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October 23, 2013

Mary D. Nichols  
Chair  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

Re: **M-S-R Comments on Amendments to the Mandatory Reporting Regulation**

Dear Ms. Nichols:

M-S-R Public Power Agency (M-S-R) provides these comments to the California Air Resources Board (CARB) on the September 4, 2013 *Regulation for the Mandatory Reporting of Greenhouse Gas Emissions Proposed Amendments* (MRR or Regulation).<sup>1</sup> Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding. M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. Each of M-S-R's member agencies are required to submit annual emissions reports under the Regulation, and are directly impacted by the requirements set forth therein.

M-S-R offers these limited comments on the following two issues:

- The Regulation should not include system power emission factors,
- The Regulation should not require covered entities to report changes in criteria pollutants, and
- The Regulation should not require meter generation data for verification of generation at the time the power was directly delivered.

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<sup>1</sup> In addition to the *Notice of Public Hearing to Consider Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms*, CARB issued a *Staff Report: Initial Statement of Reasons (ISOR)*, to which the proposed amendments were included as *Appendix A: Proposed Regulation Order (Proposed Amendments)*.

### **References to System Power Should be Removed**

M-S-R supports CARB staff's intent to strike all reference to system power in the Proposed Amendments. New sections 95111(a)(12) and 95111(b)(5) would impose "system power emission factor rates," that would be determined by CARB. Purchasers of system power with a carbon content above the default emission factor (DEF) would use a new "system power emission factor calculated by ARB," instead of the lower DEF for unspecified power.<sup>2</sup>

According to the ISOR, this approach would "more accurately reflect the carbon content of the system power, than the use of the [DEF] for unspecified electricity imports."<sup>3</sup> M-S-R believes that this proposal includes a number of uncertainties. Several details regarding the implementation of the proposed revision are not clearly addressed in the Proposed Amendments, including how "systems" would be determined and to whom the requirement would apply. As proposed, the reported data would also provide inaccurate information regarding the state's true emissions level, since only systems with emissions determined to be higher than the DEF would be assigned a new emissions factor. Ostensibly, systems with lower emissions would still be subject to the current DEF, which would artificially inflate the overall GHG emissions figures for imported electricity.

M-S-R understands that CARB staff intends to recommend to the Board that all of the current references to system power be removed from the Proposed Amendments. M-S-R supports this recommendation and urges the Board not to adopt any new requirements in the MRR regarding system power.

### **Criteria Pollutant Reporting Should be Removed**

The Proposed Amendments would include a new requirement on facility operators subject to the Cap-and-Trade Regulation relevant to criteria pollutants. This reporting requirement should be rejected. New section 95104(e) (*Increase in Facility Criteria Pollutant and Toxic Air Contaminant Emissions*), would require affected entities to include information in their emissions data report that also addresses:

- (1) whether a change in the facility's operations or status potentially resulted in an increase in emissions of criteria pollutants or toxic air contaminants in relation to the previous data year,

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2 ISOR, pp. 10, 60

3 ISOR, p. 60.

- (2) the reasons for the change, and
- (3) a narrative description of the reasons for the changes.

The ISOR states that this information is needed to support CARB's "*adaptive management monitoring, review, and analysis*."<sup>4</sup> M-S-R understands that CARB would like to use the GHG reporting tool as a mechanism to collect this data and further "*assess the potential localized air quality impacts that may result from the Cap-and-Trade program*."<sup>5</sup> However, the Proposed Amendment exceeds the scope of the mandate set forth in Health and Safety Code section 38530 to implement regulations to require "*reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program*."<sup>6</sup> The information sought regarding criteria pollutants does not fall within the gambit of "greenhouse gas emissions" to be reported and verified under the enabling legislation, and should therefore not be included within the provisions of the MRR.

In addition to being outside the scope of the AB32 reporting mandate, as contemplated, the requirement also imposes additional burdens on reporting entities and provides no new information to CARB. The members of M-S-R already report information regarding criteria pollutants to the local air districts,<sup>7</sup> sometimes as frequently as quarterly. CARB, therefore, already has access to the information being sought to assess localized impacts and monitor its adaptive management program. Furthermore, requirements to include the very detailed information in the extensive annual emissions report would require additional staff time and financial resources. This is especially problematic in the context of annual verification of the MRR report, wherein the reporting entities will need to expand that scope of the already costly verification to address this additional requirement.

Rather than require further reporting under the existing MRR program, M-S-R urges CARB to coordinate with the local air districts to assess the level of information the agency may already have at its disposal. If, however, it is still determined that CARB must require this extra reporting requirement, all of the information provided pursuant to section 95104(e) should be expressly excluded from the verification requirement.

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4 ISOR, p. 54.

5 *Id.*

6 California Health & Safety Code section 38530(a).

7 This information is also provided to the Environmental Protection Agency under Title IV of the Clean Air Act.

M-S-R understands that staff intends to recommend to the Board that this section not be included in the revised MRR, as urges the Board to accept staff's recommendation and not add additional reporting for criteria pollutants.

**Verification of Generation Should Not Have to Include Verification that Power was Generated at the Time the Power was Directly Delivered**

The Proposed Amendments properly remove hourly meter data requirements. As amended, "at the time the power was directly delivered" would be stricken from section 95111(g)(1)(N). M-S-R supports the proposed revision to the Regulation and urges the Board to adopt the change. As more fully set forth in the comments submitted by the Los Angeles Department of Water and Power, an hour by hour comparison of meter and e-tag data for all specified imports (including non-renewable resources, since subsection (g) does not apply solely to renewable resources) would be a significant labor burden for reporting entities, such as the members of M-S-R. Not only would additional data need to be collected and reported, but it would then be subject to verification, which would result in increased compliance costs for reporting entities. M-S-R appreciates the Proposed Amendment and urges the Board to adopt it.

**Conclusion**

M-S-R appreciates the extensive staff time that has been devoted to developing the Proposed Amendments and is particularly appreciative of staff's attention and responsiveness to stakeholder concerns raised during the amendment process. M-S-R urges CARB to continue to consider these concerns carefully, and not to adopt any new requirements in the MRR regarding system power and additional reporting for criteria pollutants, and to strike hourly meter data requirements.

Respectfully submitted,



Martin Hopper  
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**M-S-R Public Power Agency**