

**MARCH 11, 2010
QUESTIONS AND ANSWERS
CALIFORNIA RENEWABLE ELECTRICITY STANDARD
PRELIMINARY DRAFT REGULATION**

INTRODUCTION

This document complements the preliminary draft of the Renewable Electricity Standard regulatory language by providing the underlying rationale, in a question-and-answer format. The preliminary draft of the regulation conveys how the State could design a renewable electricity standard to achieve the 33 percent renewable energy standard as directed under Governor's Executive Order S-21-09.

Stakeholder input on the draft regulation is critical as the document is at an early stage with several elements requiring further analysis. Some sections are still under development whereas others discuss potential options that are being considered for key provisions. Though staff is seeking input on the full document, we are particularly interested in comments and suggestions with respect to the identified options as well as others. We will discuss the preliminary draft language during a workshop on March 18, 2010. We will post information on the workshop, including the preliminary draft regulatory text, at: <http://www.arb.ca.gov/energy/res/meetings/meetings.htm>.

To be most helpful, we would like to receive your comments on this preliminary draft by April 8, 2010, so we can best incorporate your ideas. Please provide written comments, which include your name, date, and company letterhead (or equivalent). All comments will be posted on the RES comment webpage. Please submit your comments as an e-mail attachment with the subject line "Comments on RES Draft Regulation" to Gary Collord at: gcollord@arb.ca.gov.

In addition to the preliminary draft regulation, staff will be releasing white papers prior to the March 18th workshop that will provide further detail on our current analysis concerning forecasted renewable energy and the use of renewable energy credits (RECs) to meet compliance targets, and the use of a megawatt-hour (MWh) metric to quantify greenhouse gas (GHG) benefits.

What is the Purpose of the Proposed Regulation?

The purpose of the proposed regulation is to reduce GHG emissions associated with the generation of electricity used to serve California, consistent with requiring electric utilities to provide 33 percent of their retail sales from renewable energy resources by 2020.

What is the Status of the Proposed Regulatory Language?

The draft regulation is very preliminary and is intended to help secure public comments early in the process. The reader will see from the draft regulatory language that several provisions identify options that are being considered. While public comments are being requested on every aspect of the preliminary draft regulation, they will be particularly

helpful in the areas where staff is currently considering a range of options. These areas are highlighted in boxes within the draft regulatory text.

Is Regulatory Language Still Being Developed?

Yes. The preliminary draft regulation is a work in progress and requires public comments to further refine the draft. Following the workshop, staff will consider comments as well as any information provided to assist with making further revisions.

Have any Decisions on the Proposed Regulation Been Finalized?

No. We are open to considering comments on any provision. However, there are certain provisions where we do not anticipate significant changes. These include:

- Definition of “regulated party.”
- A partial exemption for small regulated parties, though the actual exemption threshold is still under evaluation.
- Use of a MWh compliance metric.
- Use of the same monitoring, verification, and compliance procedures currently established for the California Renewables Portfolio Standard (RPS) program.

Ultimately, the Board will consider a staff proposal at the public hearing, which is currently scheduled for July 22-23, 2010.

How Does the ARB’s Renewable Electricity Standard (RES) Regulation Compare with the California Renewables Portfolio Standard (RPS)?

To the greatest extent possible, the proposed regulation is being developed to utilize the structure, provisions, policies, and implementation mechanisms established by the California Energy Commission (CEC) and California Public Utilities Commission (CPUC) for the RPS program. This includes carry-over of as many of the provisions of the RPS program as possible, such as:

- The definition of eligible renewable facilities or resources, including all of the conditions and limitations that currently apply to various resource types.
- Certification procedures and requirements for eligible facilities whether located in or out of state, including the same California Environmental Quality Act (CEQA) compliance provisions.
- Procedures for verifying utility procurement and retail sales and measuring compliance based on megawatt-hours.
- Continuing the same administrative roles for the CEC and CPUC, but also capturing the publicly owned utilities (POUs) and presumably have the CEC take on the compliance monitoring role for the POUs.
- Continuing all other basic monitoring and reporting procedures.

What are the Major Changes from the RPS Program?

The primary areas where the preliminary draft regulation diverges from the RPS program are as follows:

- Holding the POUs to the same compliance obligations and dates as the investor-owned utilities (IOUs), consistent with the directive in Executive Order S-21-09.
- Providing a compliance exemption threshold for the smallest IOUs and POUs.
- Providing more flexible renewable energy credit (REC) trading options to maximize GHG reductions and increase the potential availability of renewable resources in the Western Electricity Coordinating Council (WECC).
- Establishing multi-year compliance intervals.
- Including the California Department of Water Resources (DWR) and the Western Area Power Administration (WAPA) within the U.S. Department of Energy as additional “regulated parties.”
- Modifying the penalty provisions for noncompliance and establishing ARB as the enforcement entity.

Provisions of the preliminary draft regulation will ultimately need to be modified to include an appropriate regulatory structure for the operational nature of the electricity load served by DWR and WAPA.

The ARB is Developing the RES Regulation Under its AB 32 Authority to Reduce Greenhouse Gas Emissions. Why is Staff Proposing to Determine Compliance Using a Megawatt-Hour Versus a Greenhouse Gas Metric?

Staff is proposing to determine compliance with the 33 percent renewables requirement on a MWh basis. This metric was selected to maintain consistency with the current RPS program to facilitate industry recordkeeping and reporting requirements and utilize existing monitoring, verification, and compliance mechanisms. The concurrent GHG emission reductions from the regulation would be determined by staff separate from the regulation. Using the current MWh metric, verified MWh of eligible generation would be converted to tons of GHG reductions using established GHG emission factors for each renewable energy technology to determine the GHG benefits from the use of renewables.

Staff’s preliminary technical analysis shows that the net GHG benefit provided by displacing one MWh of power from the grid with renewable energy is similar across all renewable technologies, with the exception of combusting landfill or digester gas in an engine. Therefore, the use of a MWh metric requiring electric utilities to provide 33 percent of their retail sales from renewable energy resources is expected to produce comparable GHG emissions reductions to a standard based on a mass or percent GHG emission reduction requirement.

What is the Rationale for a Threshold Below Which the 33% RES Requirement is Not Applicable?

Staff generally will include an exemption threshold in a regulation where the cost of compliance is disproportionate to the potential environmental benefit. The preliminary draft regulation currently exempts a regulated party with no more than 200,000 MWh of total retail sales during a calendar year from the 33 percent renewables requirement. Available data appears to indicate that load serving entities that would qualify for the exemption are either already served by 100 percent hydroelectric resources or are so small that they do not have the staffing and budget to absorb the administrative burden of compliance with a

33 renewables requirement. Requiring these entities to spend additional funds to procure renewable energy or renewable energy credits would likely be a poor use of resources, both for the load serving entity and regulatory agency compliance staff. Staff is currently evaluating the practical enforceability of this threshold along with the cost/benefit ratios of other thresholds.

What is the Thinking Behind Having Multi-Year Compliance Intervals?

The inclusion of multi-year compliance targets is intended to allow additional flexibility while ensuring steady progress towards meeting the 33 percent mandate. The current RPS program includes annual minimum increases of 1 percent per year in retail sales of eligible renewable energy resources.

What Flexible REC Trading Options are Being Considered?

Staff is currently evaluating two options to increase the potential availability of renewable resources to facilitate compliance with the RES and maximize potential GHG reductions within the WECC. One option includes allowing the use of unbundled and undelivered RECs; the second option is to use “tradable” RECs for compliance with the RPS, consistent with the CPUC’s approach. As harmonization is the ultimate objective between the existing RPS and this RES, staff is continuing to evaluate the impacts and implications of these two options.

What Issues are Still Pending?

Staff is still conducting analyses to weigh the pros and cons of certain provisions. These include:

- How to practically enforce the 33 percent renewables obligation once a small regulated party has exceeded the MWh exemption threshold, particularly when that small regulated party’s total retail sales of electricity fluctuate above and below the exemption threshold in consecutive calendar years.
- How to integrate, with limitations, current RPS program provisions that allow POU investments in generation not certified as an RPS-eligible renewable energy resource to be used for compliance with the RES regulation.
- Whether unbundled and undelivered RECs should be allowed to meet compliance obligations.
- How to best accommodate or limit the banking and trading of RECs among utilities and whether we should capture other elements of the CPUC’s proposed REC trading decision.
- Whether we can defer many of the administrative procedures and requirements needed to administer the RES program to a future guidebook instead of incorporating these details in the regulation.

What is the Timetable and Process for Completing the Proposed Regulation?

Executive Order S-21-09 directs the ARB to adopt a regulation by July 31, 2010. The rulemaking timeframe for the proposed regulation based on a July 22-23, 2010, Board meeting date is outlined below.

Date	Item
March 18, 2010	Fourth Public Workshop
April 5, 2010	Fifth Public Workshop
May 4, 2010	Sixth Public Workshop
June 16, 2010	Seventh Public Workshop
June 3, 2010	Public release of final proposed RES regulation along with Initial Statement of Reasons; 45-day public comment period begins
July 22-23, 2010	Board considers proposed RES regulation for adoption
No later than June 2, 2011	Adopted regulation submitted to the Office of Administrative Law for review and approval

Will There Be Additional Opportunities for Public Comment?

Yes. As shown in the table above, there are currently three additional public workshops in April, May, and June scheduled to solicit input on the proposed regulation and supporting analyses. The workshop in April is expected to focus on a discussion of the environmental impacts analysis and the economic analysis. Public input, however, is not limited to the workshops. Stakeholders are encouraged to provide written comments or contact staff at any time during the regulatory development process.