report the final results.

Summary of Section 8

This section specifies procedures for using a Double Valve sampling cylinder to collect samples of crude oil or produced water. Depending on the liquid gathered, the cylinder is pre-filled with the specified liquid and sample liquid is introduced in the orientation as shown. Prior to gathering a sample, liquid must be purged through the sampling train into a suitable waste container to prevent filling the cylinder with air or other containments and to ensure that representative liquid is gathered.

Rationale for Section 8

This section is required to instruct a sampling technician on the proper method used for collecting crude oil or produced water using a Double Valve cylinder. This section is intended to provide detailed instructions to prevent sample collection bias and to prevent errors in final the reported results.

Summary of Section 9

This section specifies procedures for using a Piston Cylinder to collect samples of condensate or produced water. The Piston Cylinder may only be used to collect light hydrocarbon liquids or water because heavy crude oil can solidify and damage the cylinder, which will also prevent the laboratory from extracting the liquid. Prior to gathering a sample, liquid must be purged through the sampling line into a suitable

waste container to prevent filling the cylinder with air or containments, and to ensure that representative liquid is gathered.

Rationale for Section 9

This section is required to instruct a sampling technician on the proper method used for collecting condensate or produced water using a Piston Cylinder. This section is intended to provide detailed instructions to prevent sample collection bias and to prevent errors in final the reported results.

Summary of Section 10.1

This section specifies the laboratory quality control and quality assurance requirements required to conduct the test procedure. Each day of sampling, the laboratory must gather at least one sample duplicate. This way the lab can ensure consistency with their instruments and ensure that samples are collected in accordance with the test procedure. All deviations in measurements must be documented by the laboratory to provide a record of the deviation and explain discrepancies in reported results. Each laboratory must train its technicians on the sampling methods contained in the test procedure and must maintain records associated with sampling.

Rationale for Section 10.1

This section is required to maintain consistency in reported results from each of the separator and tank systems measured and to maintain consistency amongst the different laboratories performing the test procedure.

Summary of Section 10.2

This section lists the equipment specifications and practices required to conduct the flash analysis procedure. The minimum reporting limit for a gas chromatograph system is 100ppm for hydrocarbon and fixed gases. This provides for sufficient accuracy when reporting annual methane emissions. The equipment must be able to heat samples to the same temperature of the separator and tank system and have the ability to measure gas volume, temperature, and pressure.

Rationale for Section 10.2

This section is required to provide consistency amongst laboratories performing the laboratory flash analysis procedure. These specifications can accommodate different instruments, system configurations, and procedures used by different laboratories while ensuring consistency in final reported results.

Summary of Section 10.3

This section specifies how a laboratory conducts the flash analysis procedure required to calculate the gas to oil or gas to water ratio. This includes procedures for how to heat and depressurize a sampling cylinder, collect flash gas, and analyze the gas for methane and other gaseous compounds. The procedure also includes a requirement that at least 0.20 cubic feet of gas is required to conduct test methods specified in the test procedure. After a flash analysis procedure is completed, the laboratory must completely drain the cylinder and measure the volume of liquid to calculate the gas to oil or gas to water ratio.

Rationale for Section 10.3

This section is required to ensure consistency among different laboratories conducting the flash analysis procedure. A minimum gas volume is required so that all of the instruments can be purged of air or contaminants and eliminates error in the final reported results. The minimum gas volume requirement is listed in this section because this is the point when a laboratory will discover how much gas is entrained in the liquid.

Summary of Section 10.4

This section specifies the calculation methodology used by the laboratory to calculate a gas to oil or gas to water ratio.

Rationale for Section 10.4

This section is necessary to specify the calculations that must be used by a laboratory to calculate a gas to oil or gas to water ratio. This section is required to ensure consistency in reported results.

Summary of Section 10.5

This section specifies the laboratory methods required to conduct the test procedure.

Rationale for Section 10.5

This section is necessary to specify laboratory methods required to conduct the test procedure and to ensure consistency in reported results.

Summary of Section 11

This section specifies the calculation methodology required to calculate the annual methane emissions using a gas to oil or gas to water ratio and a gas composition analysis provided by a laboratory in conjunction with the separator and tank system throughput obtained at the time of liquid sampling.

Rationale for Section 11

This section is necessary to specify the calculations required to calculate the annual methane emissions and ensure consistency in reported results.

Summary of Section 12

This section specifies records that must be compiled and maintained by a laboratory conducting the test procedure. These records include a field data collection form for each sample gathered, a sketch or diagram of the separator and tank systems, laboratory reports, and other information necessary to support the reported results.

Rationale for Section 12

This section is necessary to properly document all records associated with conducting the test procedure. In the event that the reported results do not represent the results of similar systems, the ARB Executive Officer or the owner or operator can contact the laboratory to evaluate the reported results and investigate possible sources of discrepancy.

Summary of Section 13

This section specifies that the test procedure must be conducted as specified and that alternative test procedures or laboratory methods used to report annual methane emissions must receive ARB Executive Officer approval. Any alternative procedures or methods will be evaluated by ARB on a case-by-case basis and a record of any approval will be maintained by ARB and made available upon request.

Rationale for Section 13

This section is necessary to specify that the test procedure must be conducted as specified and that alternative procedures or methods cannot be used without prior ARB Executive Officer approval. This section is required to ensure consistency in reported results.

Summary of Form 1

This section specifies the laboratory methods or procedures required to conduct the test procedure.

Rationale for Form 1

This section is necessary to document all applicable test methods and procedures used to conduct the test procedure and to ensure consistency in reported results.

VIII. PUBLIC PROCESS FOR DEVELOPMENT OF PROPOSED ACTION

Public Outreach

In developing the proposed amendments, staff presented initial ideas for discussion at a public workshop held on February 24, 2016. In response to requests from stakeholders, staff held one-on-one and small group teleconferences to discuss and refine the proposed revisions to MRR. Staff considered the informal comments provided during and after these meetings in crafting the staff proposal.

IX. References

1. CPP 2015. Clean Power Plan Final Rule. Subpart UUUU—Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units; 40 CFR Part 60, Subpart UUUU (October 23, 2015 Edition, pages 64661-65120). <http://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22842.pdf> (accessed 3/24/2016).
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3. Mandatory Greenhouse Gas Reporting; 40 CFR Part 98, Subpart A, Table A-1, Global Warming Potentials (December 11, 2014).
4. Climate Change 2007: Working Group I: The Physical Science Basis, Intergovernmental Panel on Climate Change. 2007.