

Subchapter 10. Climate Change
Article 6. California Renewable Electricity Standard

§ 97000. Purpose

The purpose of this regulation is to reduce greenhouse gas emissions associated with the generation of electricity.

§ 97001. Applicability

- (a) The provisions of this Article shall be known as the Renewable Electricity Standard or RES. Nothing in this Article shall be construed to alter or amend the requirements of the Renewables Portfolio Standard Program or the rights or privileges created or the duties or obligation imposed by that program.
- (b) The provisions of this Article apply to all Regulated Parties, except as provided in section 97003.

§ 97002. Definitions and Acronyms

- (a) For the purposes of this Article, the following definitions apply.
 - (1) **“Aggregator”** means an aggregator as defined by Public Utilities Code section 331(a).
 - (2) **“Community choice aggregator”** means a community choice aggregator as defined by Public Utilities Code section 331.1.
 - (3) **“Electric service provider”** means an electric service provider as defined by Public Utilities Code Section 218.3.
 - (4) **“Electrical cooperative”** means an electrical cooperative as defined by Public Utilities Code Section 2776.
 - (5) **“Electrical corporation”** means an electrical corporation as defined by Public Utilities Code Section 218.
 - (6) **“Eligible renewable energy resource”** means a generating facility participating in the WREGIS tracking system, which is certified as eligible for California’s RPS program pursuant to Public Utilities Code Section 399.13, or that otherwise meets the criteria of the California RPS program excluding electricity delivery requirements as determined by ARB, or is recognized as a RES Qualifying POU Resource as provided in this Article.

- (7) **“Executive Officer”** means the Executive Officer of the California Air Resources Board, or his or her designee.
- (8) **“Kilowatt-hour or kWh”** means a unit of energy equivalent to one kilowatt of electricity supplied for one hour.
- (9) **“Large hydroelectric generation”** means a hydropower generating facility with a 30 MW or larger generating capacity and which otherwise does not meet the definition of a small hydroelectric facility as described under Public Utilities Code section 399.12; and/or is not recognized as an eligible resource for the RPS program as set forth in Public Utilities Code Section 399.11 et seq.
- (10) **“Local publicly owned electric utility”** means a local publicly owned utility as defined by Public Utilities Code Section 224.3.
- (11) **“Megawatt-hour or MWh”** means a unit of energy equivalent to one megawatt of electricity supplied for one hour.
- (12) **“Procure or procurement”** as related to renewable energy means an ownership or contractual investment to acquire the physical electrical output of an eligible renewable generating resource, and/or the acquisition of a REC.
- (13) **“Publicly Owned Utility or POU”** means a local publicly owned electric utility as defined in this Article.
- (14) **“Regulated Party”** means any of the following:
 - (A) Aggregator;
 - (B) Local publicly owned electric utility;
 - (C) Electrical corporation;
 - (D) Electric service provider;
 - (E) Community choice aggregator;
 - (F) Electrical cooperative;
 - (G) The California Department of Water Resources; and
 - (H) The Western Area Power Administration
- (15) **“Renewable Energy Credit or REC”** means one MWh of electricity generated by an eligible renewable energy resource. A REC does not include an emission reduction credit issued pursuant to Health and Safety Code section 40709. A REC also does not include any allowance issued pursuant to a cap and trade or similar program. A REC does not constitute property or a property right. ARB reserves the right to alter or amend the attributes or use of a REC as it is used for demonstrating compliance with this Article.

- (16) “**RES Obligation**” means the number of RECs required to be retired to demonstrate compliance with the requirements of section 97004.
- (17) “**Renewables Portfolio Standard or RPS**” means the Renewables Portfolio Standard” as set forth in Public Utilities Code section 399.11 et seq.
- (18) “**RES Qualifying POU Resource**” means a renewable energy resource whose electrical generation was both approved by the POU’s Governing Board and reported to the California Energy Commission, as contributing towards the POU’s RPS eligible generation on or after January 1, 2003, and prior to September 15, 2009, and:
 - (A) The POU either owned the facility prior to September 15, 2009, or
 - (B) Procured the electricity from the facility by contract executed prior to September 15, 2009; and:
 - (1) The POU procured electricity and RECs, or RECs without electricity; and
 - (2) The electricity was procured under the terms of the contract in effect on or before September 15, 2009, and not during any contract term extended or modified after that date.
- (19) “**Responsible Official**” means an officer of the Regulated Party having the authority to sign on behalf of the Regulated Party and bind the Regulated Party for all purposes regarding compliance with this Article.
- (20) “**Retail end-use customer**” means a residential, commercial, agricultural, industrial, or other electric customer who receives electricity to be consumed as a final product (not for the purpose of resale).
- (21) “**Retire or retired**” means to transfer a WREGIS certificate associated with a REC as defined herein, to a WREGIS “retirement subaccount” and thereby committed the certificate to be used for compliance with the RPS and/or RES.
- (22) “**Western Electricity Coordinating Council or WECC**” means the regional entity responsible for coordinating and promoting bulk electric system reliability in the Western Interconnection serving all or part of the 14 Western States and portions of Mexico and Canada.
- (23) “**Western Renewable Energy Generation Information System or WREGIS**” refers to the independent, renewable energy tracking system

implemented for the region covered by the Western Electricity Coordinating Council.

(24) **“WREGIS Certificate”** means a WREGIS certificate as defined in the WREGIS operating rules in effect at the time of the adoption of this Article, representing a REC.

(b) For the purposes of this Article, the following acronyms apply.

- (1) “ARB” means the California Air Resources Board
- (2) “CAISO” means California Independent System Operator.
- (3) “CEC” means California Energy Commission.
- (4) “CPUC” means California Public Utilities Commission.
- (5) “kWh” means kilowatt-hour.
- (6) “MWh” means megawatt-hour.
- (7) “POU” means local publicly owned electric utility.
- (8) “REC” means renewable energy credit.
- (9) “RES” means Renewable Electricity Standard.
- (10) “RPS” means Renewables Portfolio Standard.
- (11) “WECC” means Western Electricity Coordinating Council.
- (12) “WREGIS” means Western Renewable Energy Generation Information System.

§ 97003. Partial Exemption

- (a) The provisions of this Article, with the exception of subsection 97006(c)(3), shall not apply to a Regulated Party that had annual retail sales of electricity to end-use customers of 200,000 MWh or less, averaged during calendar years 2007 through 2009.
- (b) A Regulated Party that had been partially exempted under (a), and whose retail sales exceed 200,000 MWh in any calendar year after 2009, shall no longer be partially exempted from the requirements of this Article, notwithstanding retail sales less than 200,000 MWh in any subsequent year. A Regulated Party no longer partially exempt under this section shall fully comply with the requirements of this Article.
- (c) A Regulated Party formed after September 15, 2009, shall not be eligible for a partial exemption under this section.

§ 97004. Renewable Electricity Standard Obligations

(a) RES Obligation for Regulated Parties

Except as provided in section 97003, each Regulated Party shall retire an amount of WREGIS certificates as a percentage of the sum of its retail sales to

end-use customers for each compliance interval specified in Table 1. Compliance with the RES Obligation for each compliance interval shall be made no later than March 31 of the year following the compliance interval and shall be calculated as follows:

$$\text{RES Obligation} = \text{Sum of retail sales for the compliance interval} \times \text{the REC percentage for the compliance interval.}$$

Table 1. Compliance Intervals and REC Percentages

Compliance Intervals	REC Percentage
2012 through 2014	20
2015 through 2017	24
2018 through 2019	28
2020 and annually thereafter	33

(b) RES Obligation for a Previously Exempt Regulated Party

- (1) A Regulated Party no longer exempt under section 97003, shall annually retire WREGIS certificates from eligible renewable energy resources, by March 31 after the end of each calendar year pursuant to the following formula:

$$\text{RES Obligation} = \text{Total retail sales in MWh} - 200,000 \text{ MWh}$$

If the calculated RES Obligation is less than zero, then there is no RES Obligation for that calendar year. No part of the exemption threshold shall be banked or traded as a REC.

- (2) When a previously exempt Regulated Party's RES Obligation calculated under subsection 97004(b)(1) equals or exceeds a RES Obligation calculated under subsection 97004(a) for the applicable compliance interval, the Regulated Party shall comply with subsection 97004(a).

(c) RES Option for Regulated Parties with Large Hydroelectric Generation

- (1) A Regulated Party receiving greater than 67 percent of its electricity used for retail sales to end-use customers from hydroelectric generation that does not meet the eligible renewable energy resources definition of this Article, and which was procured prior to September 15, 2009, shall have a RES Obligation equivalent to the amount of retail sales to end-use customers not met by the hydroelectric generation, by March 31 after the final year of each compliance interval, as specified in Table 1

$$\text{RES Obligation} = \text{Total retail sales in MWh} - \text{retail sales from hydroelectric generation in MWh.}$$

- (2) A Regulated Party that chooses the RES compliance option under subsection 97004(c)(1), shall notify ARB in writing of its intent to comply with the requirements of this Article pursuant to this subsection by December 31, 2011. The decision to comply with the RES Obligation under subsection 97004(c)(1) cannot be withdrawn or amended once made.

§ 97005. Renewable Electricity Standard Requirements

- (a) RECs must be tracked by the WREGIS system to be eligible to satisfy the requirements of section 97004. Consistent with the definition of “eligible renewable energy resource” in section 97002(a)(6), RECs used for compliance with this Article may only be acquired from:
 - (1) A generating facility certified as eligible for California’s RPS program pursuant to Public Utilities Code section 399.13; or
 - (2) An eligible renewable energy resource that meets all requirements of the RPS program, excluding electricity delivery requirements, as determined by ARB; or
 - (3) A RES Qualifying POU Resource, for those POUs that meet the provisions of section 97002(a)(18).
- (b) Use of WREGIS certificates
 - (1) WREGIS certificates must be retired in WREGIS to be eligible for demonstrating RES compliance.
 - (2) WREGIS certificates retired to meet RPS program compliance may also be used to demonstrate compliance with this Article.
 - (3) Exclusive use
 - (i) Except as provided in section 97005(b)(2) above, a WREGIS certificate retired to demonstrate compliance with this Article may not also be used to meet the regulatory or voluntary requirements of any other federal, state, or local program (“secondary program”).
 - (ii) In the event that a Regulated Party has retired or attempts to retire a WREGIS certificate to demonstrate compliance with this Article and also to meet a regulatory or voluntary requirement of a secondary program, the WREGIS certificate will be deemed ineligible for any use under this Article at the time such certificate is dedicated to meet such requirement of a secondary program.

- (c) RECs procured from a RES Qualifying POU Resource may be used by the initial POU owner or procurer for up to the amount of its RES Obligation equal to 20 percent of its retail sales to end-use customers.
- (d) *Banking and Trading of RECs.* For purposes of meeting a RES Obligation, RECs may be banked and traded subject to the following limitations:
 - (1) A REC may be retained or traded for a period of up to three calendar years from the date WREGIS issued the certificate, including the certificate issuance year, or until a REC has been retired into a WREGIS retirement subaccount, whichever occurs first.
 - (2) A REC must be moved to a WREGIS retirement subaccount within three calendar years from the date WREGIS issued the certificate, including the certificate issuance year, to be used towards a RES Obligation. A REC placed in a retirement subaccount that is not used to meet a compliance requirement under section 97004, may be banked without limit to meet a future RES Obligation.
 - (3) RECs generated or procured from a RES Qualifying POU Resource may be banked by the original REC owner. RECs generated or procured from a RES Qualifying POU Resource may not be sold or traded to any other entity.
 - (4) RECs generated or procured by a Regulated Party operating under the partial exemption in section 97003, are not eligible for sale, banking or trading.

Nothing in this subsection (d) shall be construed to limit the use, banking or trading of RECs not used to meet RES Obligations under this Article.

§ 97006. Monitoring, Verification, and Compliance

- (a) *WREGIS Verification.* Each Regulated Party shall register with WREGIS and maintain compliance with all WREGIS requirements.
- (b) *Filing of Annual Progress Reports.* Beginning July 1, 2013 and July 1st of each year thereafter, each Regulated Party shall prepare and submit the following for the prior calendar year:
 - (1) Regulated Party Information
 - (A) Entity name, contact name, mailing address, phone number, and email address;
 - (B) Name of Responsible Official for entity; and

- (C) Entity WREGIS account identification number
- (2) RES Annual Progress Information
 - (A) WREGIS certificates retired for reporting year by facility identification number; and
 - (B) Retail sales to end-use customers for reporting year
- (c) *Filing of Compliance Interval Reports.* By July 1, 2015, July 1, 2018, July 1, 2020, and July 1st annually thereafter, each Regulated Party, except those exempted under section 97003, shall prepare and submit the following information for the proceeding compliance interval:
 - (1) Entity name, contact name, mailing address, phone number, and email address;
 - (2) Name of Responsible Official for entity;
 - (3) Entity WREGIS account identification number;
 - (4) The applicable compliance subsection under 97004(a) (b) or (c);
 - (5) WREGIS certificates retired from the end of the compliance interval to March 31 of the year following the end of the compliance interval;
 - (6) Total number of WREGIS certificates retired between the start of the compliance interval and March 31 of the year following the compliance interval by facility identification number;
 - (7) Total retail sales to end-use customers for the compliance interval; and
 - (8) RES Obligation for the compliance interval
- (d) *RES Obligation Violation.* In the event that a Regulated Party's compliance interval report indicates that the RES Obligation was not met, the Regulated Party shall also submit the following:
 - (1) Documentation of the shortfall, expressed in kWh, and
 - (2) A schedule to meet the shortfall within the current year
- (e) *Recordkeeping Requirements.* All Regulated Parties must retain copies of all information and records required by this Article or necessary for verifying the accuracy of any information required by this Article or included in the Regulated Party's applications, or reports required by this Article for no less than seven years. A Regulated Party shall allow the inspection and duplication of such information and records or provide such information and records within 30 days of a written request received from the Executive Officer or designee.

§ 97007. Certification of Eligible Renewable Energy Resources

- (a) An Eligible renewable energy resource may be certified by any of the following:
 - (1) The CEC as meeting the eligibility requirements for the RPS program;

- (2) The CEC under an interagency agreement with ARB, as meeting eligibility requirements for the RPS program, except as to any delivery requirement;
 - (3) The CEC under an interagency agreement with ARB for a RES Qualifying POU Resource using the criteria of section 97002(a)(18); or
 - (4) The Executive Officer, his/her designee, or a third party contractor under contract with ARB, using the same criteria that would be used by the CEC under (2) or (3) above.
- (b) Applicants seeking certification of a renewable energy resource for eligibility under the existing RPS program shall file the application in accordance with that program's requirements.
- (c) Applicants seeking certification of a generating facility for eligibility under this Article shall file the application with the Executive Officer using a form or forms approved by the Executive Officer. The Executive Officer may enter into an interagency agreement with the CEC or a third party contractor to review and make recommendations as to certification and verification of the generating facility for eligibility.

§ 97008. Interagency Cooperation

The Executive Officer may enter into memoranda of understanding or interagency agreements with appropriate parties, including the CEC and CPUC, to assist in the implementation of the processes, procedures, and requirements set out in this Article.

§ 97009. Enforcement

- (a) *Violations.* Violations of the requirements of this Article shall be considered a violation of an emission limitation and shall be calculated on a kWh basis.
- (b) Each day or portion thereof that a Regulated Party remains in violation of a requirement of this Article, including the failure to submit, submit late or to submit with incomplete or inaccurate information a report required by this Article, is a separate violation. Each day or portion thereof that a Regulated Party has failed to meet a RES Obligation after the end of a compliance period is a separate violation.
- (c) *Penalties.* Any violation of the requirements of this Article shall be enforced in accordance with Part 6, of Division 25.5, of the Health and Safety Code, commencing with section 38580.

§ 97010. Treatment of Confidential Information

A Regulated Party shall designate any information submitted pursuant to this Article as confidential at the time such information is submitted. Such designation shall include the basis for such designation. Such information shall be handled in accordance with the procedures specified in Cal. Code Regs., tit. 17, §§ 91000-91022.

§ 97011. Regulation Review

- (a) The Executive Officer, in coordination with the CEC, CPUC and CAISO, shall conduct at least three reviews of the RES program to assess changes that may be needed to improve implementation progress. Reviews shall be completed and presented to the Board by December 31, 2013, December 31, 2016, and December 31, 2018.
- (b) RES program reviews may consider information made available through the proceedings of the CEC, CPUC and CAISO relevant to the integration of renewable energy into the electricity system. The scope of each review shall include consideration of the following:
 - (1) Regulated Party compliance progress under section 97004;
 - (2) Compliance interval adjustments needed to reduce costs and increase benefits for California's economy, improve and modernize California's energy infrastructure, maximize potential greenhouse gas and criteria pollutant emission reductions, and maintain electric system reliability;
 - (3) Advances in renewable energy generation technologies, and complementary storage technologies, and the feasibility and cost effectiveness of such advances that may contribute to the effectiveness of program implementation;
 - (4) Availability and supplies of eligible renewable resources and renewable energy credits within the WECC;
 - (5) Impacts of integrating variable renewable energy resources on the State's energy supplies and reliability of the electricity system in consultation with information developed by the CEC, CPUC and CAISO;
 - (6) Impacts on electric rates, consumers, and economic growth;
 - (7) Analysis of public health impacts, including the operational impacts of generating facilities, demand response measures, and storage facility development needed to implement this Article;

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- (8) Assessment of air quality impacts on California associated with implementation of this Article, including effects on attainment of State or federal air quality standards;
 - (9) Impact of renewable energy development barriers or delays encountered by Regulated Parties, such as transmission permitting and development issues; and
 - (10) Opportunities to harmonize the RES with any federal, regional, or other state renewable energy programs or REC markets.
- (c) The Executive Officer shall conduct the reviews specified above in a public process and shall conduct at least one public workshop for each review prior to presenting its findings to the Board. In presenting the results of each program review to the Board, the Executive Officer shall propose any amendments or such other action as the Executive Officer determines is warranted.

§ 97012. Severability

Each part of this Article is deemed severable and in the event that any part of this Article is held to be invalid, the remainder of this Article shall continue in full force and effect.