

16-8-3
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September 21, 2016

Submitted electronically

Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments on Proposed Amendments to Mandatory Reporting Regulation

Dear Ms. Nichols:

Pursuant to the Notice of Public Hearing to Consider Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, the M-S-R Public Power Agency (M-S-R)¹ provides these comments to the California Air Resources Board (CARB). M-S-R appreciates the opportunity to comment on the proposed amendments to the Mandatory Reporting Regulation (MRR) scheduled for consideration by the Board on September 22, 2016.

Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding. M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. M-S-R members are required to report greenhouse gas (GHG) emissions data pursuant to the MRR as facility operators and suppliers, and as electric power entities (EPEs).

M-S-R fully supports the comments submitted by its members on the proposed amendments and wishes to further call the Board's attention to the critical issues addressed herein. M-S-R may provide additional comments on 15-day changes that are necessary to reconcile the MRR with proposed amendments to the Cap-and-Trade Program Regulation also being considered by the Board on September 22.

M-S-R Strongly Opposes the Proposed Change to the Verification Deadline

The proposal to accelerate the verification deadline has the potential to compromise the accuracy of the reports and verifications submitted, ultimately resulting in greater overall inefficiencies. The Staff Report notes that this change is necessary "to support implementation of the cap-and-trade program. Currently, obtaining the necessary verified data on September 1 does not provide ARB staff sufficient time to reasonably perform quality assurance checks,

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calculations, analysis, and the data notifications and postings needed to complete all mandated activities under the cap-and-trade program.” (Staff Report, p. 5) The Staff Report also claims that the “no action alternative” was not included because it would not allow for “timely and efficient implementation of the cap-and-trade program, and therefore, would not be more or as effective in carrying out the purpose for which the revisions are proposed.” The Staff Report concludes that the change “would be no less burdensome overall, to affected private persons than the proposed revisions” because compliance entities while the change in the verification deadline “may allow less time for reporting entities to verify their data, it will provide these entities more time to review their compliance obligation, assess how many allowances they receive, and make arrangements to acquire any additional compliance instruments needed for timely compliance.” (Staff Report, p. 10) M-S-R disagrees with this conclusion, and unfortunately, this rationale does not aide compliance entities in carrying out their reporting obligations, nor does it provide verifiers the time necessary to complete the verification.

The complex EPE reports are due on June 1; due to the increased verifier requirements and scrutiny of these reports, verifiers are requiring more time to complete the necessary work. M-S-R’s members strive to complete their reports and commence the verification process as soon as possible. However, preparing comprehensive and accurate reports requires the compilation of data that is not dependent solely on information within the exclusive control of the EPE. Any delays in obtaining and verifying data from third parties delays the EPE’s process for reviewing the relevant data and ensuring that the final submission is accurate. Hastening this process is more likely to lead to inadvertent errors and inaccuracies in the final submissions. Added to this are the strict verification processes; data review and site visits are time intensive activities that require coordination between the reporter and the verifier. Even with the current September 1 deadline, M-S-R members have found it challenging to timely comply. The Staff Report highlights CARB staff’s concerns without acknowledging or justifying the added burden that this places on compliance entities and verifiers. Nor is there a demonstration that it is practical or feasible to meet the new deadline. M-S-R is very concerned that accelerating the verification timeline will lead to greater errors or issuance of the qualified verifications, resulting in an overall less efficient verification process.

As a potential alternative, CARB could consider adjusting the verification deadline for facility operators and suppliers that are required to submit their emissions data reports by April 10 of each year. The verification process for those entities could be initiated earlier and would be more conducive to meeting an August 1 deadline. Electric power entities submitting reports on June 1 would still be required to complete their verifications by September 1.

The MRR and Cap-and-Trade Programs Must Continue to be Aligned with the State’s Renewable Portfolio Standard and Other Key Mandates and Programs

Proposed changes to section 95111(b)(2)(E)(1) to eliminate the exclusion of “grandfathered contracts” from the lesser of analysis places an unnecessary burden on compliance entities. These provisions were originally intended to help align two of the state’s premier carbon reduction programs – the Cap-and-Trade Program and the Renewable Portfolio Standard (RPS) Program. After several stakeholders expressed concerns when this language was added in the 2014 MRR revisions, ARB staff recommended the following: “to minimize additional reporting and verification burden, this requirement should be limited to only electricity imported from Portfolio Content Category 1 renewable generating resources for which

the 'lesser of' analysis is required under the RPS regulations."² M-S-R urges the Board to direct CARB staff to abandon the proposed revisions to eliminate the exclusion or to confer further with stakeholders on the implications, including the interaction between the proposed MRR changes and the proposed amendments to the Cap-and-Trade Program.

The Staff Report characterizes the changes as necessary "because the actual generated or metered amounts (MWh) of power generated from certain resources do not always match the tagged or the EIM model designated quantities, which have been reported as imported power." (Staff Report, p. 43) As CARB explicitly noted in the 2011, while renewable energy credit (RECs) "play no role in GHG accounting . . . RPS electricity should reduce the compliance obligation of a first deliverer."³ Thus, provisions in the Cap-and-Trade Program were aligned with the MRR to ensure that this would occur. Changes to the MRR will directly impact the provisions of the Cap-and-Trade Program and entities' compliance obligations under that program.

Issues surrounding the necessary revisions to the Cap-and-Trade Program to address potential inaccuracies in renewable energy and electricity imbalance market (EIM) accounting have been the subject of considerable deliberations and extensive stakeholder meetings, and are flagged in the proposed amendments to the Cap-and-Trade Regulation as matters that require further studies and analysis before they can be fully resolved and requiring proposed revisions to be reflected in 15-day changes. Given the interaction between these two regulations and the broader implications for California's energy markets, any proposed changes to the MRR should similarly reflect the need for further analyses and potential changes in 15-day language.

Similarly, Proposed Amendments related to reporting REC serial numbers should not be adopted. The proposed amendments would remove the requirement to report the REC serial number for certain transactions, consistent with staff's proposal to eliminate the requirement proposed for section 95852(b)(4) of the Cap-and-Trade Program Regulation. The revisions to section 95111(g) are linked to proposed program changes dealing with the RPS Adjustment, which is the subject of extensive comments by stakeholders. M-S-R asks that the Board direct staff to strike this proposed amendment and to address potential revisions to the MRR commensurate with proposed changes to the Cap-and-Trade Program Regulation in 15-day changes.

M-S-R appreciates the opportunity to provide these comments and your consideration of these important issues.

Respectfully submitted,



Martin R. Hopper
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M-S-R Public Power Agency

² 2014 MRR Amendments, Final Statement of Reasons, November 2014, p. 32.

³ 2011 MRR Amendments, Final Statement of Reasons, October 28, 2011, p. 107.