

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PROPOSED MODIFICATION TO THE FUEL CELL NET ENERGY METERING
GREENHOUSE GAS EMISSION STANDARDS PROPOSED REGULATION ORDER

Public Hearing Date: December 12, 2019
First Notice of Public Availability Date: February 10, 2020 – February 25, 2020
Second Notice of Public Availability Date: April 27, 2020
Deadline for Public Comment: May 27, 2020

At its December 12, 2019, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed sections 95408 to 95412, Title 17 California Code of Regulations, which comprise the Fuel Cell Net Energy Metering Greenhouse Gas Emission Standard Regulation.

The Board directed the Executive Officer to determine if additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

On February 10, 2020, staff released a Notice of Public Availability of Modified Text. Comments that were received during the formal comment period for the modified text, as well as further staff analysis, are reflected in the proposed modifications in this second Notice. The changes are described below and are incorporated in the modified regulatory text.

The resolution and all other regulatory documents for this rulemaking are available online at the following CARB website:

<https://ww2.arb.ca.gov/rulemaking/2019/fuelcellnem19>

The text of the modified regulatory language is shown in Attachment A. The originally proposed regulatory language, released October 22, 2019, is shown in plain text. Changes noted in the first Notice of modified text, released February 10, 2020, are shown in strikethrough to indicate deletions and underline to indicate additions. New deletions and additions to the proposed language that are made public with this second Notice are shown in double strikethrough and double underline format, respectively.

In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 30-day comment period that are responsive to this notice, documents added to the record, or the changes detailed in Attachment A.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity.

1. In section 95411, Greenhouse Gas Emission Standards, the annual average greenhouse gas (GHG) emission standards were revised to reflect a more aggressive annual percent reduction. This change was made by staff as directed by the Board at the December 12, 2019, Board Hearing. Staff originally proposed a 2.5 percent annual reduction of the standards to align with 2030 electricity-sector GHG emission (IRP) targets set pursuant to SB 350 and taking into consideration the updated Renewable Portfolio Standard (RPS) target set by SB 100. In the first 15-Day Public Notice, staff proposed that the reduction be based on the GHG emissions reduction goals of Senate Bill (SB) 32 (Pavley, Chapter 249, Statutes of 2016), and revised the annual reduction percentage to be 3.85 percent, starting in 2018, based on the equivalent of reducing the fuel cell NEM 2017 GHG emission standard (409 kgCO_{2e}/MWh) by 40 percent by 2030 (245 kgCO_{2e}/MWh).

Based on comments received in response to the first 15-Day Public Notice, staff has reevaluated the annual reduction of the standards and proposes that the 2017 to 2020 standards retain a 2.5 percent annual reduction, as proposed in the 45-Day Public Notice. For years 2021 and beyond, staff proposes that the reduction still be based on the GHG emissions reduction goals of SB 32. To achieve a 40 percent reduction by 2030 (245 kgCO_{2e}/MWh), an annual reduction of 13.4 kgCO_{2e}/MWh would be applied to the standard starting in 2021. CARB staff is proposing an annual linear reduction in response to stakeholder concerns that larger reductions would be required in the early years under a percentage-based approach. A linear approach is also consistent with the 2017 to 2020 standards proposed in the 45-Day Public Notice because the annual reductions of 2.5 percent are linear when rounded to the nearest whole number.

Beginning with calendar year 2021, the standard moves from rounding to the nearest whole number to rounding to the tenths place (00.0) to accommodate the new annual reduction amount. The 2021 and 2022 average annual GHG emission standard values have been modified to reflect these changes.

2. In section 95412, Greenhouse Gas Emission Standards Methodology, in

subsections (a)(2), (a)(3), and (a)(4), the values in the “Adjustment to reduce annual GHG emission standard...” are changed to 13.4 kgCO_{2e}/MWh. The change was made to ensure that the calculation method reflects the new annual reduction, as explained above.

Staff also added text to specify the rounding method that would be used to determine the standards. As mentioned above, beginning with calendar year 2021, the standard moves from rounding to the nearest whole number to rounding to the tenths place (00.0) to accommodate the new annual reduction amount. For instance, to calculate the 2023 emission factor, staff would use the equation in section 95412(a)(1) of the regulation. The resulting number would then be rounded to the tenths place (00.0), and this number will be used to help calculate the 2024 emission standard. Staff proposes to round the calculated annual GHG emission standards to the nearest tenths place to achieve a linear reduction that reaches the equivalent of a 40 percent reduction between 2017 and 2030 (i.e., an emission factor of 245 kgCO_{2e}/MWh in 2030).

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Carey Bylin, Manager, Energy Section, at (916) 445-1952 or (designated back-up contact) Mary Jane Coombs, Branch Chief, at (916) 322-7554.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks’ Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

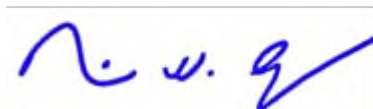
In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact

the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: April 27, 2020

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see CARB's website at www.CARB.ca.gov.