

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

NOTICE HEARING TO CONSIDER AMENDMENTS TO THE REGULATION
FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

Public Hearing Date: December 16, 2010
First Public Availability Dates: July 25, 2011 – August 11, 2011
Second Public Availability Release Date: September 12, 2011
Deadline for Second Public Comment: September 27, 2011

Background

At its December 16, 2010 public hearing, the Air Resources Board (ARB or Board) considered the proposed amendments to California's existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, section 95100 et seq.) (Mandatory Reporting Regulation), which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006.

At the hearing, the Board adopted Resolution 10-43, which endorsed the revisions proposed in the Staff Report: Initial Statement of Reasons released on October 28, 2010, with a number of modifications proposed by staff and identified at the hearing. Resolution 10-43 and other regulatory documents for this rulemaking action are available online at the following website:

<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>

As a result of Board direction on December 16, 2010, the first Notice of Public Availability of Modified Text (1st 15-Day Change Notice) was issued on July 25, 2011 to address comments received by the Board and stakeholders. Based on further comments received on the 1st 15-day proposed changes, additional modifications to the regulatory text are being proposed in this Second Notice of Public Availability of Modified Text (2nd 15-Day Change Notice).

The text of the modified regulatory language is shown in Attachment 1. The original proposed amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The additional proposed modifications included with the 1st 15-Day Change Notice are shown in double-underline to indicate additions and ~~double-strikeout~~ to indicate deletions. Further additions and deletions to the proposed language that are included with this 2nd 15-Day Change Notice are shown in gray-highlighted double-underline for additions, and gray-highlighted ~~double-strikeout~~ for deletions.

Modifications to the Mandatory Reporting Regulation are being released for public comment concurrently with revisions to the proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (title 17, California Code of Regulations, section 95800 et seq.) (Cap-and-Trade Regulation), which provides the requirements for the cap-and-trade program and covered entities' compliance obligations. Proposed revisions to the Mandatory Reporting Regulation have been harmonized with both federal greenhouse gas reporting requirements and the proposed revisions to the Cap-and-Trade Regulation.

In accordance with Government Code section 11346.8, in Resolution 10-43 the Board directed the Executive Officer to adopt the proposed reporting regulations, with the modifications identified in the Resolution and other conforming modifications as may be appropriate, after making the modified language and any additional supporting documents available to the public for a comment period of no less than 15-days. The Board also directed the Executive Officer to consider written comments as may be submitted during comment periods, and make modifications as may be appropriate in light of the comments received, and present the regulations to the Board for further consideration, if the Executive Officer determines that it is warranted.

Summary of Proposed Modifications

Below, staff provides an overview summary of the modifications to the originally proposed regulations. The overview summary does not include all modifications to correct typographical or grammatical errors, or changes in numbering or formatting, nor does it include all of the non-substantive revisions made to improve clarity. All references to sections 95100, 95100.5, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, 95112, 95113, 95114, 95115, 95116, 95117, 95118, 95119, 95120, 95121, 95122, 95123, 95129, 95130, 95131, 95132, 95133, 95150, 95151, 95152, 95153, 95154, 95155, 95156, 95157, and 95158 are to title 17 of the California Code of Regulations. Also, all references to sections of the regulation shown below are to the modified text included for this review, and not the originally proposed text.

For a complete account of all modifications in the proposed regulations, please refer to the gray-highlighted double-underline and gray-highlighted ~~double-strikeout~~ sections of the regulation in Attachment 1 to this Notice, available here: <http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>.

A. Modifications to Subarticle 1 and General Requirements for Greenhouse Gas Reporting

This section of the regulation provides the general reporting requirements applicable to reporters. Here, staff also summarizes some modifications to the regulation that apply to multiple sectors or reporting categories.

Modifications to Section 95100. Table of Contents.

No modifications were made to this section.

Modifications to Section 95100.5. Purpose and Scope.

Staff modified section 95100.5 to clarify that the Mandatory Reporting Regulation will support greenhouse gas (GHG) inventory as well as regulatory programs.

Modifications to Section 95101. Applicability.

Staff modified language in section 95101(a)(1)(A) to improve clarity regarding the applicability of certain facilities with stationary fuel combustion or geothermal electricity generation. The revised language more clearly identifies these facilities for reporting. Section 95101(a)(1)(B) was modified to rectify ambiguity related to suppliers, which are fully specified in section 95101(c).

Staff simplified the language for describing the 25,000 metric ton threshold in section 95101(b)(1) by adding the new term “covered emissions.” The term “products” or “product” in section 95101(c) was replaced with “fuels” or removed to avoid confusion with the product data reporting and verification requirements used to support allowance allocation under the Cap-and-Trade Program. Staff also added a specific exclusion in section 95101(f) for irrigation pumps, based on comments received, to make it clear that the exclusion applies to all agricultural pumps, and not only portable agricultural pumps.

In response to comments, staff added subsection 95101(h)(4) to clarify the requirements for cessation of reporting specific to electric power entities that import or export electricity.

Modifications to Section 95102. Definitions.

Staff added, deleted, and modified a number of definitions in section 95102. Some of the new or modified definitions are necessary to implement changes to reporting requirements, particularly in the electricity sector. Additional changes were made for consistency with changes in proposed regulatory programs. Several other definitions were added or modified to improve clarity. Definitions were deleted when the terms were no longer used in the regulation.

Modifications to Section 95103. Greenhouse Gas Reporting Requirements.

In section 95103 and elsewhere, staff removed the phrase “three-year” in reference to compliance periods under the Cap-and-Trade Regulation, since the first compliance period will now be two years in length. (The only exception to this removal is in section 95103(k), where measurement device re-calibration would occur in subsequent compliance periods.)

For abbreviated reporting, staff modified section 95103(a)(1) to require reporting of natural gas supplier name, natural gas supplier customer identification number, and annual billed fuel use in MMBtu. This change is needed to track fuel use and providers in order to support verification and the Cap-and-Trade Program.

Staff incorporated changes regarding timing and schedules in response to public comments received and for regulatory program needs. The annual reporting deadline was changed from April 1 to April 10 in section 95103(e) for certain facilities. This is to allow additional time for reporting as well as to avoid having the ARB deadline be in conflict with the U.S. Environmental Protection Agency (U.S. EPA) greenhouse reporting deadline.

Staff clarified in section 95103(h) that reporters may use best available data for reporting emissions in 2012 (on 2011 data) if they are not subject to reporting 2011 emissions under the U.S. EPA greenhouse gas emissions reporting rule. This change was required because it is unlikely that these facilities would have had the systems and practices in place by 2011 that would enable them to meet the federal requirements for reporting in 2012. The change does not apply to electric power entities, who are not covered by the U.S. EPA regulation. These changes were necessary to clarify for stakeholders how reporting will be conducted in 2012 for 2011 data.

Section 95103(i) was modified because as previously written, certain emissions could potentially be excluded from being claimed as *de minimis*, even if the emissions met the intended criteria for *de minimis* emissions. The proposed revision provides further clarity and flexibility in designating *de minimis* emissions.

Staff modified section 95103(j) to clarify that the focus of the subsection is on *combusted* biomass-derived fuels, and to rename “Other Biomass” to “non-exempt biomass-derived fuel” (defined in section 95102), because the term “Other Biomass” lacked specificity. Clarifications were also added to the section to provide specific documentation during verification to demonstrate the receipt of eligible biomethane. These changes were made in response to comments and to improve clarity.

The measurement accuracy and calibration requirements specified in section 95103(k) were modified to clarify that the requirements also apply to product measurement devices. Staff clarified that the requirements do not apply to fuel measurements for stationary fuel combustion units when a CEMS is used under Part 75 or Part 60. Additional flexibility in the calibration requirements was provided by including options for using national government or international body standards or original equipment manufacturer's specifications to meet the requirements. Staff further modified section 95103(k)(9) related to the timeline for a calibration postponement request for 2012 only, to make it concurrent with the reporting deadline. Section 95103(k)(11) was added to clarify the accuracy requirements for reporters using inventory, stock or tank drop measurements. These changes were made in response to stakeholder comments and to improve clarity.

Modifications to Section 95104. Greenhouse Gas Emissions Data Report.

Staff clarified in section 95104(d) that for the purpose of reporting energy input and output, facility operators may exclude electricity passed through the facility (electricity generated outside the facility and delivered into the facility with final destination outside of the facility). Operators also have the option to exclude electricity consumed by operations or activities without any emissions, energy outputs, or product outputs, and that are neither a part of nor in support of operations or activities that are covered by this regulation. These changes were made in response to stakeholder comments and to improve clarity.

Modifications to Section 95105. Document Retention and Record Keeping Requirements.

Staff has proposed to extend the period for which reporting entities with a compliance obligation must maintain records. Consistent with the original 45-day proposal, records would be kept for a period of ten years from each emissions data report certification. After further consideration of this question following the first 15-day proposal (in which a seven year period was proposed), staff decided ten years would be needed to support the provisions in section 95858 of the Cap-and-Trade Regulation for making up for under-reporting in a previous compliance period.

Staff further clarified the requirements in section 95105(c) so that monitoring plans are not required until the reporter has covered emissions equal to or exceeding 25,000 metric tons of CO₂e per year. Clarification was also provided in section 95105(d), GHG Inventory Program, to limit the requirements to electric power entities that import or export electricity. Staff also added specification for required records. These changes were made to improve clarity and address comments.

Also in this section, staff has removed the “three-year” language in reference to compliance periods.

Modifications to Section 95106. Confidentiality.

No modifications were made to this section.

Modifications to Section 95107. Enforcement.

Staff has re-organized the provisions of section 95107, such that the previous subparagraph 95107(f), which sets forth how penalties may be assessed, is now listed as subparagraph 95107(a). Other provisions were re-lettered in conformance with this re-organization. This change was made to ensure that the manner in which penalties may be assessed is clear and listed at the front of described violations. In addition, staff has made explicit in this subparagraph (now 95107(a)) that when seeking any penalty amount, ARB will consider any pattern of violation, and the size and complexity of the reporting entity’s operations, in addition to all other relevant circumstances and the other criteria in Health and Safety Code section 42403(b). This change was made in response to stakeholder comments regarding compliance challenges for complex operations.

Staff has also clarified in subparagraph (b) (formerly subparagraph (a)) that each day or portion thereof that any report required by the article remains unsubmitted, is submitted late, or contains information that is incomplete or inaccurate is a “single,” separate violation. This clarification was made in response to comments. Staff also modified the definition of “report” in this subparagraph, to clarify that “report” includes documents required to be submitted, rather than records.

In response to stakeholder comments, staff has added language to subparagraph (c) (formerly subparagraph (b)) indicating that any enforcement action under this subparagraph will not be initiated by ARB until after any applicable verification deadline for the pertinent report. This addition will provide reporting entities with some assurance that no enforcement action will be commenced while they undergo required verification, and provide ARB with time to assess reporting and verification activities during that period. However, this addition is not intended to relieve reporting entities of the obligation to submit accurate reports by the reporting deadline.

Based on stakeholder comments, staff has also proposed several modifications to subparagraph (d) (formerly subparagraph (c)), including removing a redundant phrase and specifying that any violation of this subparagraph relates to failures to measure, collect, record or preserve information “in the manner” required by the article, rather than simply the failure to measure, collect, record, or preserve information. Staff has also attempted to address stakeholder concerns by

clarifying that failures resulting solely from maintenance or calibration required by the regulation will not result in a violation under this subparagraph.

Modifications to Section 95108. Severability.

No modifications were made to this section.

Modifications to Section 95109. Standardized Methods.

No modifications were made to this section.

**B. Modifications to Subarticle 2
Reporting Requirements and Calculation Methods for Specific Types
of Facilities, Suppliers, and Entities**

This subarticle includes specific reporting requirements for each reporting sector, and for the stationary combustion reporting requirements that apply to multiple sectors. Staff has summarized substantive revisions below. Please refer to the attached proposed revisions to review all changes.

Modifications to Section 95110. Cement Production.

Based on a comment received from the cement industry, staff modified the product data terminology used in section 95110(d) to make it more specific. In response to comments, staff added language to specify that reported cement substitutes would not be subject to review for material misstatement.

A clarification was added to section 95110(c) to limit missing data provisions to emissions calculations, since missing product data cannot be replaced under other requirements of the regulation.

The section also includes several typographical corrections. Additional comments raised by the cement industry are addressed in section 95115 and elsewhere.

Modifications to Section 95111. Electric Power Entities.

In response to comments received, staff provided edits and clarifications in section 95111(a) that are consistent with staff intent. These include clarifications on reporting delivered electricity, unspecified imported electricity, and specified imported electricity.

To address stakeholder comments common to the Mandatory Reporting Regulation and the Cap-and-Trade Regulation, staff coordinated necessary modifications to the data categories in subsection 95111(b)(5) with modifications to subsection 95852(b) of the Cap-and-Trade Regulation. The calculation for

covered emissions is now provided in subsection 95852(b)(1)(B) of the Cap-and-Trade Regulation to facilitate policy implementation, and this equation is now referenced by subsection 95111(b)(5) of the Mandatory Reporting Regulation.

Staff coordinated with the Cap-and-Trade Program to accommodate increased reductions in covered emissions while maintaining a rigorous reporting protocol for electricity imported into and consumed in California. The covered emissions adjustment previously restricted to variable renewable resources, resources that cannot meet the criteria for direct delivery of electricity defined in the proposed amendment, was broadened to include all procurements of electricity from eligible renewable energy resources located outside the state of California used to meet the requirements of California's Renewable Portfolio Standard (RPS) program.

Staff clarified the calculation for a specified emission factor for geothermal electricity in subsection 95111(b)(2). Staff provided clarification in section 95111(c) to better specify which entities are subject to the requirements of the section. The equation in the section was also clarified.

Section 95111(g) was modified to accommodate reporting requirements for the RPS adjustment, including a provision to allow for facility registration information to be provided with the emissions data report and a 45 day reconciliation period subsequent to the report due date. The deadline to register facilities or units that directly deliver electricity to California remains February 1, to allow ARB sufficient time to calculate and publish the specified emission factors to facilitate timely reporting.

Modifications to Section 95112. Electricity Generation and Cogeneration.

Staff clarified in section 95112(c) that 40 CFR Part 98, Subpart C and Subpart D operators are to follow 40 CFR Part 98 methods in reporting CO₂, CH₄, and N₂O emissions, with the exception of CO₂ from Subpart D/Part 75 units. For reporting CO₂ to ARB, staff included an option for Subpart D/Part 75 unit operators to choose either Part 75 or Part 98 methods. Staff clarified that for operators that follow Part 75, if there are emissions from fuels combusted at Subpart D/Part 75 units that are not reported pursuant to Part 75, operators must use Part 98 methods or the *de minimis* provision in section 95103(i) to report those emissions. Staff also clarified that for Subpart D units that combust a mixture of natural gas and biogas or have contractual delivery of biomethane, the operator is to use the method in section 95115(e) when reporting biogenic emissions. In addition, the definition of "cogeneration" in section 95102 was modified to clarify that the definition is not intended to include combined-cycle power plants. These changes were made in response to stakeholder comments and to improve clarity.

Modifications to Section 95113. Petroleum Refineries.

In response to comments and to support the Cap-and-Trade Regulation, staff modified the product data reporting and verification requirements for petroleum refineries in section 95113(l) to be more consistent with industry practices for measuring production efficiency. For reporting years 2012 and 2013 (2011 and 2012 data), refineries would be required to report their Solomon Energy Intensity Index values in addition to the previously specified product data. Language was added to specify that among products reported, only primary refinery products (defined in section 95102) would be subject to review for material misstatement. In addition, language was added to require refineries to report CO₂ carbon weighted tonne values (defined in section 95102) beginning in 2014.

An equation specified in the December 17, 2010 final U.S. EPA GHG reporting rule was added to improve harmonization with that rule. The equation provides a further option for calculation of CO₂ from flares.

Modifications to Section 95114. Hydrogen Production.

In response to comments, staff has added a provision specifying that emissions and output from hydrogen production must be reported separately from the emissions of an associated refinery. A provision allowing monthly sampling for standardized fuels and feedstocks has also been added. This will not result in a degradation of the reported data since the composition of standardized fuels and feedstocks is less variable than other fuels and feedstocks used in hydrogen production.

Staff also clarified that the source category definition is consistent with the federal GHG reporting rule. The previous separate delineation of merchant hydrogen facilities is no longer needed following U.S. EPA's December 17, 2010 revisions.

Modifications to Section 95115. Stationary Fuel Combustion Sources.

In this section, and in other parts of the regulation, the term "mmBtu" was replaced with "MMBtu," which is more consistent with common engineering practice. The term MMBtu represents a "thousand-thousand" or a "million" British Thermal Units. (The term mmBtu as used in the U.S. EPA GHG reporting rule means the same thing.) In this, and other sections of the regulation, the term "Other Biomass CO₂" was replaced with "non-exempt biomass-derived CO₂" to provide additional clarity.

Staff modified section 95115(b) to correct an error which would have applied the regulation too broadly for operators using continuous emissions monitoring systems (CEMS). For the purpose of determining biomass CO₂ emissions, staff modified section 95115(e)(3) to clarify reporting requirements for reporting

emissions for contractual deliveries of biomethane when emissions are not calculated using the fuel's heat content. Sections 95115(e)(3)-(5) were edited to clarify that the biomethane emissions calculation method can also be used for Subpart D units.

Language was added to section 95115(g) to clarify that devices used to measure fuel consumption for units for which a CEMS is used to report CO₂ emissions are exempt from the measurement device accuracy provisions of section 95103(k).

Section 95115(i) was modified to require reporting of emissions from pilot lights only if the pilot lights operate at least 300 hours per year. This change was made based on comments received and the difficulties in quantifying emissions from intermittent or start-up pilot lights. Language was also added to clarify that pilot lights may be aggregated for emissions calculation, and that pilot light calculations are not subject to the measurement device accuracy requirements of section 95103(k).

Section 95115(k) was modified to include not only the previous requirement to report natural gas providers and customer account numbers, but also the quantity of natural gas delivered in MMBtu. This is needed to evaluate that fuel deliveries (by suppliers) and fuel receipts (by users) are consistent.

Staff modified product data reporting requirements in section 95115(m) in response to comments from gypsum and certain steel manufacturers.

Modifications to Section 95116. Glass Production.

Typographical corrections were made to section 95116(b) and (c).

Modifications to Section 95117. Lime Manufacturing.

A clarification was added to section 95117(c) to limit missing data provisions to emissions calculations, since missing product data cannot be replaced under other requirements of the regulation.

Typographical corrections were made to section 95117(b) and (c).

Modifications to Section 95118. Nitric Acid Production.

Typographical corrections were made to section 95118(b) and (c).

Modifications to Section 95119. Pulp and Paper Manufacturing.

The specifications for reporting product data in section 95119(d) were modified slightly to include reporting of the type of process used for producing paper tissue, if applicable. These changes were made in response to public comment.

Typographical corrections were made to section 95119(b) and (c).

Modifications to Section 95120. Iron and Steel Production.

Typographical corrections were made to section 95120(b) and (c).

Modifications to Section 95121. Suppliers of Transportation Fuels.

To avoid potential double counting issues, staff modified sections 95121(a)(2) and (b)(1) such that enterers who deliver fuel directly to the bulk transfer/terminal system would not be required to report the fuel volumes delivered. Due to this change, reporting by the enterer of the entity in the bulk transfer/terminal system receiving the imported fuel is no longer necessary.

In section 95121(b)(1), staff specified that position holders supplying diesel or biodiesel fuel who are the sole position holder at a terminal must report either using a meter subject to the requirements of 95103(k) or billing invoices from the delivering entity. To improve clarity, staff added new emissions factors for mobile source CH₄ and N₂O emissions to section 95121(b)(3) because the previous emission factors from Table C-2 of 40 CFR Part 98 were for stationary sources.

The word “product” was replaced with “fuel” throughout section 95121 to avoid confusion with the product data reported elsewhere in the regulation to support provisions of the Cap-and-Trade Regulation.

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

To simplify reporting and computation, and to provide more consistent data, staff modified section 95122 to provide for calculations in terms of MMBtu of gas, rather than Mscf of gas.

Section 95122(a)(2) was modified to clarify the inclusion of intrastate pipelines, which have always been included in 95101(c)(7).

To be consistent with refineries reporting liquefied petroleum gas under section 95121, staff modified section 95122(b)(1) and (b)(9) to require natural gas liquid fractionators and liquefied petroleum gas consignees to use emission factors from Table MM-1 of 40 CFR Part 98. This change was necessary to provide consistency across these two provisions.

The language in section 95122(b)(3) was modified to clarify what should be included for on-system deliveries. Section 95122(b)(5) was modified to clarify how the annual HHV is calculated and that the alternative methods for calculation of emissions in paragraphs (a) and (b) are only used for the portion of fuel not

meeting pipeline quality standards, and not all fuel. These changes were made in response to stakeholder comments and to improve clarity.

Section 95122(d)(3) was modified to require reporting of an ARB ID number, and annual, rather than monthly, data. Section 95122(d)(4) was modified to clarify the reporting requirements for intrastate pipelines so that errors in metering would not lead to a compliance obligation.

Modifications to Section 95123. Suppliers of Carbon Dioxide.

Staff modified section 95123(a) to require separate reporting of CO₂ exports for the purposes of geologic sequestration, in order to meet the needs of the Cap-and-Trade Regulation.

C. Modifications to Subarticle 3. Additional Requirements for Reported Data

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

Staff clarified that section 95129(a) applies only to Subpart D unit operators that choose to report CO₂ using Part 75 methods, and it does not apply to Subpart D unit operators that report CO₂ using Part 98 methods.

D. Modifications to Subarticle 4. Requirements for Verification of Greenhouse Gas Emissions Data Reports; Requirements Applicable to Emissions Data Verifiers

This subarticle provides the requirements for third-party verification of reporting entities' GHG emissions data reports. Several sections and subsections were clarified in response to public comments. Clarifications were made to subarticle 4 in the following areas: verification services requirements; verification plan development; data checks for product data; material misstatement calculation; data substitutions for product data; biomass-derived fuel verification requirements; and accreditation requirements.

Modifications to Section 95130. Requirements for Verification of Emissions Data Reports.

Staff made a minor clarification to section 95130(a)(2) by separating the two sentences in the section into (a)(2) and (a)(3) without modifying the regulatory requirements. This clarifies that any break in consecutive years of verification services requires the reporting entity to wait at least three years before re-contracting with the previous verification body or verifier(s).

Modifications to Section 95131. Requirements for Verification Services.

Based on a comment received from a verification body, staff added an additional item in section 95131(b)(1)(A)(5) that indicates the verifier should review previous verification reports prior to developing a verification plan. Language was added in section 95131(b)(8)(E) that describes the information needed for the data checks of product data. This modification is needed to ensure verifiers correctly perform verification services related to reported product data.

Language was added to section 95131(b)(10) to clarify the verification procedures for product data. In the modified language, a material misstatement on a single product data component will lead to an adverse product data verification statement.

In response to comments, staff added the term “covered emissions” to section 95131(b)(12) to clarify which emissions are subject to material misstatement calculation. A new definition for “covered emissions” was added to section 95102(a). Section 95131(b)(13) was removed because the information in this section was redundant with language in section 95131(b)(10). Renumbered section 95131(b)(13) [previously section 95131(b)(14)] and section 95131(b)(14) clarify that verifiers must check that data substitutions were not used for product data.

Staff modified section 95131(c)(3) to explicitly indicate that verifiers must cite the section(s) corresponding to each non-conformance and material misstatement in the verification statement. This clarification to the verification statement was necessary to reflect modifications to the definitions of adverse verification statement, adverse product data verification statement, and adverse emissions data verification statement. The changes to these definitions clarify that a non-conformance with section 95131(b)(9) will also lead to an adverse verification statement. This change was made to ensure emissions and product data are reported accurately and modified correctly, if necessary, by reporting entities during the verification process.

Staff made several clarifications to section 95131(i) regarding the biomass-derived fuel verification requirements. The determination of a need for a full verification of biomass-derived fuel was modified to be consistent with section 95130. The verification requirements to visit an upstream entity for biomethane and biogas were removed from this section, as were requirements for a transactions specialist verifier and several other upstream entity-specific requirements. The verification requirements for biomethane and biogas were replaced with a more simplified requirement that a reporting entity must obtain documents that demonstrate the biomethane or biogas was purchased and delivered to the reporting entity. ARB staff believe this new method to verify biomethane and biogas maintains current verification standards, while addressing stakeholder comments and simplifying the reporting and verification

process. With this new verification method, ARB understands that the actual biomethane molecules may not reach the reporting entity and that there is not a requirement for a physical pathway. Staff also made clarifications that indicate the reporting entity, and not the verifier, must meet the reporting requirements for biomass-derived fuels and the related changes referenced in the Cap-and-Trade Regulation.

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

In response to stakeholder comments, staff modified the accreditation process in section 95132(c) by adding further review requirements. Verification bodies, verifiers, lead verifiers, sector specific verifiers and offset project verifiers must pass a performance review prior to accreditation and prior to re-application for accreditation every three years.

Modifications to Section 95133. Conflict of Interest Requirements for Verification Bodies for Emissions Data Reports.

No modifications were made to this section.

**E. Modifications to Subarticle 5.
Reporting Requirements and Calculation Methods for Petroleum and Natural Gas Systems.**

Much of the current final U.S. EPA “Subpart W” rule is now incorporated by reference in the current California Mandatory Reporting Regulation. However, U.S. EPA proposed extensive rule changes on August 4 and 19, 2011. Staff has begun the process of reviewing and evaluating the many proposed changes to determine how they affect data quality and reporting rigor required for the Cap-and-Trade Regulation. Following this review, staff will assess whether further changes should be made to the Mandatory Reporting Regulation through a subsequent regulatory process.

Modifications to Section 95150. Definition of the Source Category.

No modifications were made to this section.

Modifications to Section 95151. Reporting Threshold and Reporting Entity.

No modifications were made to this section.

Modifications to Section 95152. GHGs to Report.

Staff modified section 95152(c) and section 95152(f) to be more explicit in the emissions and data required to be reported.

Modifications to Section 95153. Calculating GHG Emissions.

Section 95153(b) was modified to better define “low bleed devices.” Parameter descriptions were added in sections 95153(f)(1)-(2), which were inadvertently omitted, and a parameter name was corrected.

Section 95153(i) was updated for onshore storage tanks to allow the use of two additional methodologies contained in the U.S. EPA GHG reporting rule, as these methods will provide sufficiently accurate data for sources now proposed to be outside the cap-and-trade program.

Staff modified section 95153(v) for “Produced Water Dissolved CO₂” in response to stakeholder comments and to specify an improved method for systems under Vapor Recovery.

Other small clarifying edits and corrections were made to the section.

Modifications to Section 95154. Monitoring and QA/QC Requirements.

No modifications were made to this section.

Modifications to Section 95155. Procedures for Estimating Missing Data.

No substantive modifications were made to this section.

Modifications to section 95156. Data Reporting Requirements.

To support the Cap-and-Trade Regulation, staff has modified product data reporting requirements consistent with the needs of the Cap-and-Trade program.

Modifications to Section 95157. Records that Must be Retained.

No modifications were made to this section.

Availability of the Attachments

By this notice, the modified regulatory language, provided as Attachment 1 to this notice, are being made available for public comment prior to final action by the Board’s Executive Officer. The attachment is available here:

<http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm>

Comments

Written comments will only be accepted on the modifications identified in this notice, and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

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

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo!, and any other search engines.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the modifications identified in this notice will be considered by the Executive Officer.

If you need this document in an alternate format (i.e., Braille, large print, etc.) or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

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

Attachment

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

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