

**BEFORE THE
AIR RESOURCES BOARD
OF THE
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
COMMENT ON DISCUSSION DRAFT OF MANDATORY REPORTING
REGULATION RELEASED ON JULY 17, 2013**

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I. INTRODUCTION AND SUMMARY.

The Southern California Public Power Authority (“SCPPA”)¹ respectfully submits this comment on the discussion draft of the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (“Regulation”), released on July 17, 2013 by the California Air Resources Board (“ARB”).

In summary, SCPPA recommends that:

- Neither the reporting nor verification deadlines should be changed. Doing so would impose considerable difficulties on all covered entities. Rather, the Allowance Price Containment Reserve (“Reserve”) sale should be moved to a later date.
- Clarify why “previous calendar year” has been deleted in section 95103(e). This phrase serves a useful purpose in this section, and should be retained.
- The new biomethane reporting requirements in section 95103(j)(3) should be revised for clarity and accuracy.
- The new requirements for specified source electricity transactions in section 95111 should apply only to transactions entered into after 1/1/2014.
- Clarify section 95111(a)(4)(A)2 on busbar claims and transmission losses.

¹ SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

- The references to “actual ownership” and “implied ownership” in section 95111(c)(3)(C) should be removed, as these terms are not defined, have no commonly-accepted meaning, and are unnecessary.
- As the Cap and Trade Regulation no longer requires renewable energy credits (“RECs”) for specified source imports to be retired, non-retirement is no longer a non-conformance with the Regulation. Therefore, an entity that retires specified source RECs after the reporting deadline should be able to obtain a positive verification statement rather than a qualified positive verification statement.

These issues are discussed in more detail below.

II. REPORTING AND VERIFICATION DEADLINES SHOULD NOT BE CHANGED.

Although not reflected in the discussion draft of the Regulation, at the cap and trade workshop on July 18, 2013, ARB staff reiterated the proposal to move the emissions report verification deadline from September 1 to August 15 each year, to allow time for natural gas suppliers to be informed of their emissions liability before the September Reserve sale.

Neither the reporting nor verification deadlines should be changed. Doing so would impose difficulties on all covered entities.

Verification is a detailed and time-consuming process that would be difficult to compress into a smaller timeframe. In addition to completing initial investigations, document review and site visits, there is a period of dialog between the verifier and the covered entity to address any questions the verifier may have. An entity may have reports for several facilities, each of which must be verified. Each verifier also has several clients, all requiring verification during the same period. Shortening the time for verification would make it more difficult for the verifier to complete a thorough verification and for the covered entity to respond to any questions.

Moving the reporting deadlines two weeks earlier (so as to allow the same length of time for verification) would impose a host of additional difficulties. Facilities and entities have to submit reports to multiple agencies. An earlier reporting deadline under the Regulation would overlap with reports due to local air quality management districts and the US Environmental Protection Agency (“US EPA”), making it very difficult for reporting staff to spend the necessary time to ensure each report is accurate and complete. Furthermore, since data from greenhouse gas reports to the US EPA, due on April 1 of each year, are used in reports to the ARB under the Regulation, it would be preferable to finalize the US EPA report before preparing the ARB report. The ARB report would be due March 27 each year if the current deadline were moved two weeks earlier.

Rather than moving the verification deadline earlier, the Reserve sale should be moved back further if the ARB desires to accommodate the participation of natural gas suppliers. SCPPA understands that this may pose administrative difficulties. For example, the registration period for the Reserve sale may overlap with the registration period for the next allowance auction. However, it would be easier to overcome any administrative difficulties than for all covered entities to compress their verification schedules. Overlap with the preparations for the next allowance auction does not appear to be an insurmountable problem. Participants are able to distinguish between deadlines for the Reserve sale and deadlines for the auction.

III. CLARIFY WHY “PREVIOUS CALENDAR YEAR” HAS BEEN DELETED.

Section 95103(e) of the Regulation establishes reporting deadlines. The references to the report being for the previous calendar year have been deleted:

Except as provided in section 95103(a)(7)-(8), each facility operator or supplier must submit an emissions data report ~~for the previous calendar year~~ no later than April 10 of each calendar year. Each electric power entity must submit an emissions data report ~~for~~

~~the previous calendar year~~ no later than June 1 of each calendar year.

The purpose of this change is unclear. The reports due on April 10 and June 1 are for the previous calendar year, and the Regulation should make that clear.

IV. NEW BIOMETHANE REPORTING REQUIREMENTS SHOULD BE REVISED.

In section 95103(j)(3) of the Regulation, the operator of a generating facility that is reporting emissions from biomethane fuel must report, for each contracted delivery, details on each biomethane vendor from which biomethane is purchased and the annual MMBtu delivered by each biomethane vendor.

This provision may require minor changes. First, references to “delivery” of biomethane should be avoided, given that, absent a dedicated pipeline, biomethane itself is not physically delivered to the generator. References to “supply” would be preferable.

Second, an entity may operate several generating facilities and may contract with a biomethane vendor for a volume of biomethane that the entity then allocates among its facilities. Thus, when reporting the annual volume of biomethane supplied by each biomethane vendor under section 95103(j)(3)(B), in each facility report, it would be logical for the entity to report the volume supplied by that vendor that was allocated to that facility rather than reporting the total volume supplied by that vendor. Section 95103(j)(3)(B) should be clarified to reflect this.

SCPPA’s proposed changes to section 95103(j)(3) to address the issues outlined above and to reduce redundancy in the drafting are set out below:

~~When reporting biomethane, t~~The operator or supplier who is reporting biomass-~~derived fuel~~ emissions from biomethane ~~fuel~~ must also report, for each contracted ~~supply~~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.

V. NEW REQUIREMENTS FOR SPECIFIED SOURCE ELECTRICITY TRANSACTIONS SHOULD APPLY ONLY TO TRANSACTIONS ENTERED INTO AFTER 1/1/2014.

Section 95111(a)(4) of the Regulation includes a new requirement to be able to claim specified source electricity imports: each seller of specified source electricity must warrant the sale of specified source electricity from the source through the market path. Section 95111(a)(5)(B) states that if asset-controlling supplier power was not properly acquired as specified power (presumably including the warranty), it must be reported as unspecified power.

SCPPA does not object to the warranty requirement, but SCPPA requests the ARB to clarify that this requirement will not be retroactively applied. New provisions are currently being prepared to accommodate this requirement in the commonly-used master electricity agreements. These provisions may be in place by the end of 2013, but they have not been included in transactions to date. The Regulation does not currently require them.

During the July 23, 2013 webinar, the ARB staff indicated that some of the proposed changes to the Regulation were considered to be clarifications of existing requirements rather than new requirements, and reporting entities should follow the “clarified” rules in preparing reports for 2013 emissions in 2014. Staff indicated that new requirements, in contrast, would not be applied retroactively. New requirements would start to apply in 2014 and be reflected in reports submitted in 2015.

The new warranty requirement is not a mere clarification of how existing data should be reported. It requires new terms to be included in agreements. This change should take effect only for transactions entered into after these revisions to the Regulation enter into force, which SCPPA understands will be on January 1, 2014.

VI. CLARIFY SECTION 95111(a)(4)(A)2 ON BUSBAR CLAIMS AND TRANSMISSION LOSSES.

Section 95111(a)(4)(A)2 of the Regulation is proposed to be revised as follows:

If the amount of imported electricity deliveries from specified facilities or units as measured at the busbar is ~~not known~~provided, report the amount of imported electricity as measured at the first point of delivery in California, including estimated transmission losses as required in section 95111(b), and the reason why measurement at the busbar is not known.

These proposed revisions result in a section that is internally inconsistent. The section appears to say that if deliveries are measured at the busbar, a reporting entity must provide the reason why measurement at the busbar is not known. It may be the case that the word “not” in the second line was accidentally deleted and should be reinstated. Please clarify or revise this section.

VII. REMOVE REFERENCES TO “ACTUAL” AND “IMPLIED” OWNERSHIP IN SECTION 95111(c)(3)(C).

Section 95111(c)(3)(C) of the Regulation is proposed to be revised as follows:

For facilities or units that are operated by a retail provider or fully or partially owned by a retail provider through actual as opposed to implied ownership, excluding multi-jurisdictional retail providers, and that have emissions greater than the default emission factor for unspecified electricity based on the most recent GHG emissions data report submitted to ARB or to U.S.EPA, the retail provider must report ...”

The terms “actual ownership” and “implied ownership” are not defined, are not used elsewhere in the Regulation, and do not have a commonly-accepted meaning. From the discussion of this section at the webinar on July 23, it appears that the ARB intends “actual ownership” to mean the standard dictionary meaning of “ownership,” as distinct from “implied ownership,” which is intended to include contracts for a share of generation. However, holding

contracts for a share of generation is not ownership at all. The proposed revision is not necessary to clarify that this section does not apply to contracts for a share of generation.

If the section were intended to include contracts for a share of generation, the contracts would need to be explicitly mentioned in this section. The provisions of the Regulation that apply to both ownership and contracts for a share of generation explicitly state that both situations are covered. For example:

- Definition of “Generation Providing Entity” (section 95102(a)(216)): “full or partial owner, party to a contract for a fixed percentage of net generation from the facility or generating unit, party to a tolling agreement with the owner...”;
- Definition of “Specified Source of Electricity” (section 95102(a)(432)): “either full or partial ownership in the facility/unit or a written power contract to procure electricity...”;
- Section 95105(d)(6): “including written power contracts and associated verbal or electronic records, full or partial ownership...”.

The proposed change to section 95111(c)(3)(C) is not required, and it should be deleted. If the ARB deems it necessary to clarify that contracts for generation are not included in this section, this should be stated directly rather than by using the vague terms “actual ownership” and “implied ownership.”

VIII. NON-RETIREMENT OF SPECIFIED SOURCE RECS SHOULD NOT RESULT IN A QUALIFIED POSITIVE VERIFICATION STATEMENT.

The July 15, 2013 discussion draft of the Cap and Trade Regulation revises the specified source provisions to remove the requirement to retire RECs in order to claim a renewable energy

specified source.² Instead, REC serial numbers must be reported pursuant to section 95111(g)(1)(M) of the Regulation.

Currently, if RECs are claimed for specified source imports but are not retired as of the reporting date, the claim is treated as a non-conformance with the Regulation, and the emissions report can only receive a qualified positive verification statement rather than a positive verification statement.³ However, as it is now clear that the ARB permits RECs for specified source imports to be retired after the reporting year, claiming RECs which have not been retired for specified sources is no longer a non-conformance with the Regulation, and it is incorrect to treat it as such. An entity that has not retired its specified source RECs by the reporting deadline should be able to obtain a positive verification statement.

IX. CONCLUSION

SCPPA appreciates the opportunity to submit these comments to the ARB and urges the ARB to consider these comments when preparing the draft revisions to the Regulation. If further information is required, we would be happy to discuss any of the proposals in these comments

² Cap and Trade Regulation section 95852(b)(3)(D): “If RECs were created for the electricity generated and reported pursuant to MRR, then the RECserial numbers must be ~~retired~~reported and verified pursuant to MRR.”

³ ARB presentation at the reporting webinar for electric power entities, March 26, 2013, slide 18.

with ARB staff. We look forward to continuing to provide input to the ARB as the 2013 revisions to the Regulation are developed and finalized.

Respectfully submitted,

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