

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4716
April 9, 2015

R E S O L U T I O N

Resolution E-4716. Implementation Details for Five Electric Utilities to Provide CA Industry Assistance to Emissions-Intensive and Trade-Exposed Customers.

PROPOSED OUTCOME:

- Develop attestation requirements for facilities that have direct greenhouse gas emissions less than 10,000 MTCO_{2e} per year and that wish to be eligible for CA Industry Assistance.
- Develop attestation requirements for facilities that operate in multiple industrial subsectors to voluntarily report electricity use by subsector activity.
- Define formulas to allocate allowance revenue to petroleum refineries during the second and third compliance periods of the Cap-and-Trade Program.

SAFETY CONSIDERATIONS:

- This resolution implements part of the greenhouse gas emissions reduction program envisioned by the Global Warming Solutions Act of 2006 (Assembly Bill 32) and Public Utilities Code Section 748.5 and, as a result, will improve the health and safety of California residents.
- No additional safety concerns have been identified.

ESTIMATED COST:

- The costs the electric utilities will incur to implement the CA Industry Assistance program are unknown at this time.

As ordered by D.14-12-037

SUMMARY

This Resolution establishes implementation requirements and processes for the electric investor-owned utilities to provide CA Industry Assistance to emissions-intensive and trade-exposed (EITE) customers, including: (1) attestation requirements for facilities that have direct emissions less than 10,000 metric tons of carbon dioxide equivalent gas (MTCO_{2e}) per year and that wish to be eligible as EITE entities, (2) utility outreach to EITE facilities that have direct emissions of 10,000 MTCO_{2e} per year or greater and have a reporting obligation to the California Air Resources Board (ARB), (3) attestation requirements for facilities that operate in multiple industrial subsectors and choose to voluntarily report electricity use by subsector activity, and (4) formulas to allocate CA Industry Assistance to petroleum refineries during the second and third compliance periods of ARB's Cap-and-Trade Program based on ARB's complexity-weighted barrel methodology.

BACKGROUND

Background on CA Industry Assistance

California's Cap-and-Trade Program¹ is designed to reduce greenhouse gas (GHG) emissions. The electric investor-owned utilities – including Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Liberty Utilities (CalPeco Electric) LLC (Liberty Utilities), and PacifiCorp – receive an allocation of GHG allowances from the California Air Resources Board (ARB) for the purpose of protecting ratepayers. ARB requires the electric investor-owned utilities to consign all of the allowances to ARB's allowance auctions, and the utilities must use all of the proceeds that they receive from the sale of these allowances for ratepayer benefit, subject to rules established by the Commission.

In Decision (D.) 12-12-033, the Commission decided that the investor-owned utilities should return all GHG allowance proceeds to residential, small business, and emissions-intensive and trade-exposed (EITE) customers, with provisions for customer outreach and utility administrative costs. D.14-12-037 developed

¹ California Cap on GHG Emissions and Market-Based Compliance Mechanisms, Title 17, California Code of Regulations, Sections 95801-96022.

specific methodologies to allocate GHG allowance proceeds to EITE customers and specified that this aspect of the program should be called “CA Industry Assistance.”

The purpose of CA Industry Assistance is to reduce the risk of emissions leakage that may result from California’s Cap-and-Trade Program. Leakage can occur if an environmental regulation in one jurisdiction causes production costs to increase relative to costs in jurisdictions that do not have comparable regulations. To address this risk, ARB provides eligible industrial facilities with an allocation of allowances to cover a portion of their direct emissions (e.g. those associated with fuel combustion and steam purchases) and the Commission provides revenue to address a portion of the indirect emissions, and associated costs, that facilities incur through the electricity they purchase.

The Commission defined eligibility for CA Industry Assistance in both D.12-12-033 and D.14-12-037. In general, a facility is eligible for CA Industry Assistance if it operates in an industry characterized by one of the North American Industry Classification System (NAICS) codes that is eligible for industry assistance under ARB’s Cap-and-Trade Regulation.²

D.14-12-037 directs the Commission’s Energy Division to calculate how much revenue each EITE facility should receive using one of three methodologies: a product-based, energy-based, or refinery methodology.³ These three methodologies mirror the structure and applicability of the methodologies that ARB uses to allocate allowances for industry assistance.⁴ For example, if a facility receives allowances from ARB pursuant to ARB’s product-based methodology, it will receive CA Industry Assistance according to the Commission’s product-based methodology.

² As defined in Cap-and-Trade Regulation § 95870, Table 8-1.

³ These methodologies are defined in D.14-12-037, Appendix A.

⁴ Cap-and-Trade Regulation § 95891.

Outstanding Implementation Requirements

While D.14-12-037 developed the framework and methodologies for the Commission to provide CA Industry Assistance, it delegated some implementation details to the Energy Division. The Decision ordered the Energy Division to hold a workshop and issue a resolution to develop: (1) the details of the attestation process for facilities that have direct emissions less than 10,000 MTCO_{2e} per year and that wish to be eligible as emissions-intensive and trade-exposed entities,⁵ and (2) the refinery allocation methodology for the second and third compliance period, based on ARB's complexity-weighted barrel methodology.⁶

Energy Division staff circulated a straw proposal to the service list of R.11-03-012 on February 5, 2015, and conducted a public workshop on February 11, 2015, to receive stakeholder input on these, and related, implementation details.

This Resolution addresses the outstanding implementation issues that D.14-12-037 ordered Energy Division to resolve, which are organized herein into four themes: (1) attestation requirements for facilities that have direct emissions less than 10,000 MTCO_{2e} per year and that wish to be eligible as EITE entities, (2) utility outreach to EITE facilities that have direct emissions of 10,000 MTCO_{2e} per year or greater and have an obligation to report under ARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR), (3) attestation requirements for facilities that operate in multiple industrial subsectors and choose to voluntarily report electricity use by subsector activity, and (4) formulas to allocate allowance revenue to petroleum refineries during the second and third compliance periods of ARB's Cap-and-Trade Program based on ARB's complexity-weighted barrel methodology.

Attestations from EITE Facilities with Emissions Less than 10,000 MTCO_{2e}/year
Under ARB's Cap-and-Trade Program, only facilities that are covered entities or opt-in covered entities are eligible for industry assistance. Covered entities are those with annual direct GHG emissions of 25,000 MTCO_{2e} or greater per year. These facilities have a full reporting obligation under ARB's MRR, which

⁵ D.14-12-037, Ordering Paragraph (OP) 5.

⁶ *Id.* at OP 8.

requires facilities to provide detailed facility-level information about annual fuel and electricity use as well as industrial product output, among other variables. Facilities that have annual direct emissions between 10,000 MTCO₂e per year and 25,000 MTCO₂e per year have a limited reporting obligation under MRR. These facilities are not covered entities under Cap-and-Trade, but they may choose to become opt-in covered entities.

For facilities with direct emissions of 10,000 MTCO₂e per year or greater, the Commission has access to sufficient ARB data to identify facilities that are eligible for ARB's industry assistance and thus also eligible for the Commission's CA Industry Assistance. However, facilities that directly emit less than 10,000 MTCO₂e per year do not report to ARB under its MRR. D.14-12-037 allows such facilities to attest to their eligibility and to provide information necessary to verify their eligibility. The decision ordered Energy Division to develop the details of this attestation process and to resolve, at a minimum, the following: the content of the attestation form; needs for supporting information from customers; a method to define the bounds of an eligible customer's facility in relation to each utility's billing system information; and procedures and responsibilities to verify the accuracy of attestations and to minimize fraud.⁷

⁷ *Id.* at OP 5.

Table 1: Summary of Facility Reporting Requirements and Applicable Revenue Allocation Methodologies

Annual Direct Emissions (MTCO _{2e})	Covered under Cap-and-Trade?	Electricity Data Reported to ARB?	Product Output Data Reported to ARB?	ARB Allowance Allocation	CPUC Revenue Return Methodology
≥25,000	Yes	Yes	Yes	Product-based, energy-based, or refinery	Product-based, energy-based, or refinery
10,000 to 25,000	No	Yes	No	None	Energy-based
	Yes, if they opt in	Yes	Yes	Product-based, energy-based, or refinery	Product-based, energy-based, or refinery
<10,000	No	No	No	None	Energy-based

Utility Outreach to EITE Facilities with MRR Reporting Obligation

All facilities with direct emissions of 10,000 MTCO_{2e} per year or greater must report certain data, including facility NAICS code and electricity purchases, to ARB under its MRR. These MRR data contain all of the information necessary to calculate the level of CA Industry Assistance for each facility. However, to credit customers with revenue the utilities will need to contact customers to ensure that they correctly match each facility, as defined in the MRR reporting, with the correct customer account in the utilities' billing systems.

Attestations from Facilities that Operate in Multiple Subsectors

D.14-12-037 describes the need for an attestation process applicable to certain covered facilities that participate in multiple industrial activities if the facilities choose to provide auditable electricity usage data to the Energy Division.⁸ A covered facility might engage in multiple industrial activities, each of which has its own product benchmark. While ARB collects data via MRR about a covered facility's total electricity purchases, ARB does not, in all cases, have

⁸ *Id.* at 36-39.

information about the proportion of a facility's electricity purchases that are associated with different on-site industrial activities. This information is necessary to calculate electricity intensity benchmarks for each industrial activity.

D.14-12-037 established three methods to estimate the portion of a facility's electricity purchases that are attributable to each subsector activity: (1) use relative natural gas use by subsector activity as a proxy for electricity purchases by subsector; (2) use voluntarily reported auditable data of electricity use by subsector activity; or (3) use relative product output as a basis for splitting electricity purchases by subsector activity.⁹ All covered entities in a given subsector must agree on which of these three methods to use for their subsector and must notify the Director of the Energy Division of this preference within 90 days of the effective date of D.14-12-037.¹⁰ If a covered entity participates in multiple subsector industrial activities and does not specify its preferred methodology for allocating electricity usage by subsector activity, the Energy Division will by default use the relative natural gas use by subsector activity as a proxy for the facility's electricity purchases by subsector in the benchmark calculations.

Refinery Allocation Methodologies for the Second and Third Compliance Periods

D.14-12-037 adopted a methodology to allocate CA Industry Assistance to petroleum refineries during the first Cap-and-Trade compliance period. The decision ordered the Energy Division to develop formulas to use during the second and third compliance periods that mirror ARB's complexity-weighted barrel methodology.¹¹

For the first compliance period of the Cap-and-Trade Program (2013-2014), ARB allocated allowances to refineries that did not take part in the 2008 Solomon Energy Intensity Index (EII) review based on each facility's 2008-2010 emissions, recent output of primary refinery products, and a benchmark based on primary refinery product output. ARB allocated allowances to refineries that took part in the 2008 EII review using a combination of each refinery's EII value and the

⁹ *Id.* at Finding of Fact (FOF) 77.

¹⁰ *Id.* at 38.

¹¹ *Id.* at OP 8.

average of its 2008-2010 emissions. In 2014, ARB updated the Cap-and-Trade Regulation to modify the methodology it uses to allocate allowances to refineries during the second (2015-2017) and third (2018-2020) compliance periods. From 2015 through 2020, ARB will allocate allowances to refineries using the product output-based allocation methodology, and a complexity-weighted barrel (CWB) definition of product output.

ARB has calculated a benchmark for the petroleum refining sector (NAICS code 324110) in terms of allowances per complexity weighted barrel. Product-based benchmarks are set at 90 percent of the average emissions intensity (metric tons of emissions per unit product output) for a given sector unless no facility achieves an emissions intensity at or below that level, in which case the benchmark is set equal to the emissions intensity of the best-in-class facility in the sector. Product-based benchmarks allow the GHG emissions intensity of a given entity to be compared to a common industry standard.

Per Section 95113 of ARB's MRR, each refinery reports annual throughput for each onsite process that is listed in Table 1 in section 95113 of MRR. ARB's MRR did not require refineries to report throughput prior to 2014; however, the refineries voluntarily reported 2008 and 2010 throughput data to ARB for use in the benchmark calculation.

NOTICE

Energy Division issued the draft Resolution as ordered in ordering paragraphs 5 and 8 of D.14-12-037.

DISCUSSION

Energy Division has developed implementation details for the following aspects of the CA Industry Assistance program: (1) attestation requirements for facilities that have direct emissions less than 10,000 MTCO₂e per year and that wish to be eligible as EITE entities, (2) utility outreach to EITE facilities that have an obligation to report to ARB under MRR, (3) attestation requirements for facilities that operate in multiple industrial subsectors and choose to voluntarily report electricity use by subsector activity, and (4) formulas to allocate allowance revenue to petroleum refineries during the second and third compliance periods of ARB's Cap-and-Trade Program based on ARB's complexity-weighted barrel methodology.

Attestation Requirements for Facilities with Direct Emissions Less than 10,000 MTCO₂e per Year that Wish to be Eligible as EITE Entities

Applicability

This attestation process applies to industrial facilities in investor-owned electric utility territories in California that have direct emissions less than 10,000 MTCO₂e per year and that operate primarily in an industrial sector that qualifies for Industry Assistance in ARB's Cap-and-Trade regulation.¹² The attestation process allows facilities to attest to their eligibility as emissions-intensive and trade-exposed entities, which will enable them to receive CA Industry Assistance from their respective utility. D.14-12-037 states that entities should have an opportunity to attest to their eligibility once per year. If the facility is found to be eligible it should commence receiving revenue at the beginning of the next year,¹³ and its eligibility should persist for the duration of the compliance period.¹⁴

Eligibility should be assessed at the facility level to mirror, as closely as possible, how ARB's Cap-and-Trade Regulation defines facilities in terms of a physical property or structure located on one or more contiguous properties.¹⁵ In the electric utilities' billing systems, a single physical facility may have multiple utility service accounts or utility meters, so the attestation process should define a facility as the sum of service agreements/accounts¹⁶ or meters associated with a single physical premise. One business entity may own multiple facilities throughout the state, each of which may be eligible for CA Industry Assistance. In that case, a business entity must submit a separate attestation for each eligible facility.

¹² The list of eligible industries is defined in Table 8-1 of the ARB's Cap-and-Trade Regulation.

¹³ D.14-12-037, Conclusion of Law (COL) 43.

¹⁴ *Id.* at 58.

¹⁵ Cap-and-Trade Regulation § 95801(143)(A)

¹⁶ PG&E uses "service agreements;" SCE, SDG&E, PacifiCorp, and Liberty Utilities use "service accounts."

Attestation Information Requirements

Appendix A includes the attestation form that each utility should make available to customers. The form collects information that allows the utility to match the facility to a customer record in its billing system, and it also allows the facility to report its primary NAICS code to demonstrate that the facility is eligible for CA Industry Assistance. The form also places responsibility on the customer to report all service agreements associated with its facility and to identify the primary service agreement to which it wants the utility to provide a bill credit. Finally, the form requires the customer to certify under penalty of perjury to the accuracy of the information provided.

D.14-12-037 requires facilities to attest that they “primarily engage in activities described by an EITE-eligible NAICS code.”¹⁷ To further clarify this requirement and align our definitions with ARB’s MRR,¹⁸ facilities should report their “primary NAICS code” according to requirements and definitions promulgated by the U.S. Environmental Protection Agency in 40 CFR Part 98 as follows:

“(10) NAICS code(s) that apply to the reporting entity.

(i) Primary NAICS code. Report the NAICS code that most accurately describes the reporting entity’s primary product/activity/service. The primary product/activity/service is the principal source of revenue for the reporting entity. A reporting entity that has two distinct products/activities/services providing comparable revenue may report a second primary NAICS code.

(ii) Additional NAICS code(s). Report all additional NAICS codes that describe all product(s)/activity(s)/service(s) at the reporting entity that are not related to the principal source of revenue.”¹⁹

If, at any point in time, a facility’s operations change and an EITE-eligible NAICS code is not the facility’s primary NAICs code, the facility must report this change to both its utility and to Energy Division. Facilities bear the ultimate

¹⁷ *Id.* at COL 41.

¹⁸ 17 CCR § 95104(c)

¹⁹ 40 CFR Part 98.3(c)

responsibility for submitting the attestation form and ensuring that all information is complete and correct.

Outreach to EITE Facilities Eligible for Attestation Process

D.14-12-037 granted Energy Division authority to develop a method to identify, for outreach purposes, entities that are likely to qualify for the EITE attestation process, and it also authorized staff to review and approve outreach activities and materials.²⁰ Nevertheless, it is appropriate to clarify aspects of Energy Division's and the utilities' outreach responsibilities.

Because Liberty Utilities and PacifiCorp have not identified any potentially eligible EITE facilities in their respective service territories and do not anticipate customers qualifying as EITEs,²¹ they should not be required to conduct the initial outreach activities described below, although they should still make the attestation forms attached to this Resolution available on their websites in Microsoft Excel format. PacifiCorp and Liberty Utilities customers wishing to attest to their eligibility must complete and submit the forms to their respective utility.

The following outreach process below should apply to PG&E, SCE, and SDG&E.

1. **Identifying Facilities for Initial Outreach.** The utilities classify business customers by NAICS code.²² To develop an initial list of customers that are likely to be eligible as EITEs, they should identify all service agreements/accounts²³ that the utilities have classified in EITE-eligible NAICS codes, matching at the five-digit NAICS code level. Using the first five digits of the NAICS code rather than all six allows the utility to capture customers that may have been inadvertently misclassified by

²⁰ D.14-12-037 at COL 44 and p. 70.

²¹ See applications and testimony in Liberty Utilities Application (A.) 14-08-001 and PacifiCorp A.14-08-003.

²² These classifications have been made historically by utility employees and have not been independently verified.

²³ As SCE and SDG&E indicate in their comments on the draft Resolution, using their billing systems, they can provide data on which service accounts match an eligible NAICS code. They cannot necessarily provide data at the facility level.

utility account representatives. In its comments on the draft Resolution, SCE requests that it be allowed to identify customers that match at the three-digit level due to limitations of its billing system. A utility may, at its discretion, conduct initial outreach to service accounts that match at three NAICS code digits.

It is possible for customers that currently receive a small business California Climate Credit to qualify as EITEs; however, the relative difference between the small business Climate Credit and the EITE energy-based allocation is likely *de minimis* for a certain category of these customers, and there is high potential for both customer confusion and administrative difficulty to conduct effective outreach to these customers. Consequently, it is reasonable to seek opportunities to minimize potential confusion and to streamline each utility's initial outreach burdens. Among the customers that receive a small business Climate Credit, it is possible to distinguish between those that have only one service agreement or service account and those that have multiple service agreements/accounts. If a customer has only one service agreement/account, and that agreement/account qualifies for the small business Climate Credit, it is appropriate to exclude that customer facility from the utilities' initial CA Industry Assistance outreach efforts to educate customers about their opportunity to attest to their EITE eligibility.

To expedite initial outreach efforts, within two weeks of this resolution's adoption, each utility should provide Energy Division with a list of customer service agreements/accounts that match an EITE-eligible NAICS code at the five-digit level (or three digits, at the utility's discretion) and that excludes certain small business customers, as described above. This list should include the following information for each customer service agreement/account:

- Customer account number or other utility identification code
- Business name associated with the service agreement/account
- Customer contact address
- Customer facility address
- NAICS code associated with the customer service agreement/account
- Whether the customer service agreement/account currently receives a small business California Climate Credit

Based on this list, Energy Division will work with each utility to exclude facilities that report to ARB under MRR and that do not need to execute an attestation to demonstrate their eligibility.

If any of this information is confidential pursuant to Public Utilities Code Section 583, the utilities must cite the appropriate decision or law that allows the information to be treated as confidential.

2. **Initial and Secondary Outreach.** D.14-12-037 required the utilities to notify facilities that are likely to operate in EITE-eligible industries at least once about their opportunity to attest to their eligibility for CA Industry Assistance.²⁴ The utilities may fulfill this obligation through a combination of mail, e-mail or personal outreach via the account representatives assigned to industrial customers.

These outreach and education activities should achieve the following:

- Inform customers that the CA Industry Assistance program is a program of the State of California as part of its efforts to fight climate change and support California industry;
- Inform customers about the benefits to them of CA Industry Assistance;
- Explain eligibility requirements and why the customer is being notified, including key dates about the attestation process and when revenue will be credited to customers;
- Provide information to customers about how CA Industry Assistance will appear on their bill, including their option to cash-out credit that may exceed their bill balance; and
- Provide information about energy efficiency, energy management programs and resources that are available to help these customers further reduce their bills and their carbon footprint.

²⁴ D.14-12-037, COL 44 and OP 6.

Additionally, these outreach activities should be competitively neutral²⁵ and they should be reasonably consistent across the three large electric utilities.

Utilities should conduct this outreach once in 2015, with sufficient timeliness to allow customers to submit attestations in 2015 before the deadlines established in this resolution. The utilities should also conduct a second round of outreach in 2017, prior to the start of the third Cap-and-Trade compliance period. The purpose of this second round of outreach should be twofold: first, to advise existing customers that had previously submitted an attestation form that they must reconfirm their eligibility to continue receiving CA Industry Assistance; and second, to educate any new customers (relative to customers that had accounts as of the 2015 outreach) about their ability to demonstrate their eligibility for CA Industry Assistance. The utilities should develop distinct outreach messages to these two groups of customers.

In Resolution E-4611, the Commission authorized the current implementer of the Energy Upgrade California (EUC) brand to serve as the central administrator for 2013 and 2014 California Climate Credit outreach and education,²⁶ a program that involves distributing allowance revenue to residential electric customers and that also has its origins in D.12-12-033. The Commission has not yet decided what role EUC or the utilities should play in long-term California Climate Credit-related outreach, though this issue is being addressed in the proceeding A.13-08-026, et al. We have, in the past, expressed a desire for outreach efforts to “eliminate duplicative and potentially contradictory spending on separate marketing by utility or by program type” and to “move away from separately authorized marketing and outreach programs.”²⁷ However, the scale and nature of the outreach efforts necessary to notify customers about the EITE eligibility attestation process are different than the statewide marketing efforts being conducted by EUC related to the California Climate Credit: outreach about

²⁵ D.12-12-033, FOF 147, COL 47, OP 3.

²⁶ This administrator is currently the Center for Sustainable Energy (CSE), which was formerly named the California Center for Sustainable Energy.

²⁷ D.12-03-015 at 301-302.

the CA Industry Assistance attestation process is highly targeted and will affect a few thousand customers, not millions, and its primary purpose is to collect information necessary for the utilities to deliver bill credits to eligible customers. Additionally, the utilities have authority to record administrative costs to implement the attestation process in memorandum accounts, whereas the Commission has not authorized funding for EUC to conduct outreach to customers who may want to attest to their eligibility for CA Industry Assistance. For these reasons, the three large electric utilities should be responsible for implementing outreach to customers to notify them of their potential to become eligible for CA Industry Assistance. Nevertheless, the utilities should work with EUC and representatives of Community Choice Aggregators (CCAs) and Direct Access (DA) providers to ensure that language explaining CA Industry Assistance is coordinated with other outreach and marketing efforts and is competitively neutral.

D.14-12-37 stated that Energy Division should have authority to review and approve these outreach activities and outreach materials.²⁸ We clarify that Energy Division's review and approval can occur informally and utility outreach activities required in this resolution need not be approved via an industry advice letter. Given the aggressive timelines specified in this resolution to allow customers to receive industry assistance by October 2015, as intended in D.14-12-037,²⁹ no later than June 1, 2015, PG&E, SCE and SDG&E should submit to Energy Division an explanation of the outreach activities they intend to pursue, as well as the following: sample mail or e-mail notices to customers, customer call center scripts, and website language. Prior to submitting these materials to Energy Division, the utilities should seek feedback on these materials and proposed activities from CCA and DA representatives, as well as EUC. As discussed in PG&E's³⁰ and SCE's³¹ comments on the draft Resolution, a June 1 date will allow the utilities sufficient time to coordinate with stakeholders.

²⁸ D.14-12-037 at 70.

²⁹ *Id.* at 68

³⁰ PG&E Comments at 1-2.

³¹ SCE Comments at 4.

3. **Collecting Attestations.** D.14-12-037 concluded that the electric utilities are responsible for collecting, managing and verifying attestations from facilities that choose to demonstrate eligibility to receive allowance revenue.³² All eligible facilities can submit an attestation form, regardless of whether they were included in their utility's outreach efforts.

To ensure that the attestation process is as simple and efficient as possible for customers and the utilities, the attestation forms should be available electronically via websites developed by the utilities. Similar to other aspects of outreach, each utility's design of the web-based form should be subject to Energy Division review and approval, as described above.

At a minimum, the websites should have the following features: fields and descriptions to allow a facility representative to understand and enter the necessary data, electronically sign the form, and submit the form to the utility for review. Additionally, once a facility submits its attestation form online, the webpage should indicate whether submission was successfully submitted, and the utility should notify the facility via a confirmation email that the utility has received the form. This confirmation should provide the facility with a printable copy of the completed attestation in Portable Document Format (PDF) and an expected timeline by which the customer can expect the utility to review the attestation and deliver the first CA Industry Assistance if they are approved.

Verification

The primary purpose of the utilities' attestation verification responsibilities should be to ensure that customers have provided accurate and complete information. Verification should ensure that:

- The customer has provided all information required in the attestation forms;
- The utility can successfully identify the customer facility in its billing system, and the account information provided by the customer matches information in the utility's records for the facility;

³² *Id.* at COL 42.

- The customer's reported primary NAICS code matches an eligible NAICS code; and
- The facility is not a reporting entity under ARB's MRR.

Once a utility verifies the customer's attestation form and deems the facility eligible to receive CA Industry Assistance, the utility should provide the customer with a confirmation e-mail, which should include details about when customers should expect to receive the bill credit, how the CA Industry Assistance will appear on their bill, and their option to cash-out credit that may exceed their bill balance.

If a facility provides data that the utility cannot verify, the utility should contact the contact person listed on the attestation to attempt to resolve any discrepancies. The facility should have the ability to revise or resubmit its attestation to correct any errors or omissions. If the facility does not provide valid or complete information by the end of the year's eligibility window, it should be deemed ineligible.

If a facility submits an attestation but already reports to ARB under the MRR, the utility should notify the facility via e-mail that it is already eligible for CA Industry Assistance and does not need to complete the attestation process. Energy Division will provide the utilities with information about customers that report to ARB so that utilities can complete this verification step.

If an eligible facility has been receiving the small business California Climate Credit, the utilities' verification confirmation email should also confirm that the facility will receive the CA Industry Assistance instead of the small business Climate Credit as of a certain date. The utility should flag all service agreements or service accounts associated with the facility's account and ensure that the small business credit ceases at the beginning of the customer's next bill cycle for attestations received in 2015 or at the end of the calendar year in future years.

Audit

D.14-12-037 ordered the Energy Division to establish procedures and specific points of responsibility for verifying that attestations are accurate and that entities are actually eligible.³³ The attestation form included in Appendix A

³³ D.14-12-037, OP 5.

requires each facility to attest under the penalty of perjury that the information it submits is true and accurate. This requirement provides reasonable up-front assurance that the attestations will contain accurate information sufficient to allow the utilities to distribute CA Industry Assistance after attestations have been verified. However, the utilities should be responsible for conducting an additional audit process to further ensure that attestations are accurate and the intended facilities are receiving CA Industry Assistance.

Since it is reasonable to assume that most attestations will be submitted in 2015, when the program is first made available, and again in 2017 to establish eligibility to receive revenue during the third Cap-and-Trade compliance period, it is reasonable to require each utility to conduct audits once per compliance period in 2016 and again in 2018.

The utilities may conduct the audit either using internal audit personnel or by contracting with a capable firm. The audit should examine a randomly selected five percent of the facilities that have submitted verified attestations in 2015 and 2017, and its primary aim should be to determine whether the facility's primary business activity aligns with one of the EITE-eligible NAICS codes. At a minimum, the auditor should:

1. Contact the facility to notify them that they have been selected for a random audit.
2. Review the facility's U.S. Corporation Income Tax Return (IRS Form 1120 or equivalent) to ensure the NAICS code provided in the tax return matches the primary NAICS code in the facility's attestation.
3. If the Corporate Tax Return is not available, or does not provide the correct NAICS code, the auditor should work with the facility to gain access to the facility to conduct a site visit. After reviewing the NAICS code definition³⁴ that corresponds to the NAICS code reported in the attestation, the auditor should speak with facility representatives and inspect the facility to confirm that the facility's activities match the NAICS code description.
4. Provide an audit report and conclusion to the EITE facility, the utility, and Energy Division.

³⁴ Definitions are available online: <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2007>.

5. Any facility found to be ineligible should no longer receive CA Industry Assistance. In its comments on the draft Resolution, CMTA suggests that a facility should have an opportunity to appeal the conclusions in the auditor's report and the Energy Division would then evaluate the facility's written appeal and confirm or reject the conclusions in the auditor's report. Because the auditor, and not Energy Division, is best situated to make a determination about the facility's eligibility, an audit appeals process is not appropriate. Further, the audit process already provides an opportunity for facility representatives to provide supporting data and speak with auditors regarding facility operations.

These audit requirements should apply to PG&E, SCE and SDG&E, but PacifiCorp and Liberty Utilities should be exempt because these two utilities have reported in their respective GHG cost and revenue reconciliation applications (A.14-08-003 and A.14-08-001) that they do not have, and do not anticipate to have, any customers that will qualify as EITE facilities.

In its comments on the draft Resolution, ARB suggested that rather than auditing five percent of attestations after revenue is distributed, the NAICS codes of 100 percent of EITE facilities should be verified before any revenue is distributed. While ARB verifies the NAICS codes of covered entities and opt-in covered entities, it suggests that the utilities be required to verify the NAICS codes of all other EITEs before distributing revenue to them.³⁵

In their respective reply comments on the draft Resolution, PG&E, SCE, and SDG&E recommend that the Commission reject ARB's proposal to verify the NAICS codes of each eligible EITE not already verified by ARB. The utilities suggest that requiring a five percent audit rate and requiring facilities to attest under penalty of perjury as outlined in the draft Resolution are sufficient to protect against fraud. Further, requiring verification prior to distributing revenue would create a delay in returning revenue to customers. As SDG&E additionally notes, it anticipates that the total distribution of CA Industry Assistance to its customers that could be eligible through the attestation process is less than \$800,000 and the median return for those customers is about \$300 more than they are receiving through the small business credit.³⁶ SDG&E suggests that

³⁵ ARB Comments at 2.

³⁶ SDG&E Reply Comments at 2.

verification of NAICS codes may be more costly and time-intensive than ARB suggests.

We decline to adopt the additional up-front verification requirement proposed by ARB. The attestation and audit requirements proposed in the draft Resolution provide adequate protections to minimize fraud. Further, the verification process ARB proposed would affect an order of magnitude more facilities than currently report to ARB under MRR, and it may be costly relative to the amount of CA Industry Assistance the EITE facilities will receive.

Data Exchange and Confidentiality

To administer the attestation process and to distribute revenue to eligible facilities, Energy Division and the utilities will exchange certain data. As required in D.14-12-37, all facilities that submit a valid attestation will receive CA Industry Assistance according to the Commission's energy-based methodology.³⁷ For Energy Division to calculate the level of CA Industry Assistance for each facility, the utilities must provide Energy Division with information about each facility's historical baseline electricity purchases. A facility's historical baseline electricity purchases should reflect the sum of its electricity purchases associated with each service account or service agreement at the facility.

When each utility provides confidential customer data pursuant to Public Utilities Code Section 583 to the Energy Division, the utility must cite the appropriate decision or law that allows the information to be treated as confidential.

For example, under P.U. Code 8380, utilities may not disclose customer electrical consumption data to any third party. Further, the utilities must use reasonable security procedures and practices to protect a customer's consumption data from unauthorized access or disclosure.

Energy Division will calculate each EITE facility's level of CA Industry Assistance and provide this information to the respective utility. For any facilities that have already been receiving the small business Climate Credit, the utility should then deduct the amount of small business Climate Credit the facility

³⁷ D.14-12-037, COL 17.

received in 2013, 2014, and 2015 from the calculation of CA Industry Assistance for those years that Energy Division will provide.³⁸

Because a facility's confidential energy consumption can be back-calculated from the value of its CA Industry Assistance, CA Industry Assistance by facility should also be kept confidential. When Energy Division provides this data to each utility, it shall mark the data as confidential.

The benefits of making facility-specific data publicly available do not outweigh the potential harm to California's economy. Because each utility's aggregate amount of CA Industry Assistance distributed to all EITE facilities will be publicly available in its annual Energy Resources Recovery Account forecast application, facility-level CA Industry Assistance would provide little, if any, additional benefit to the general public. The costs associated with releasing facility-level data could be great. If entities could obtain facility-specific energy consumption data for their competitors, they could infer information about a facility's operations, including potential trade secrets. This would place California businesses participating in the EITE program at a competitive business disadvantage.

Timing and Costs of Attestation Process

As required in D.14-12-037, facilities have an opportunity to attest to their EITE eligibility once per year and eligibility commences at the beginning of the next year. The year 2015 will be the first year that EITE facilities will receive CA Industry Assistance, and the revenue distributed in 2015 should address GHG costs incurred during 2013, 2014, and 2015.³⁹ This first allocation should occur no later than October 2015 for facilities that have successfully attested to their eligibility.

We establish September 30 as the annual deadline for facilities to attest to their EITE eligibility. Any facility that submits a valid attestation by this deadline will receive CA Industry Assistance at the beginning of the next calendar year. Because eligibility lasts for one compliance period,⁴⁰ any EITEs that become

³⁸ As specified in COL 47 of D.14-12-047.

³⁹ *Id.* at COL 43.

⁴⁰ Unless a facility chooses to no longer receive CA Industry Assistance, as could be the case for a facility with a customer account that is eligible to receive the small business

Footnote continued on next page

eligible during the second compliance period (2015-2017) and wish to remain eligible for the third compliance period (2018-2020) must re-attest by September 30, 2017. If they fail to re-attest for the third compliance period they should no longer receive CA Industry Assistance.

For 2015, we establish an additional interim deadline of July 31, 2015, by which facilities must submit a valid attestation to receive allowance revenue to address 2013, 2014 and 2015 GHG costs. This deadline provides the utilities and Energy Division sufficient time to verify the attestations, collect necessary data, and perform calculations in time to credit the facility in October 2015.⁴¹ As stated in its comments on the draft Resolution, SCE's internal information technology processes require approximately three weeks from the time it receives calculated CA Industry Assistance amounts from the Energy Division for its billing system to provide the on-bill credits or checks; therefore, Energy Division will provide the utilities with the level of CA Industry Assistance for each facility by September 8, 2015.

Any facility that does not submit a complete attestation by July 31, 2015, will still be able to submit an attestation by the September 30, 2015, deadline to receive revenue in 2016; however, that facility would not retroactively receive CA Industry Assistance for 2013-2015.

In 2015, the first year in which Energy Division will calculate and the utilities distribute CA Industry Assistance, the utilities or Energy Division might encounter unexpected delays in implementation; thus, it is important to allow some flexibility to the schedule for 2015. Specifically, the utilities might not be able to complete development of the online attestation form by June 30, 2015, when they are scheduled to begin outreach and make the form available. If by June 15, 2015, any utility anticipates its online form will not be ready by June 30, it shall notify the Energy Division and make a Microsoft Excel version of the form available on its website until the electronic form-based attestation is complete.

California Climate Credit that wishes to switch back to receiving the Climate Credit instead of CA Industry Assistance.

⁴¹ D.14-12-037 at 58.

Table 2: Schedule for 2015

Date	Action
March 6, 2015	Energy Division issues a draft resolution outlining the attestation process requirements
April 9, 2015	The Commission adopts the attestation process
April 23, 2015	Each utility sends a list of potentially eligible facilities to Energy Division
June 11, 2015	Utilities provide outreach materials to Energy Division for review
April - June, 2015	Utilities, Energy Division, and other stakeholders work together to develop outreach activities and materials and online form
June 30, 2015	Utilities complete the online attestation form; begin direct outreach to potentially eligible facilities; review attestation forms as they are submitted
July 31, 2015	Interim deadline to submit attestation forms to receive revenue for 2013, 2014 and 2015 in October 2015
August 7, 2015	Utilities provide list of eligible facilities and corresponding electricity data to Energy Division
August 31, 2015	Utilities complete review of attestation forms and resolve any issues
September 7, 2015	Energy Division calculates the revenue return for each eligible facility and provides results to the utilities
September 30, 2015	Annual deadline to submit attestation forms to be eligible for following year's allocation
October 1, 2015	Utilities begin issuing CA Industry Assistance as a bill credit to facilities that have signed valid attestation forms by July 31, 2015

Table 3: Schedule for 2016 and Later

Date	Action
January 31	Energy Division calculates revenue due to each eligible facility (identified by September 30 of the previous year) and provides information to utilities
April 1	Utilities begin issuing CA Industry Assistance as a bill

	credit to eligible facilities
September 30	Attestation form submission deadline
November 30	Utilities complete review and verification of attestation forms and provide eligible facility data to Energy Division

The costs for the utilities to implement the attestation process are unknown at this time. However, the utilities are allowed to record the costs associated with collecting, managing, and verifying attestations in administrative cost memorandum accounts authorized in D.12-12-033.⁴² The costs will be subject to a reasonableness review along with other administrative costs authorized in D.12-12-033, Resolution E-4611 and the utilities' annual GHG cost and revenue reconciliation applications. The audit process described in this resolution should be considered an administrative cost associated with verifying attestations and can therefore be recorded in a utility's administrative cost memorandum account.

Utility Outreach to EITE Facilities with MRR Reporting Obligation

The purpose of utility outreach to EITE facilities that have an MRR reporting obligation is to ensure that the utilities obtain information necessary to identify these facilities in their billing systems and to give the facilities an opportunity to receive their CA Industry Assistance as a check rather than as a bill credit.⁴³ Energy Division will provide each utility with a list of facilities, including contact information, which report under MRR. As recommended by SCE in its comments on the draft Resolution, Energy Division should provide these lists to the utilities by June 7, 2015.

To fulfill this outreach obligation, utility account representatives should contact each EITE facility on this list to notify the facility that it qualifies to receive CA Industry Assistance. The utility should collect all relevant account information necessary to identify the facility in the utility's billing system and to distribute the assistance as a check or to the customer's preferred service

⁴² *Id.* at OP 10.

⁴³ *Id.* at COL 51.

agreement or service account. The utility should inform the facility of its option to receive allowance revenue as a check or as a bill credit and record the facility's preference. If the credit will appear on the bill, the utility should inform the facility about its option to cash-out any credits that may exceed its bill balance.

Since it may not be reasonable to presume that each EITE facility that reports to ARB under MRR is aware of and understands the CA Industry Assistance program, the utility should also use this outreach effort to achieve the same education objectives listed in the discussion above for "Initial and Secondary Outreach" to customers that may be eligible to attest to their eligibility.

In its comments on the draft Resolution, ARB suggested that the utilities be required to verify the NAICS code that each EITE facility reports to ARB through the MRR if the facility is not a covered entity or opt-in covered entity, even though facilities report this data to ARB under penalty of perjury. We decline to adopt this recommendation. Though it may be appropriate for ARB to require MRR reporting facilities to verify this information in the future, to require the utilities to perform this additional verification step for MRR reporting facilities would create additional cost and delays, and it is sufficient for the purposes of CA Industry Assistance that facilities provide MRR data to ARB under the penalty of perjury.

Attestation Requirements for Facilities that Operate in Multiple Industrial Subsectors and Choose to Voluntarily Report Electricity Use by Subsector Activity

This section defines the attestation requirements for facilities that choose to voluntarily report to the Commission their electricity use by industrial subsector activity. This process is applicable to covered entities that produce more than one type of product at a single facility, each of which has its own product-based benchmark, and that choose to voluntarily submit data about electricity usage by subsector. EITEs that wish to voluntarily submit auditable electricity data must do so according to the schedule in Table 4 below and the attestation form included in Appendix B.

The purpose of this attestation form is to ensure that the Commission has reasonable assurances about the accuracy of the facilities' voluntarily-reported electricity data about its industrial processes. This information is not available from the electric utilities. Once Energy Division receives the necessary data from facilities, it will calculate electricity intensity product benchmarks and each

facility's resulting CA Industry Assistance as part of its larger process to calculate revenue returns to all EITE facilities that have annual direct emissions greater than 10,000 MTCO_{2e} per year and that report to ARB under MRR.

Energy Division will make the attestation form included in Appendix B available on its website. Facilities that choose to provide voluntary, auditable electricity data to Energy Division must submit this attestation form to Energy Division in hardcopy with original signatures along with relevant electricity data and any associated engineering data that supports the attribution of electricity to each product stream. Facilities that choose to provide this data agree to work with ARB and Energy Division staff to complete the verification of the electricity attribution data prior to submitting the attestation form to Energy Division. The facility must receive confirmation from ARB that ARB has reviewed and verified the facility's data.

As part of the verification, each sector should work with ARB staff to determine the appropriate historical period for which to provide voluntary electricity data that will be used to apportion total electricity purchases over the baseline historical period by industrial activity. Each facility will then specify the years of data it is providing in its attestation form. In its comments on the draft Resolution, EPUC suggests that the Crude Petroleum and Natural Gas Extraction sector use a baseline year of 2011, which was used by ARB in developing the subsector-specific direct emissions benchmarks.⁴⁴ While this recommendation would more closely mirror ARB's implementation, D.14-12-037 found that 2008 to 2010 electricity data should be used, unless it is not available, in which case it is appropriate to use the three years of data nearest to 2008 to 2010.⁴⁵ Only if the decision were modified could the Crude Petroleum and Natural Gas Extraction sector use only 2011 data for subsector electricity purchases.

The attestation form includes a cover page, where the EITE facility must describe any confidential data, if applicable. If any information provided with this attestation is confidential, the facility must mark each relevant page as confidential.

⁴⁴ EPUC comments at 3.

⁴⁵ FOF 78.

The draft Resolution included a requirement that an ARB-accredited verification body conduct an engineering audit of the data to verify that the data was accurate. Based on comments to the draft Resolution, the Resolution has been revised to instead designate ARB staff as the verifier of this electricity data. In its comments on the draft Resolution, ARB suggests that ARB-accredited verifiers might not be the most appropriate verifiers in this case, because the ARB-accredited verifiers are trained to ensure data submitted to ARB are in conformance with MRR. ARB suggests that ARB staff are familiar with the various subsector activities, having “worked closely with sector representatives over five years of benchmark development and accumulated substantial knowledge of each covered sector, including knowledge of manufacturing processes and associated energy uses.”⁴⁶ In reply comments, USS-POSCO supports ARB’s recommendation. EPUC’s comments also expressed concern about the verification requirements proposed in the draft Resolution, because they thought it would be unlikely for an ARB-accredited verifier to complete verification by July due to their other MRR verification commitments. Designating ARB staff as the verifier should address EPUC’s concerns. To continue to align as closely as possible with ARB’s methodologies,⁴⁷ ARB staff should serve as the verifier of electricity data by subsector activity.

Table 4: Schedule to Collect Electricity Data and Attestation

Date	Item
March 6, 2015	Energy Division issues a draft resolution outlining attestation process for subsector electricity data
March 18, 2015	Energy Division receives notice from EITE facilities that intend to voluntarily report electricity data by subsector activity
April 9, 2015	Commission finalizes the attestation process
April-May, 2015	Applicable EITE facilities receive instructions to report electricity data by subsector activity
July 31, 2015	Facilities report verified electricity data by subsector activity with the attestation

⁴⁶ ARB Comments at 5.

⁴⁷ As stated in D.14-12-037 COL 93, the “Commission’s EITE allocation methodologies should mirror ARB’s allocation methodologies...”

Formulas to Allocate Allowance Revenue to Petroleum Refineries during the Second and Third Compliance Periods

To continue to mirror ARB's approach to refinery allocation, the Commission's product-based revenue allocation methodology adopted in D.14-12-037 should apply to refineries during the second and third compliance periods of the Cap-and-Trade Program, replacing the Refinery Sector Allocation methodology provided in Appendix A to D.14-12-037 that was applicable for the first compliance period.

This resolution clarifies how the Commission will apply the product-based equations for refineries. Two issues require clarification in determining how each variable in the equations is determined: (1) which data Energy Division uses when calculating the Petroleum Refining benchmark; and (2) how refineries that have onsite hydrogen production are treated in the product-based equations.

Benchmark Data

ARB calculated the refinery sector benchmark using data from 2008 and 2010, excluding data from one refinery that had abnormal operations during the data years.⁴⁸ To mirror this approach, the Energy Division will use ARB's 2008 and 2010 data when calculating the refinery sector benchmark, and will exclude the facility that ARB excluded from its benchmark.

Refineries with Onsite Hydrogen Production

Some refineries produce hydrogen onsite. For these facilities, ARB excluded emissions associated with hydrogen production from its calculation of the Petroleum Refining benchmark; hydrogen-related direct emissions were included as part of a separate benchmark calculation for On-Purpose Hydrogen Gas Production, which also included data from merchant hydrogen generators.⁴⁹

⁴⁸ As explained in ARB's 15-day Cap-and-Trade regulation changes.
<http://www.arb.ca.gov/regact/2013/capandtrade13/2appabenchmarks.pdf>.

⁴⁹ On-Purpose Hydrogen Gas is a separate subsector activity that qualifies for Industry Assistance under the Cap-and-Trade regulation (Table 8-1) and under the Commission's definition of an EITE.

To mirror ARB's approach in the Commission's product-based methodology, the Commission's refinery sector benchmark would need to exclude refinery electricity purchases from 2008 and 2010 that were associated with on-site hydrogen production; these electricity purchases would instead be used in the calculation of the hydrogen benchmark. However, while facilities reported total electricity usage in their MRR reporting, they did not report the portion of electricity purchases used for hydrogen production and for all other refinery activities. It appears that there is no reliable data that could apportion refineries' electricity usage between petroleum refining and onsite hydrogen production for benchmark years 2008 and 2010.

Instead, the Commission's On-Purpose Hydrogen Gas Production benchmark will be calculated using only data from merchant hydrogen producers, and it will not include any data from refineries that also produce hydrogen. The Energy Division's Petroleum Refining benchmark will include data from all refineries, regardless of whether they produce hydrogen onsite.

As defined in Section 95113 of ARB's MRR, refineries report to ARB throughputs from all activities specified in that section of the regulation. Each refinery also calculates and reports CWB_{Total} using the equation in Section 95113(l)(5)(B), which is based on the methodology developed by Solomon and Associates to calculate CWB.⁵⁰ This equation uses throughputs for dozens of refinery process units as well as adjustments representing emissions due to off-site and non-process steam; however ARB's CWB_{Total} excludes a contribution from hydrogen production.

The Commission's Petroleum Refining benchmark⁵¹ must include hydrogen production in terms of CWB. Energy Division will use the refinery's total product output inclusive of hydrogen production ($CWB_{Total+Hydrogen}$) and total electricity purchases for each applicable facility in the benchmark calculation.

⁵⁰ ARB developed its CWB methodology based on the guidance in the Solomon report. Appendix E of the report lists CWB factors to convert units of refinery output in terms of CWB. http://www.arb.ca.gov/cc/capandtrade/meetings/081313/cwt-cwb_backgrounddocument.pdf.

⁵¹ Calculated using Equation 2 of Appendix A to D.14-12-037.

Under this methodology, each refinery will receive one revenue allocation each year based on the Petroleum Refining benchmark and its total output, each calculated using annual $CWB_{Total+Hydrogen}$.

Commission Refinery Formulas

Equations 1 through 4 of the product-based methodology approved in Appendix A to D.14-12-037 apply to the refinery sector in compliance periods two and three. Equations 1 through 4 are included in Appendix C to this resolution with annotations added to Equations 1 and 2 to explain how these existing equations should be interpreted specifically for refineries. These annotations are provided in **bold, underlined** text in Appendix C.

Total Refinery Product Output ($CWB_{Total+Hydrogen}$)

Calculating $CWB_{Total+Hydrogen}$ requires a slight modification to ARB's CWB_{Total} equation provided in MRR Section 95113. Appendix D to this resolution includes the calculation of $CWB_{Total+Hydrogen}$ that the Energy Division should use in the allocation formula and benchmark formula for refineries.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on March 5, 2015.

On March 26, 2015, eight stakeholders filed comments on the draft Resolution: the California Air Resources Board, the California Large Energy Consumers Association, the California Manufacturers and Technology Association, Energy Producers and Users Coalition, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and USS-POSCO.

On March 31, 2015, USS-POSCO filed reply comments. On April 1, 2015, the California Manufacturers and Technology Association, Energy Producers and Users Coalition, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company filed reply comments.

California Air Resources Board Comments

In its comments, the California Air Resources Board (ARB) recommends that the Commission require the utilities to verify the NAICS codes of all potential recipients of CA Industry Assistance that are not covered entities or opt-in covered entities in the Cap-and-Trade Program.

Facilities with direct emissions between 10,000 and 25,000 MTCO_{2e} report their NAICS code to ARB under MRR and certify that their data are “true, accurate, and complete,” but this information is not further verified by ARB. ARB suggests the Commission require utilities to verify the NAICS codes of each of these EITE entities. For facilities with direct emissions below 10,000 MTCO_{2e}, ARB recommends that the utilities verify the NAICS codes of all facilities, rather than auditing five percent of attestations as described in this Resolution. ARB also recommends that the verification of NAICS code occur before the facility receives CA Industry Assistance, not after assistance is distributed.

Second, ARB suggests that ARB staff should verify voluntarily submitted electricity use by subsector activity, rather than requiring an ARB-accredited certification body. ARB-accredited verifiers are not likely to have sufficient expertise in how to allocate electricity use by product. Rather, ARB staff worked closely with sector representatives over five years of benchmark development and accumulated substantial knowledge of each covered sector. Using ARB staff as the verifier will ensure attribution of electricity purchases is consistent with ARB’s benchmark methodology.

California Large Energy Consumers Association

In its opening comments, the California Large Energy Consumers Association (CLECA) supports the draft Resolution.

California Manufacturers and Technology Association

In its opening comments, the California Manufacturers and Technology Association (CMTA) recommends that the Commission clarify that attestation deadlines of July 31, 2015, and September 30, 2015, only apply to EITE entities that are currently designated as such in the Air Resources Board’s Cap-and-Trade Regulation. CMTA argues that Resolution E-4716 should not disqualify a facility from receiving CA Industry Assistance on a retroactive basis if it is designated as EITE at a later date if a future Commission study identifies additional NAICS codes that are eligible for CA Industry Assistance. The

Commission has already addressed this issue in D.14-02-003⁵² and will not address the issue further in this Resolution.

Additionally, CMTA suggests that in the audit process for EITEs that complete an attestation form, a facility should have an opportunity to appeal the conclusions in the auditor's report, because "the NAICS coding system is not an exact science and there may be instances where reasonable minds can differ or NAICS codes may vary among different regulatory agencies."

In reply comments to ARB's opening comments regarding verification of each facility's NAICS code, CMTA states that either a verification requirement or the proposed audit and penalty of perjury requirements in the draft Resolution would prevent manipulation of the CA Industry Assistance Program.

CMTA further states that if the Commission does require a verification process, it should also include an appeals process.

Energy Producers and Users Coalition

In its opening comments, the Energy Producers and Users Coalition (EPUC) suggests modifying the requirements to verify electricity data by subsector as proposed in the draft Resolution. Because it is not likely that an ARB-accredited verifier will be able to verify data by July 31, 2015, EPUC recommends that facilities submit an attestation by July 31, 2015, but have until December 31, 2016, to submit ARB-certified verification of the data.

EPUC also suggests the final Resolution should "specify that the baseline year for the Oil & Gas sector will be 2011, which was used by ARB in developing the subsector-specific direct emissions benchmarks."

In its reply comments, EPUC requests modification of the proposed treatment of electricity purchases from publicly owned utilities (POUs) in the development of output-based benchmarks and allocations to individual facilities. EPUC suggests that in the case of the Petroleum Refining sector, a more precise method exists to

⁵² COL 16 states: "The Commission should return GHG allowance revenue retroactive to the date that the Greenhouse Gas Cap-and-Trade program went into effect (January 1, 2013) to entities newly designated as EITE through the Commission's consideration of the leakage study.

separate output by electricity purchases from POUs and IOUs. This issue is out of the scope of this Resolution and will not be addressed here.

Pacific Gas and Electric Company

In its opening comments, Pacific Gas and Electric Company (PG&E) recommends extending the deadline for utilities to submit outreach materials for the EITE attestation process to Energy Division, given the variety of stakeholders involved. PG&E requests that the May 11, 2015, deadline proposed in the draft Resolution be extended three weeks to June 1, 2015, to allow sufficient time for stakeholders to participate in the review process prior to the submission to Energy Division. PG&E suggests that this would not impact the remainder of the proposed deadlines for 2015.

In its reply comments to ARB's opening comments, PG&E recommends that the Commission reject ARB's proposal to require that utilities verify the NAICS codes of all potential recipients of CA Industry Assistance that are not covered entities or opt-in covered entities in the Cap-and-Trade Program. The five percent audit rate suggested in the draft Resolution is sufficient and conducting the audit after the 2015 revenue distribution occurs ensures the utilities and Energy Division are able to distribute CA Industry Assistance according to the timeline in the draft Resolution.

San Diego Gas & Electric Company

In its opening comments, San Diego Gas & Electric Company (SDG&E) argues that it should not be required to identify service accounts at each EITE facility with annual direct emissions below 10,000 MTCO_{2e}, because the service accounts will be identified by the facility on the attestation form. SDG&E states that it is difficult to identify all service accounts associated with a facility, because a facility as defined by ARB may be comprised of several buildings with more than one service address.

Next, SDG&E suggests that outreach to potential EITE facilities with annual direct emissions below 10,000 MTCO_{2e} regarding the attestation process does not need to be reasonably consistent across the three large utilities. While SDG&E agrees that the messaging should be competitively neutral and some coordination across the three large utilities is warranted, SDG&E believes it should have substantial flexibility to engage with its customers through the most effective medium, which may differ from the other utilities. SDG&E's initial estimates suggest that it will conduct outreach "to less than 250 potential EITE customers (using the 5-digit North American Industry Classification System

code), substantially smaller than the number of EITE customers located in PG&E and SCE territories.” SDG&E suggests the Resolution should make allowances in outreach for SDG&E due to the small number of potential EITE facilities. Instead, its outreach should be targeted and make use of existing utility and ESP channels.

In its reply comments to ARB’s opening comments, SDG&E recommends that the Commission reject ARB’s proposal to require that utilities verify the NAICS codes of all potential recipients of CA Industry Assistance that are not covered entities or opt-in covered entities in the Cap-and-Trade Program. SDG&E states “the potential return for the EITE customers participating directly in the ARB Cap-and-Trade program ranges from \$300,000 to millions per customer, while the median return for customers with less than 10,000 MT of direct emissions in SDG&E’s service area is only about \$300 more than they are already receiving through small business credits. ARB’s proposal for 100 percent verification is not justified for these smaller EITE customers.” Further, “SDG&E estimates that the expected revenue return associated with EITE customers not in the Cap-and-Trade program and with less than 10,000 MT direct emissions totals less than \$800,000,” whereas the costs of 100 percent verification could be very high.

SDG&E’s reply comments further suggest that if the Commission requires 100 percent verification, it only apply to facilities consuming more than 1,000 MWh per year on average in 2008-2010 and not already associated with an ARB-designated NAICS code in the utility database.

Southern California Edison Company

In its opening comments, Southern California Edison Company (SCE) recommends that its list of customers to which it will send outreach information about the attestation process include all service accounts in EITE-eligible three-digit NAICS codes. While the draft Resolution suggests the IOUs identify facilities that are in eligible NAICS codes at the five-digit level, SCE proposes to identify facilities that are eligible at the three-digit level to maximize its outreach efforts.

SCE also states that its billing system does not collect or maintain facility-level data, so it cannot always identify whether service accounts are part of the same facility. Therefore, SCE can only perform outreach at the service account level, and not at the facility level.

Second, SCE recommends some updates and clarifications to the deadlines proposed in the draft Resolution:

- Add a deadline of June 7, 2015, for Energy Division to provide the IOUs with the list of facilities that report under the MRR to allow the utilities to begin outreach to them by June 30, 2015. The draft Resolution did not specify when or how this list will be transmitted.
- Update from August 31, 2015, to August 7, 2015 the deadline for utilities to provide a list of eligible facilities.
- Update from September 15, 2015, to September 7, 2015, the deadline for Energy Division to calculate and provide revenue return for each facility to the utilities. SCE's internal information technology processes require approximately three weeks to implement the CA Industry Assistance amounts as on-bill credits or checks.
- Maintain the August 31, 2015, deadline for utilities to resolve any issues with the attestation forms and provide this list to Energy Division.
- Extend the deadline by which the IOUs must submit marketing materials to the Energy Division to June 1, 2015.

Next, SCE suggests that the final Resolution should authorize the IOUs to record EITE audit costs in their GHG Administrative Cost Memorandum Accounts.

Additionally, SCE recommends that the Resolution clarify whether the facility-level calculation of CA Industry Assistance Energy Division provided to each IOU will have already deducted any CA Climate Credit amount any of the facility's service accounts received in 2013, 2014, or 2015.

Finally, SCE clarifies that SCE uses the term "Service Accounts" rather than "Service Agreements." This should be reflected in Attachments A and B.

In its reply comments to ARB's opening comments, SCE recommends that the Commission reject ARB's proposal to require that utilities verify the NAICS codes of all potential recipients of CA Industry Assistance that are not covered entities or opt-in covered entities in the Cap-and-Trade Program. ARB already requires facilities certify to the ARB in their report that their data is "true, accurate and complete." If an entity misled the ARB, the ARB would have civil, if not criminal, recourse against that entity for negligent misrepresentation or fraud. The utilities could bring an action for restitution to recover the funds to which the entity was not entitled on the same grounds. There is therefore no reason to create additional administrative burdens for the utility. For entities

with annual GHG emissions under 10,000 MTCO_{2e}/year, the draft Resolution proposes to require such entities to attest under penalty of perjury that their NAICS code is EITE-eligible. Accordingly, SCE argues that there is sufficient incentive for both sets of entities to be truthful in their representations to the ARB and to the Commission.

USS-POSCO

In its opening comments, USS-POSCO (UPI) supports the methodology for the attestation requirements for facilities that operate in multiple industrial subsectors and report electricity use by subsector, but raises a concern for the steel sector, where auditable subsector usage data is not available for all entities with subsector activities. Specifically, UPI proposes that the Energy Division confirm that using the natural gas based benchmark for hot rolled steel does not create unrealistic results for the other subsectors. Should such unrealistic results be found, UPI proposes that the affected parties meet with Energy Division Staff and attempt to resolve the matter. The Commission addressed this issue in D.14-12-037 and it will not be addressed in this Resolution.

In its reply comments, UPI supports ARB's proposal to serve as a verifier of electricity data by subsector activity.

FINDINGS

1. Decision 14-12-037 developed the specific methodologies to allocate GHG allowance revenue to EITE customers and specified that this aspect of the program should be called "CA Industry Assistance."
2. Decision 14-12-037 ordered the Energy Division to hold a workshop and issue a resolution to develop the details of an attestation process to allow facilities that have direct emissions less than 10,000 MTCO_{2e} per year to demonstrate their eligibility for CA Industry Assistance. It also ordered Energy Division to hold a workshop and issue a resolution to develop a methodology to allocate allowance revenue to petroleum refineries during the second and third Cap-and-Trade compliance periods, based on ARB's complexity-weighted barrel methodology. On February 5, 2015, Energy Division circulated a staff straw proposal to the service list of R.11-03-012 with recommendations about these issues, and on February 11, 2015, Energy Division conducted a publicly noticed workshop to discuss these issues with stakeholders.

3. The attestation form applicable to facilities that have direct emissions less than 10,000 MTCO_{2e} per year and that wish to receive CA Industry Assistance is included as Appendix A to this Resolution.
4. Eligibility for CA Industry Assistance should be assessed at the facility level to mirror, as closely as possible, how ARB's Cap-and-Trade Regulation defines facilities in terms of a physical property or structure located on one or more contiguous properties. Since a single physical facility may have multiple service agreements, service accounts or utility meters, eligibility for CA Industry Assistance should be evaluated by facility, where each facility is the sum of the service agreements, service accounts or meters associated with a single physical premise.
5. ARB's MRR requires facilities to report their Primary NAICS Code, as defined by the U.S. Environmental Protection Agency in 40 CFR Part 98.3(c). D.14-12-037 requires facilities to attest that they primarily engage in activities described by an EITE-eligible NAICS code. For a facility to meet this eligibility requirement, it is reasonable to require the facility to report its Primary NAICS Code, as defined in 40 CFR Part 98.3(c).
6. Liberty Utilities and PacifiCorp have provided information in proceedings A.14-08-001 and A.14-08-003, respectively, in which they state that they do not have, and do not expect to have, any customers in their territories that are eligible EITEs. It is therefore appropriate to exclude Liberty Utilities and PacifiCorp from requirements in this Resolution to conduct outreach to customers that are potentially eligible EITE facilities with direct emissions below 10,000 MTCO_{2e} per year. If Liberty Utilities or PacifiCorp acquires customers that are eligible EITEs, they shall notify Energy Division in an informational Advice Letter filing within 30 days of such acquisition, state how they propose to come into compliance with the requirements of this Resolution, and thereafter adhere to the requirements of this Resolution, or parts thereof, as directed by Energy Division. The Commission delegates to Energy Division responsibility to determine how Liberty Utilities and PacifiCorp shall ensure compliance with this Resolution.
7. PG&E, SCE and SDG&E should fulfill the education and outreach guidelines described in this Resolution, which specify how the utilities should notify customers of their potential eligibility for CA Industry Assistance and how utilities should educate and collect necessary information from EITE facilities that currently report to ARB under MRR.
8. For customers that receive a small business California Climate Credit and that have only one service agreement or service account, it is likely that the

difference between the small business California Climate Credit and CA Industry Assistance will be *de minimis*. It is reasonable to exclude these customers from initial CA Industry Assistance outreach efforts to minimize the potential for customer confusion and to minimize each utility's administrative burdens.

9. The primary purpose of verifying a facility's attestation is to ensure that customers have provided accurate and complete information in their attestations.
10. An audit process can provide assurance that attestations from facilities with direct emissions below 10,000 MTCO_{2e} per year are accurate and the intended facilities are receiving CA Industry Assistance. It is reasonable for the utilities to audit a random selection of five percent of facilities that have submitted verified attestations in 2015 and 2017. These audits should be conducted in 2016 and again in 2018.
11. Some data necessary to calculate CA Industry Assistance is confidential. This data should be appropriately marked and treated as confidential in accordance with the section of this Resolution titled *Data Exchange and Confidentiality*.
12. The attestation process for EITE facilities with direct emissions below 10,000 MTCO_{2e} per year should be conducted according to the schedules provide in Table 2 and Table 3 of this Resolution.
13. The audit process described in this resolution should be considered an administrative cost associated with verifying attestations and can therefore be recorded in a utility's administrative cost memorandum account.
14. Some EITE facilities that engage in multiple industrial subsector activities may elect to provide the Commission with auditable electricity data by subsector activity. These facilities must execute the attestation form included in Appendix B to this Resolution, and this form must be accompanied by relevant electricity data and any associated relevant engineering data in support of the electricity data. Air Resources Board staff are best situated to work with the Commission and facility representatives to verify that electricity usage data are appropriately attributed to each product. This attestation form must be provided in hardcopy, with original signatures, to Energy Division.
15. ARB staff should serve as the verifier of electricity data by subsector activity.
16. When the electric utilities provide confidential customer data pursuant to Public Utilities Code Section 583 to the Energy Division to implement

CA Industry Assistance, the utility must cite the appropriate decision or law that allows the information to be treated as confidential in accordance with the section of this Resolution titled *Data Exchange and Confidentiality*.

17. The benefits of making facility-specific data about electricity use or allowance revenue allocations publicly available do not outweigh the potential harm to California's economy.
18. It may be necessary to modify the attestation forms attached to this Resolution to seek additional information from EITE facilities or to make clarifying changes. Energy Division should have authority to make such changes.
19. ARB allocates allowances to petroleum refineries during the second and third Cap-and-Trade compliance periods according to its product output-based allocation methodology. In D.14-12-037 the Commission approved a corresponding product-based revenue allocation methodology. To maintain consistency with ARB, this product-output based methodology, with clarifications included in Appendix D to this Resolution, should apply to petroleum refineries during the second and third compliance periods of the Cap-and-Trade Program.

THEREFORE IT IS ORDERED THAT:

1. The requirements and processes established in this Resolution to implement the Commission's CA Industry Assistance are adopted.
2. No later than June 30, 2015, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall make available on their websites an attestation form that captures the data detailed in Appendix A. Each utility shall be responsible for collecting, verifying and auditing completed attestation forms that customers submit according to the requirements and timelines established in this Resolution.
3. Liberty Utilities (CalPeco Electric) LLC (Liberty Utilities) and PacifiCorp shall make a Microsoft Excel version of the attestation form included in Appendix A to this Resolution available on their respective websites no later than June 30, 2015. If Liberty Utilities or PacifiCorp acquires customers that are eligible emissions-intensive trade-exposed entities (EITEs), they shall notify Energy Division in an informational Advice Letter filing within 30 days of such acquisition, state how they propose to come into compliance with the

requirements of this Resolution, and thereafter adhere to the requirements of this Resolution, or parts thereof, as directed by Energy Division. The Commission delegates to Energy Division responsibility to determine how Liberty Utilities and PacifiCorp shall ensure compliance with this Resolution.

4. Within 14 days of the adoption of this Resolution, PG&E, SCE and SDG&E should provide Energy Division with a list of customer facilities that match an emissions-intensive trade-exposed (EITE)-eligible North American Industry Classification System (NAICS) code at the five-digit level and that excludes certain small business customers, as described in this Resolution, that receive a small business California Climate Credit and that have only one service agreement or service account. A utility may, at its discretion, identify and conduct outreach to service accounts that match at three NAICS code digits
5. PG&E, SCE, and SDG&E shall each conduct outreach to potentially eligible EITE facilities with annual direct emissions below 10,000 MTCO_{2e} once in 2015, prior to July 31, 2015, and a second time in 2017, prior to September 30, 2017.
6. By June 1, 2015, PG&E, SCE, and SDG&E shall provide Energy Division with an explanation of proposed outreach activities, including sample email notices to customers, customer call center scripts, and website language to educate customers about the attestation process for facilities with direct emissions below 10,000 MTCO_{2e} per year. Prior to submitting these materials to Energy Division, the utilities shall seek feedback on these materials and proposed activities to representatives of Community Choice Aggregators and Direct Access providers, as well as Energy Upgrade California. The outreach activities shall be competitively neutral.
7. Energy Division shall be responsible for informally approving utility outreach activities and materials applicable to both the attestation process for facilities with direct emissions below 10,000 MTCO_{2e} per year and to EITE facilities that have a reporting obligation under the California Air Resources Board's (ARB's) Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR).
8. The procedures for facilities that engage in multiple industrial subsector activities to voluntarily report auditable electricity data to the Energy Division as outlined in this resolution and in Appendix B are adopted.
9. Energy Division shall make available an attestation form using the information provided in Appendix B to this resolution for all EITE facilities that wish to voluntarily submit auditable electricity data.

10. To calculate CA Industry Assistance for petroleum refineries during the second and third compliance periods of the Cap-and-Trade Program, Energy Division shall apply the product-based methodology adopted in D.14-12-037, with the clarifications described in Appendix C and the formula for total refinery output included in Appendix D to this Resolution.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 9, 2015; the following Commissioners voting favorably thereon:

/s/ TIMOTHY J. SULLIVAN
TIMOTHY J. SULLIVAN
Executive Director

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

Appendix A

Attestation to the California Public Utilities Commission of Eligibility for CA Industry Assistance

[Form fields for utilities to incorporate into attestation]

Eligibility	
By checking this box, I confirm that my facility is not required to report to the California Air Resources Board under its Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) and it is eligible for CA Industry Assistance.*	[check box]
Form Contact Information	
Company Name*	
Authorized Representative Name*	
Authorized Representative Title*	
Email*	
Phone*	
Mailing Address*	
Facility Information	
Facility Name*	
Service Address*	
Primary NAICS Code*	
Description of Primary Facility Operations	
Primary Utility Account Number*	
Additional Utility Account Number	
Additional Utility Account Number(s)	
Account Number for Bill Credit	
Acknowledgement of Audit	
I understand that as a result of submitting this attestation, I may be selected for an audit. If I am selected for an audit, I agree to comply with all requests for documents to support any information provided in this Attestation. I also agree to allow a Commission designee or utility designee to inspect my facility to verify the activities I am claiming in my Attestation.*	[Signature]

Certification	
I certify under penalty of perjury under the laws of the State of California that I have personal knowledge of the facts stated in this Attestation and I have the authority to make this Attestation on behalf of the Company. I further certify, to the best of my knowledge, all of the statements and representations made in this Attestation are true and correct. I understand that any false statements or misrepresentations could subject me, personally, and the company that I represent to penalty, including those penalties specified in Public Utilities Code Sections 2111 and 2112.*	[Signature]
I understand that I am responsible for notifying the utility and/or the California Public Utilities Commission of any changes to the information reported in this form. I am required to provide updates in writing within 60 days of a change in facility operations.*	[Signature]
Comments	

*Required Field

[Attestation Form Fields Descriptions (for selected fields that require an explanation)]

Eligibility	Only facilities that do not report to ARB under the MRR need to complete the attestation process to receive CA Industry Assistance. Facilities are eligible to receive CA Industry Assistance if they primarily operate in an industrial sector that qualifies for Industry Assistance in ARB's Cap-and-Trade Regulation.
Primary NAICS Code	Report the NAICS code that most accurately describes the facility's primary product/activity/service. The primary product/activity/service is the principal source of revenue for the facility as defined in North American Industrial Classification System Manual 2007.
Utility Account Number	Enter <u>each</u> Electric Service Agreement Number (for PG&E), Service Account Number (for SCE, SDG&E, and Pacific Power), or Account Number and Location Number (for Liberty Utilities) for the facility.
Account Number for Bill Credit	Preferred utility account number to which the CA Industry Assistance bill credit should be applied, if applicable.
Acknowledgement of Audit	Facility representative must sign the statement to confirm that they understand they may be selected for an audit.
Certification	Facility representative must sign the statements to confirm that all information in the form is true, and they are responsible for notifying the utility and/or the California Public Utilities Commission of any changes.

[End of Appendix A]

Appendix B

Attestation to the California Public Utilities Commission of Verified Electricity Data

[Cover Page]

[COMPANY NAME] submits this information to Energy Division in confidence. This information is [BRIEF DESCRIPTION OF DATA], and falls within the definition of "trade secret" under California Civil Code §3426.1(d). Therefore, Energy Division should keep this information confidential unless ordered to disclose it by a court of competent jurisdiction. [See Cal. Civ. Code §3426 et seq. (Uniform Trade Secrets Act); Cal. Evid. Code §1060 (trade secret privilege); Cal. Gov. Code §6254.15 (trade secrets and corporate proprietary information exempt from disclosure under Public Records Act).]

All pages of supporting documentation that should remain confidential have been stamped "Confidential."

[Form fields for Energy Division to include in attestation form]

Eligibility	
By checking this box, I confirm that the facility I represent engages in multiple industrial activities and is eligible to submit verified electricity data by industrial activity.*	[check box]
Data Years Provided (e.g., 2008, 2009, 2010)	
Form Contact Information	
Company Name*	
Authorized Representative Name*	
Authorized Representative Title*	
Email*	
Phone*	
Mailing Address*	
Facility Information	
Facility Name*	
Service Address*	
Primary NAICS Code and Subsector Activity*	
Additional NAICS Code and Subsector Activity*	
Additional NAICS Code and Subsector Activity	
Additional NAICS Code and Subsector Activity	
Electric Utility Service Provider*	
Utility Account Number(s)*	
California Air Resources Board ID*	
Certification	
I certify under penalty of perjury under the laws of the State of California that I have personal knowledge of the facts stated in this Attestation and I have the authority to make this Attestation on behalf of the Company. I further certify, to the best of my knowledge, all of the statements and representations made in this Attestation are true and correct. I understand that any false statements or misrepresentations could subject me, personally, and the company that I represent to penalty, including those penalties specified in Public Utilities Code Sections 2111 and 2112.*	[Signature]

*Required Field

[Attestation Form Fields Descriptions (for selected fields that require an explanation)]

Eligibility	This attestation form is applicable to covered entities that engage in multiple industrial activities where each facility engaging in the subsector activity has agreed to provide auditable electricity data.
Data Years Provided	A facility must provide data from 2008 to 2010 or work with ARB staff to determine the appropriate historical period for which to provide data..
Primary NAICS Code and Subsector Activity	<p>Report the NAICS code that most accurately describes the reporting entity’s primary product/activity/service. The primary product/activity/service is the principal source of revenue for the reporting entity as defined in North American Industrial Classification System Manual 2007.</p> <p>Report the corresponding primary subsector activity, as defined in Table 8-1 of ARB’s Cap-and-Trade regulation.</p>
Additional NAICS Code and Subsector Activity	<p>Report any additional NAICS codes that describe the reporting entity’s additional product/activity/service. The additional product/activity/service is an additional source of revenue for the reporting entity as defined in North American Industrial Classification System Manual 2007.</p> <p>Report the corresponding additional subsector activity, as defined in Table 8-1 of ARB’s Cap-and-Trade regulation.</p>
Electric Utility Service Provider	Name of the interconnecting utility. Choose from Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Pacific Power, or Liberty Utilities (CalPeco Electric). If the facility spans more than one electric utility’s territory, provide a separate attestation form for each utility, and report utility account number(s) below for only one utility in each

	attestation.
Utility Account Number	List all Electric Service Agreement Numbers (for PG&E), Account Numbers (for SCE, SDG&E, and Pacific Power), or Account Numbers and Location Numbers (for Liberty Utilities) for the facility.
ARB ID	As defined in the California Air Resource Board's (ARB's) Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR), this is the unique identification number assigned to each facility, supplier, and electric power entity that reports GHG emissions to the ARB.
Certification	Facility representative confirms that all information in the form is true.

[End of Appendix B]

Appendix C

Commission Product-Based Formulas⁵³

The Commission's product-based equations are copied below. Annotations to the equations in bold, underlined text show how Energy Division will apply the product-based allocation equations to refineries during the second and third compliance periods of the Cap-and-Trade Program.

1. Product-Based Allocation Equation for an Advance Allocation

Equation 1. Product-Based Allocation Formula for an Advance Allocation

$$A_{b,t} = \left(\sum_{a=1}^n (O_{a,t-2} \times B_{EP,a} \times AF_{a,t} \times C_{a,t} \times D_{t-1} \times EF_b) \right) + Trueup_{b,t}$$

Where:

"a" is an eligible industrial activity defined in Table 9-1 of ARB's Cap and Trade regulation.

"b" is an individual industrial facility that operates in industrial activity "a."

"t" is the budget year for which the Commission is allocating revenue.

"O_{a,t-2}" is the total production output in year "t-2" associated with a given industrial activity at a given facility subject to the product-based benchmark. ARB's MRR data⁵⁴ is the source for product output, which must be discounted by the percentage of the facility's total electricity purchases in year "t-2" that are from publicly-owned utilities.

**For refineries, product output will be in terms of CWB_{Total+Hydrogen}.
ARB will confidentially provide product output data to the Energy**

⁵³ These equations are provided in Appendix A of D.14-12-037.

⁵⁴ Throughout this Appendix, all references to ARB's MRR data refer specifically to verified MRR data that entities report to ARB in September of each year.

Division. The Commission's formula for calculating $CWB_{\text{Total+Hydrogen}}$ is provided in Appendix D to this resolution.

" $B_{EP,a}$ " is the benchmark of electricity intensity of product output for industrial activity "a" in terms of megawatt-hours of electricity purchases per unit output for the applicable sector. The electricity intensity benchmark is calculated by summing the electricity purchases of all California entities in industrial sector "a," and then dividing this amount by sector's total production output for the industrial activity. The exact formula used to calculate this benchmark for each industrial activity is discussed in **Equation 2**, below.

" $AF_{a,t}$ " is the "assistance factor" for budget year "t" assigned to a given industrial activity "a." Assistance factors for each industrial activity are specified in Table 8-1 of ARB's Cap-and-Trade Regulation. The assistance factor is the percent of the emissions benchmark that will be provided in an allocation, ranging from 100% to 30%. The specific percentage is tied to ARB's determination of an industrial sector's leakage risk and the year for which the allocation is being sought.

" $C_{a,t}$ " is the cap adjustment factor for budget year "t" assigned to each industrial activity "a." The cap adjustment factor represents the decline in the overall GHG cap. The schedule for the cap adjustment factor can be found in Table 9-2 of ARB's Cap-and-Trade Regulation as the Cap-and-Trade Adjustment Factor for All Other Direct Allocation.

" D_{t-1} " is the Dollar Conversion Factor calculated based on the average of CAISO's daily Greenhouse Gas Allocation Index Price for the year "t-1," and is in terms of dollars per $MTCO_2e$.

" EF_b " is the electricity emission factor in $MTCO_2e/MWh$ specific to industrial facility "b" based on the facility's mix of electricity purchases during the 2008 to 2010 historical period and each electricity provider's emission factor as discussed in Section 4.5. The EITE facility-specific emission factor is calculated according to **Equation 3** below.

" $Trueup_{b,t}$ " is the true-up term defined by **Equation 4** below, which adjusts for updated product output "O" and dollar conversion factor "D" data for year "t" once they are available. This value shall only be

calculated if the entity was covered under the Cap-and-Trade Program in year “t-2.”

1.1. Electricity Intensity Benchmark Equation for a Product-Based Allocation

Equation 2. Electricity Intensity Benchmark Equation for Product-Based Allocation

$$B_{EP,a} = 0.9 \times \frac{\sum_{b=1}^n [\sum_{IOU=1}^u EP_{b,IOU} + \sum_{3rd\ party=1}^p EP_{b,3rd\ party}]}{\sum_{b=1}^n Production_b}$$

Where:

“a” is an eligible industrial activity defined in Table 9-1 of ARB’s Cap and Trade regulation.

Petroleum Refining has one benchmark, which includes refineries with and without onsite hydrogen production.

On-Purpose Hydrogen Production has a separate benchmark, which does not include any of the refineries with onsite hydrogen production.

“b” is an individual industrial facility that operates in industrial activity “a” outlined in Table 9-1 of ARB’s Cap and Trade regulation.

Energy Division will exclude the individual facility from its Petroleum Refining benchmark calculation that ARB excluded from its Petroleum Refining benchmark. Information about which refinery should be excluded is confidential, since ARB made this determination based on the refinery facilities’ annual product output.

0.9 is a benchmark stringency factor chosen to reflect the emissions intensity of highly efficient, low-emitting covered entities for each industrial activity. For sectors in which there is only one covered entity or in which no covered entity is at least as efficient as the benchmark, 0.9 is not used and instead the benchmark is set based on the “best-in-class”

value (i.e. the electricity emissions intensity of the most GHG-efficient California facility).

“EP_{b, IOU}” is the total electricity purchased in MWh by industrial facility “b” from an investor-owned utility. Electricity purchases by a single facility “b” may occur from one or more IOUs, each with its own associated emission factor. Electricity purchases are summed over a historical period, 2008-2010, using ARB’s MRR data.

For the Petroleum Refining benchmark, total refinery electricity purchases are summed for years 2008 and 2010 only, excluding 2009 to be consistent with the availability of CWB product data. ARB will confidentially provide these data to Energy Division.

“EF_{IOU}” is the GHG emissions factor specific to each IOU from which the industrial facility “b” purchased electricity. This factor is 0.291 MTCO_{2e} for PG&E and 0.379 MTCO_{2e}/MWh for all investor-owned utilities.

“EP_{b, 3rd party}” is the total electricity purchased in MWh by industrial facility “b” from a third party electricity provider. Electricity purchases by a single facility “b” may occur from one or more third party providers, each with its own associated emissions factor. Electricity purchases are summed over a historical period, 2008-2010, using ARB’s MRR data. Third party electricity providers include all non-investor-owned utility providers: publicly owned utilities (POUs), community choice aggregators (CCAs) direct access providers (DAs) and off-site CHP facilities. This factor is 0.379 MTCO_{2e}/MWh for electricity purchases from all parties that are not investor-owned utilities, except when electricity is purchased from off-site CHP facilities a factor of 0.431 MTCO_{2e}/MWh applies.

For the Petroleum Refining benchmark, total refinery electricity purchases are summed for years 2008 and 2010 only, excluding 2009 to be consistent with the availability of CWB product data. ARB will confidentially provide these data to Energy Division.

“Production_b” is the total product output from industrial facility “b,” for the industrial activity for which the benchmark is being calculated. Product output is summed over a historical period 2008-2010, using ARB’s MRR data, for all industries in California that operate in industrial activity “a.”

For the Petroleum Refining benchmark, total refinery electricity purchases are summed for years 2008 and 2010 only, excluding 2009 to be consistent with the availability of CWB product data. ARB will confidentially provide these data to Energy Division.

1.2. Industrial Facility-Specific Weighted Average Emission Factor

Equation 3. Industrial Facility-Specific Weighted Average Emission Factor

$$EF_b = \frac{\sum_{t=2008}^{2010} \sum_{provider=1}^n (EP_{b,provider,t} \times EF_{provider})}{\sum_{t=2008}^{2010} \sum_{provider=1}^n EP_{b,provider,t}}$$

Where:

“b” is an individual industrial facility that operates in industrial activity “a” outlined in Table 9-1 of ARB’s Cap-and-Trade Regulation.

“ $EP_{b,provider,t}$ ” is the total electricity purchased in MWh by industrial facility “b” from each electricity provider in year “t,” as reported in ARB’s MRR data.

For the Petroleum Refining benchmark, total refinery electricity purchases are summed for years 2008 and 2010 only, excluding 2009 to be consistent with the availability of CWB product data. ARB will confidentially provide these data to Energy Division.

“ $EF_{provider}$ ” is the GHG emission factor specific to each electricity provider from which the industrial facility “b” purchase electricity.

1.3. True-Up Term for a Product-Based Allocation

True-ups correct the allocation from two years prior to reflect the actual product output and dollar conversion factor. The first true-up will be conducted in 2016 (to true-up the 2014 allocation).

Equation 4. True-Up Term for a Product-Based Allocation

$$Trueup_{b,t} = \left(\sum_{a=1}^n (O_{a,t-2} \times B_{EP,a} \times AF_{a,t-2} \times C_{a,t-2} \times D_{t-2} \times EF_b) \right) - A_{b,t-2,no\ trueup}$$

Where:

“ $A_{b,t-2,no\ trueup}$ ” is the amount of allowance revenue that industrial facility “b” received for all industrial activities for budget year “t-2,” not including the true-up for that budget year.

The assistance factor, benchmark, cap adjustment factor, output variable, dollar conversion factor and emission factor are all as defined in Equation 1, Equation 2 and Equation 3 above.

[End of Appendix C]

Appendix D

Commission's Complexity-Weighted Barrel (CWB) Formula

The Commission will calculate total refinery output using the Complexity-Weighted Barrel methodology. The following formulas show how the Commission will calculate $CWB_{Total+Hydrogen}$, a measure of product output that captures all refinery activities, including hydrogen production. These formulas are based on ARB's formula to calculate CWB_{Total} in Section 95113 of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR).

Commission Equation for Total Refinery Output Inclusive of Onsite Hydrogen Production

$$CWB_{Total+Hydrogen} = CWB_{Process+Hydrogen} + CWB_{Off-Sites\ with\ Hydrogen} + CWB_{Non-Crude\ Sensible\ Heat}$$

Where:

$$CWB_{Process+Hydrogen} = \sum (CWB_{Factor} * Throughput)$$

$$CWB_{Off-Sites\ with\ Hydrogen} = (0.327) * (Total\ Refinery\ Input) + (0.0085) * (CWB_{Process+Hydrogen})$$

$$CWB_{Non-Crude\ Sensible\ Heat} = (0.44) * (Non - Crude\ Input)$$

" CWB_{Factor} " is the CWB Factor for a CWB unit from (1) Table 1 in Section 95113 of the Mandatory Reporting Rule and (2) Appendix E of the Solomon Associates *Report on CWT-CWB for California Regulatory Support for Hydrogen Generation*.⁵⁵

"Throughput" is the process throughput for (1) each CWB unit identified in Table 1 of Section 95119 of the MRR reported pursuant to section 95113(l)(3)(A) and (2) for all on-purpose hydrogen gas production reported in metric tons of H₂ pursuant to section 95114 of the MRR. Applying the ideal gas law, on-purpose hydrogen gas production can be

⁵⁵ http://www.arb.ca.gov/cc/capandtrade/meetings/081313/cwt-cwb_backgrounddocument.pdf.

converted from metric tons to thousand standard cubic feet so it can be appropriately multiplied by its CWB_{Factor} that is provided in terms of thousand standard cubic feet.

“Total Refinery Input” and “Non-Crude Input” are the annual volumes of raw materials as defined in Section 95102, reported in units of thousands of barrels per year.

[End of Appendix D]