



ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager

June 11, 2012

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

Dear Mr. Bode:

Subject: Informal Comments on the May 30, 2012 workshop Discussion Draft of Potential Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR)

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide informal comments on the potential amendments to the California Air Resources Board (ARB) MRR as proposed in the Discussion Draft provided for the public workshop held on May 30, 2012.

Highlighted below are the main points we'd like to bring to your attention, followed by more detailed technical comments on the proposed amendments in the Discussion Draft.

- 1) Measurement Accuracy Requirement: As currently written, section 95103(k) of the MRR will impose additional QA/QC requirements and compliance burden on electricity generating units that are subject to 40 CFR Part 75, even though the QA/QC requirements imposed by the MRR have no bearing on the greenhouse gas (GHG) emissions reported to ARB. Electricity generating units are required to use CO2 emissions and heat input data from the electronic data reports to EPA to report GHG emissions under both the EPA and ARB mandatory GHG reporting rules. Data in the electronic data reports to EPA is already subject to strict QA/QC requirements under 40 CFR Part 75 to ensure accuracy of the emissions data reported to EPA under the Acid Rain Program. Therefore, it is unnecessary to subject stationary combustion units subject to 40 CFR Part 75 to the additional QA/QC requirements in section 95103(k) of the MRR. However, the exclusion in section 95103(k) is too narrow and does not include all the methods in 40 CFR Part 75 used to calculate CO2 mass emissions. LADWP would like to recommend a simple amendment to the exclusion in section 95103(k) to rectify this issue (see detailed comment below).

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



- 2) **Asset Controlling Suppliers**: New language added to 95111(f) states that an Asset Controlling Supplier's status will be revoked if they do not adhere to all reporting and verification requirements in the MRR or if they receive an adverse verification statement. Revoking an Asset Controlling Supplier's status will adversely impact the downstream purchasers of the electricity and have ripple effects on the cap-and-trade emission allowance market as a whole. LADWP recommends this new proposed language be struck due to the adverse impacts it could have on other reporters and market participants.

- 3) **RPS Adjustment**: The ability to claim the RPS Adjustment should not be limited to only Retail Providers. In some cases, a marketer with transmission rights may import electricity on behalf of a Retail Provider. If the RPS Adjustment is limited to only Retail Providers, the marketer will have a compliance obligation as the electricity importer, but will not be able to claim the RPS Adjustment so will have to pass the cost of the compliance obligation through to the Retail Provider, which defeats the purpose of the RPS Adjustment. The purpose of the RPS Adjustment is to cancel out the compliance obligation for electricity imported to replace renewable energy that cannot be directly delivered. The RPS Adjustment should be neutral when it comes to who imports the electricity. Therefore, the new proposed language limiting the RPS Adjustment to only Retail Providers should be struck.

Below is a more detailed discussion of LADWP's comments on the proposed amendments in the Discussion Draft.

Section 95103(k) Measurement Accuracy Requirement

The measurement accuracy requirements in MRR 95103(k) should not apply to stationary fuel combustion units that use any of the methods in 40 CFR Part 75 to calculate and report emissions to EPA under the Acid Rain Program. Units subject to 40 CFR Part 75 are required to use data from the electronic data reports submitted to EPA under Part 75 to report GHG emissions to both EPA and ARB under their respective mandatory GHG reporting rules (40 CFR Part 98 and the ARB MRR). 40 CFR Part 75 has strict QA/QC requirements to ensure that data reported in the electronic data reports is accurate. Since the data used for reporting GHG emissions to both EPA and ARB under the mandatory GHG reporting rules is based on the Part 75 reports, which are subject to the QA/QC requirements in Part 75, complying with the Part 75 QA/QC requirements should be sufficient. However, as currently written, MRR 95103(k) would impose additional measurement accuracy requirements on some stationary combustion units that are subject to 40 CFR Part 75, thereby creating additional and unnecessary compliance burden that is unrelated to the calculation and reporting of GHG emissions.

The proposed rule language states:

"...the provisions of this section 95103(k) do not apply to: stationary fuel combustion units that use the methods in 40 CFR §98.33(a)(4) to calculate CO2 mass emissions;..."

However, 40 CFR §98.33(a)(4) is limited to direct in-stack measurement methods, and does not include all the methods used to calculate and report CO2 emissions to EPA under Part 75. For example, it does not include the method typically used by natural gas fired electricity generating units (Equation G-4 in section 2.3 of appendix G to 40 CFR part 75) to calculate and report CO2 emissions to EPA. The Appendix G section 2.3 method is listed in 40 CFR §98.33(a)(5) and in 40 CFR Subpart D §98.43. However, since 95103(k) excludes only units that use methods listed in §98.33(a)(4), electricity generating units that use Equation G-4 to calculate CO2 emissions would be required to comply with the QA/QC requirements in 40 CFR Part 75 as well as demonstrate compliance with the measurement accuracy requirements in 95103(k). This additional compliance burden is unnecessary since the GHG emissions data reported to ARB under the MRR is based on data from the electronic data reports to EPA under Part 75.

Therefore, 95103(k) should be amended to exclude stationary fuel combustion units that use any of the methods in 40 CFR Part 75 to calculate CO2 mass emissions, not just the subset of methods identified in 40 CFR §98.33(a)(4).

(k) Measurement Accuracy Requirement. The operator or supplier subject to the requirements of 40 CFR §98.3(i) must meet those requirements, except as otherwise specified in this paragraph. In addition, the operator or supplier with covered emissions equal to or exceeding 25,000 metric tons of CO₂e or a compliance obligation under the cap-and-trade regulation in any year of the current compliance period must meet the requirements of paragraphs (k)(1)-(10) below for calibration and measurement device accuracy. Inventory measurement, stock measurement, or tank drop measurement methods are subject to paragraph (11) below. The requirements of paragraphs (k)(1)-(10) apply to fuel consumption monitoring devices, feedstock consumption monitoring devices, process stream flow monitoring devices, steam flow devices, product data measuring devices, mass and fluid flow meters, weigh scales, conveyer scales, gas chromatographs, mass spectrometers, calorimeters, and devices for determining density, specific gravity, and molecular weight. Unless otherwise required by 40 CFR §98.3(i), the provisions of this section 95103(k) do not apply to: stationary fuel combustion units that use the methods in 40 CFR ~~§98.33(a)(4)~~ Part 75 to calculate CO2 mass emissions; emissions reported as de minimis under section 95103(i); and devices that are solely used to measure parameters used to calculate emissions that are not covered emissions or covered product data.

Section 95111(a)(2) Delivered Electricity.

ARB is proposing the following amendment to section 95111(a)(2):

"First points of receipt (POR) and final points of delivery (POD) must be reported using the standardized code used in the NERC e-tags, and if available the full name of the POR/POD."

For the 2011 Electric Power Entity reports, ARB could not provide a list of the full names of the POR/POD for reporters to use in preparing their report. Other reporters that LADWP contacted could not find the full names either. As a result, the standardized POR/POD code from the NERC e-tag was used to fill in both the POR/POD standardized code and full name fields in the reporting spreadsheet. Reporting the same name twice is redundant. Why is the full name of the POR/POD needed? If this information is not available, this requirement should be struck from the rule. If ARB wishes to retain this requirement, ARB should obtain a list of the full names of the POR/POD and provide the list as a drop-down menu in the reporting spreadsheet. In addition, LADWP recommends that the reporting spreadsheet automatically populate the jurisdiction name when the POR/POD codes are selected to streamline reporting.

Sections 95111(a)(5), 95111 (b)(3), and 95111(f)(5) Asset Controlling Suppliers

LADWP supports the proposed amendments to the asset-controlling supplier provisions in Sections 95111(a)(5) and (b)(3). These amendments will allow additional entities that operate or serve as an exclusive marketer for a system or fleet of generating facilities to be recognized by ARB as an Asset Controlling Supplier, and enable electricity importers to report electricity supplied by an Asset Controlling Supplier as a specified import rather than as an unspecified import with default emissions.

However, the following new language added to 95111(f)(5) may adversely affect the downstream purchasers of the electricity supplied by the Asset Controlling Supplier (ACS), as well as have implications for the cap-and-trade allowance market.

"Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this article, or be removed from asset-controlling supplier designation. Asset-controlling suppliers will also lose their designation if they receive and adverse verification statement, but may reapply in the following year for reinstatement."

The possibility that the ACS status may be revoked creates uncertainty for the downstream purchasers of the electricity, and may cause price increases in the cap-and-trade market. For example, entities that purchase electricity from an ACS will report their emissions and calculate their cap-and-trade compliance obligation based on the ACS emission factor, which is typically lower than the default emission factor. The reporting entity will then estimate the number of emissions allowances it will need to satisfy the cap-and-trade compliance obligation based on their reported emissions.

If the ACS status is revoked, what will happen to the emissions reported by the downstream purchasers using the ACS emission factor and verified under the MRR? Will those reported emissions be invalidated? Will ARB assign default emissions to the electricity imported from the ACS? If default emissions are assigned and the downstream purchaser does not have surplus emission allowances in their account to cover the higher emissions, they would need to purchase additional allowances from the market or the reserve. This additional demand for allowances will tighten the supply of allowances, thereby causing the price of the emission allowances to rise and affect all the market participants.

The language added to 95111(f)(5) has the potential to have a significant ripple effect not only for the downstream purchasers of the electricity but also for the cap-and-trade market as a whole. These potential impacts should be considered and thoroughly vetted with stakeholders before this provision is added to the MRR.

Section 95111(b)(5) RPS Adjustment.

ARB is proposing to add the following new sentence to 95111(b)(5):

"The RPS Adjustment may only be claimed by Retail Providers where adjustments are used to comply with California RPS requirements."

LADWP requests that ARB explain its rationale for limiting the RPS Adjustment to only Retail Providers. Narrowing who can claim the RPS adjustment to only Retail Providers could result in additional cap-and-trade compliance costs for California electricity ratepayers.

For example, if a marketer imports electricity on behalf of a Retail Provider to replace electricity from an eligible renewable energy resource procured by the Retail Provider that cannot be directly delivered into California, and if the marketer is not a retail provider, the marketer (as the electricity importer) will incur a compliance obligation for the imported electricity but would not be able to claim the RPS adjustment to cancel out the compliance obligation. The marketer would need to pass the cost of the compliance obligation through to the Retail Provider, even though the electricity is to replace renewable energy which should not carry a compliance obligation. As a result, the Retail Provider will end up paying twice; once to procure the renewable energy, and again to cover the compliance obligation on the default emissions for the replacement electricity.

In addition, ARB is proposing to add the following paragraph to section 95111(b)(5). What information is ARB looking for to satisfy the first sentence in this new paragraph?

"The reporting of RPS Adjustments shall include information for Cap and Trade accounting purposes, as well as information for GHG inventory reporting. The status of RECs shall be reported as retired or not retired. RECs not retired are assumed to have been banked for future use."

Mr. Richard Bode
Page 6
June 11, 2012

The meaning of the first sentence is unclear. If this first sentence is a requirement, the regulation should specify what information ARB expects to be reported.

In closing, LADWP appreciates the opportunity to provide feedback on the potential amendments in the Discussion Draft. If you have any questions or would like to discuss our comments further, please contact Ms. Cindy Parsons of my staff at (213) 367-0636.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Mark J. Sedlacek". The signature is written in a cursive style with a large initial "M".

Mark J. Sedlacek
Director of Environmental Affairs

CSP:lr

c: Mr. David Edwards, Manager, ARB Climate Change Reporting Section
Ms. Renee Lawver, Manager, ARB Quality Assurance and Verification Section
Mr. Mark J. Sedlacek
Ms. Cindy S. Parsons