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August 2, 2013

Mr. Richard Bode, Chief
Emissions Inventory Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Mr. Bode:

Subject: Comments on the Discussion Draft of Potential Updates to the
Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide informal comments on the Discussion Draft of Potential Updates to the California Air Resources Board (ARB) Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) that was released on July 17, 2013.

LADWP's comments are presented in the order in which they appear in the discussion draft, and are discussed in detail below. In summary:

- Including all of the EPA reporting rule subparts under Applicability creates confusion.
- The clarification that the emissions data report is "for the previous calendar year" should be retained.
- The new requirements for reporting biomethane purchase information should be refined and clarified.
- The new requirements for reporting imported electricity as specified should be phased in and apply only to new transactions executed after January 1, 2014.

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- The existing criteria for reporting Asset Controlling Supplier (ACS) power as a specified import should be used for the 2013 emissions data report. The proposed new requirement should be phased in and apply only to new transactions executed after January 1, 2014. If the new requirement is applied retroactive to January 2013, the result would be to assign default emissions to ACS power imported during 2013. Reporting default emissions for ACS power is not accurate, and would artificially increase the statewide Greenhouse Gas (GHG) emissions inventory and decrease the number of cap-and-trade emission allowances available for compliance.
- The proposed treatment of power supplied from an Asset Controlling Supplier's system as unspecified if not "properly acquired as specified power" does not appear to be consistent with ARB statements that ACS power is intended to be specified. In addition, it would not be consistent with the proposal to treat other "system power" as specified based solely on the source on the e-tags. The criteria for whether imported system power is specified or unspecified should be consistent and applied equally across the board.

Section 95101(a)(1)(G): Applicability

The proposed amendment would transfer the entire list of the federal Environmental Protection Agency's (EPA) mandatory reporting rule subparts that are currently in section 95101(f) "Exclusions" to section 95101(a) "General Applicability".

The MRR does not include any reporting requirements for some of the EPA reporting rule subparts transferred into section 95101(a). For example, 40 CFR 98 Subpart DD covers reporting of fugitive SF6 and PFC emissions from Electrical Transmission and Distribution Equipment. The MRR does not include any SF6 or PFC emission reporting requirements. The same is true for a number of the other EPA subparts.

Saying that the MRR applies to entities that have no reporting requirements creates confusion and uncertainty for those entities. If an entity is subject to one of the EPA subparts, but there are no reporting requirements in the MRR for that category, does that entity still have to notify the ARB Executive Officer within 90 days of the effective date of this amendment?

To eliminate confusion and unnecessary notification by entities that have nothing to report under the MRR, LADWP recommends this amendment be revised to include only the EPA subparts for which there are reporting requirements in the MRR, and leave the other subparts in the "Exclusions" section.

Section 95103(e) and (f): Reporting and Verification Deadlines

ARB is proposing to delete the phrase that clarifies the emissions data report is “for the previous calendar year” from both the reporting and verification deadline sections. LADWP recommends that the phrase “for the previous calendar year” be retained, because it is needed for clarity and is not specified anywhere else in the MRR.

In addition, LADWP wishes to reiterate that the reporting and verification deadlines should not be moved forward, for the reasons stated in our previous comments dated July 10, 2013.

Section 95103(j)(3): Biomethane Reporting Requirements

ARB is proposing to add new requirements to section 95103(j)(3) to report detailed information about biomethane purchases, the biomethane supplier, and the facility that produced the biomethane. LADWP recommends the approach for reporting biomethane purchases should be consistent with the approach for reporting natural gas purchases. In addition, the biomethane reporting requirements should be refined and clarified as described below.

1. Biomethane may be purchased from a single vendor under multiple contracts. For purposes of the annual report to CARB, it should be sufficient to report biomethane purchases as an annual aggregate by vendor rather than “for each contracted delivery”.
2. With regards to reporting the “annual MMBtu delivered by each biomethane vendor”, larger entities may subdivide the purchased biomethane among multiple facilities operated by the entity. Since the biomethane purchase information will be included in facility level reports, the biomethane reported should be the quantity purchased and allocated to the particular facility rather than the overall total biomethane purchased from the vendor. In addition, the term “delivered” should be changed to “supplied”, since biomethane is usually injected into the natural gas pipelines rather than delivered directly to a facility through a separate pipeline.
3. If the biomethane is purchased from a marketer that aggregates biomethane from multiple facilities, the purchaser may not have detailed information about the specific facility(s) that produced the biomethane. Therefore, reporting the name, address and facility type should be “if available”.

LADWP suggests the following revisions to the new biomethane reporting requirements:

(3) When reporting biomethane, the operator or supplier who is reporting biomass emissions from biomethane fuel must also report, ~~for each contracted delivery:~~

(A) name and address of the ~~biomethane~~ vendor from which biomethane is purchased;

(B) annual MMBtu ~~delivered supplied~~ by each biomethane vendor ~~for the facility.~~

The operator must also report the name, address, and facility type of the facility from which the biomethane is produced, ~~if available.~~ In addition, relevant documentation including invoices, shipping reports, allocation and balancing reports, storage reports, in-kind nomination reports, and contracts must be made available for verifier or ARB review to demonstrate the receipt of eligible biomethane.

Section 95111(a)(4): Imported Electricity from Specified Facilities or Units

ARB is proposing to add a new requirement to the criteria for reporting specified electricity imports, such that the seller warrants the sale of specified source electricity from the source through the market path. Satisfying this new requirement will require changes in the standard operating practices and procedures for buying and selling electricity. ARB should allow adequate time for the electric sector to develop and implement new procedures and documentation to satisfy this new requirement.

LADWP is concerned by statements made by ARB staff during webinars held on March 26, 2013 and July 23, 2013 that they intend to apply this new requirement retroactive to January 1, 2013.

During the June 26, 2013 public workshop to discuss proposed updates to the MRR, ARB Legal clarified that new requirements must be phased in and cannot be implemented retroactively, unless it is merely a change to how existing data is reported. This statement was in response to a question about the effective date of the new documentation requirement for specified imports. Written documentation for short term transactions is not required under the WSPP or other master agreements, therefore the documentation ARB desires did not exist in January 2013. WSPP is in the process of developing a new schedule for specified imports, but the new schedule is still in the development phase and is not currently in use. Therefore, this new documentation requirement should be phased in and apply only to new transactions executed after January 1, 2014 after the rule amendments go into effect, and should not be applied to the 2013 emissions data report.

Section 95111(a)(5): Imported Electricity Supplied by Asset Controlling Suppliers

MRR section 95111(a)(5) contains the criteria for reporting imported electricity supplied by Asset Controlling Suppliers (ACS). The existing language in MRR 95111(a)(5), which was in effect during 2013, clearly states that electricity supplied by an ACS, where the ACS is identified as the PSE at the first point of receipt on the physical path of NERC e-tags, must be reported as specified and not as unspecified. The regulation currently does not require any additional criteria or requirements to be met in order to report the ACS power as specified.

As part of the 2013 amendments to the MRR, ARB is proposing to delete "Report delivered electricity as specified and not as unspecified" and replace it with "Report Asset-Controlling Supplier power that was not properly acquired as specified power, as unspecified power".

LADWP is concerned by statements made by ARB staff during webinars held on March 26, 2013 and July 23, 2013 that they intend to apply this new requirement retroactive to January 1, 2013. Applying this new requirement retroactively would be problematic because the seller and buyer need to agree to the specified source transaction at the time the power is sold. If ARB wishes to change the criteria for reporting ACS power as specified, the change should be phased in and apply only to new transactions executed after January 1, 2014 after the 2013 rule amendments go into effect. The 2013 emission data reports should be governed by the rule language that was in effect during the 2013 period, which states "Report delivered electricity as specified and not as unspecified".

Applying the proposed new requirement retroactively would result in adverse consequences as described below:

- a. Inaccurate Reporting: If the reporting entity cannot demonstrate that the ACS power was "properly acquired as specified power", this amendment would require ACS power to be reported as unspecified with default emissions. Assigning default emissions to ACS power rather than applying the correct low carbon ACS emission factor would not represent actual emissions; therefore the emissions data report would not be "true and accurate".
- b. Increase Emissions in the Statewide GHG Emissions Inventory: LADWP staff spoke with ARB GHG Emissions Inventory staff, and was advised that data reported under the GHG Reporting Program is used in the statewide GHG emissions inventory. For the earlier statewide GHG emissions inventories and 1990 baseline, an emission factor of zero was used for imported ACS power. Starting in 2011, the low carbon ACS emission factor was used for imported ACS power. To ensure consistency and comparability between the annual statewide emissions inventories and the state's 1990

emissions baseline, the low carbon ACS emission factor should continue to be applied to imported ACS power.

However, the proposed amendment would artificially increase statewide GHG emissions by assigning default emissions to ACS power if the reporting entity cannot demonstrate the ACS power was “properly acquired as specified power”. Reporting emissions for BPA Power using the default factor (0.428 metric tons CO₂e/MWh) instead of the low carbon ACS emission factor (0.0249 metric tons CO₂e/MWh) would significantly increase reported emissions. In addition, applying the default emission factor to imported ACS power is inconsistent with previous reports submitted under the GHG Reporting Program and previous annual statewide emissions inventories, and will hinder the state’s progress towards reducing statewide GHG emissions to 1990 levels by 2020.

- c. Decrease Cap-and-Trade Allowances Available for Compliance. Since 2013 is a compliance year under the cap-and-trade program, emission allowances will need to be surrendered to cover reported 2013 emissions. If the proposed amendment is applied retroactive to January 2013, default emissions will be reported for ACS power imported during 2013 because documentation to demonstrate the power was “properly acquired as specified power” does not exist. Reporting emissions that don’t exist will consume valuable emission allowances and decrease the number of allowances available for compliance, thereby tightening the cap-and-trade market and increasing the cost of compliance. This runs counter to efforts to implement cap-and-trade cost containment measures.

LADWP has purchased over 400,000 MWh of ACS power so far in 2013. Those ACS power purchases were not accompanied by documentation specifying the source of the power at the time the transaction was executed. If ARB requires such documentation in order to report 2013 purchases of ACS power as specified, LADWP would have to report default emissions for all of this ACS power. Emissions reported under the MRR should be real and accurate. Imposing this new requirement retroactively would result in LADWP having to report and surrender emission allowances for 180,000 metric tons of CO₂e emissions that don’t exist.

Lastly, requiring that ACS power be reported as unspecified if it was not “properly acquired as specified power” would not be consistent with ARB staff statements that ACS power is intended to be specified. In addition, it would not be consistent with the proposed amendment in section 95111(b)(5), which states that “electricity that is not tagged as originating from unique specified sources of generation but is instead tagged as system power cannot be claimed as an unspecified source.” The criteria for determining whether imported system power is specified or unspecified should be

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consistent and applied equally across the board. If 95111(b)(5) assigns a specified emission factor to power systems based on the source on the e-tags, ACS power should be treated the same way. In fact, ACS power has been reported as specified for the past two years based solely on the source on the e-tags. On the other hand, if ACS power is treated as unspecified if it was not "properly acquired as specified power", the other system power should be treated the same way in 95111(b)(5).

95111(g)(1)(N): Meter Data for Specified Imports

LADWP supports removal of the phrase "at the time the power was directly delivered" for the reasons stated in our previous comments dated July 10, 2013.

Thank you for your consideration of these comments. If you have any questions, please contact me at (213) 367-0403 or Ms. Cindy Parsons of my staff at (213) 367-0636.

Sincerely,



Mark J. Sedlacek
Director of Environment and Efficiency

CSP:mt

- c: Mr. David Edwards, Manager - CARB Climate Change Reporting Section
- Mr. Wade McCartney - CARB Climate Change Reporting Section
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