CRS center for resource solutions

March 4, 2016

Brieanne Aguila,
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California Air Resources Board (ARB)
1001 I Street
Sacramento, CA 95814

Re: Comments of Center for Resource Solutions (CRS) in response to February 24, 2016 Workshop on Potential Amendments to the Greenhouse Gas Mandatory Reporting and Cap-and-Trade Regulations

Dear Brieanne:

CRS appreciates the opportunity to submit comments regarding potential amendments to the Greenhouse Gas Mandatory Reporting and Cap-and-Trade Regulations discussed at the ARB's February 24, 2016 Workshop. Specifically, these comments pertain to proposed amendments to the Renewable Portfolio Standard (RPS) Adjustment and specified power reporting requirements for generation providing entities (GPE). Proposed amendments in these areas were initially discussed at the December 14, 2015 workshop, and CRS submitted informal comments between workshop and official regulatory comment periods on January 20, 2016.[1] Some of those comments are repeated or re-articulated here since ARB has reissued its call for feedback without proposing any new amendments in these areas since the December 14 workshop. Below we summarize our understanding of the key issues confronting ARB, followed by our comments and recommendations.

Double Counting between RPS Adjustment and Specified Source Imports

It is our understanding that there have been instances in which entities have directly delivered power for which they were the GPE unbeknownst to an entity that was purchasing the Renewable Energy Certificates (RECs) associated with that power and taking an RPS Adjustment for those RECs. In data year 2014, these initial claims for the RPS Adjustment in violation of the Mandatory Reporting Regulation (MRR) and cap-and-trade regulation represented double counting of approximately 600,000 metric tons carbon dioxide-equivalent (mtCO2e). We understand that ARB was able to identify these RECs and correct this double counting with individual entities through email correspondence.

ARB Staff Interpretation of Current Rules and Challenges that Constrain Resolution of Double Counting

The RPS Adjustment is verified with RECs and is not for directly delivered power. ARB Staff made clear at the February 24 workshop that ARB is inviting comment on, "how to implement the RPS Adjustment for power that is not directly delivered to California," and that it is, "not amenable to allowing directly

[1] Available online at: http://resource-solutions.org/site/wp-content/uploads/2016/01/Comments_ARB_Cap%E2%80%90and%E2%80%90Trade_Regulation_2016_Amendments.pdf.

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delivered power to be accounted for for what it is and then allowing those RECs to be used for the RPS Adjustment."

With respect to the rules for specified imports, ARB Staff have clarified that specified imports by GPEs are specified source by rule, i.e. RECs are not required for specified renewable imports and imports by GPEs must be reported as specified source with or without the REC. Rather, the existing REC reporting requirement for specified imports[2] was included for transparency as a courtesy to other programs.

ARB Staff has articulated the following challenges to resolving this double counting issue:

1. There is inconsistency in REC serial number reporting among reporters, which makes it difficult for ARB to identify RECs used for specified source imports.
2. ARB has observed consistent non-conformance to the REC reporting requirement for specified imports. Although entities that fail to report REC serial numbers for specified renewable imports receive notification of non-conformance, the imports are nevertheless counted as specified by rule if the entity is a GPE. As a result, ARB does not have access to all the REC information for specified imports.
3. If ARB had access to all REC serial numbers for specified imports, only it would be positioned to check for double counting, and it would still face a moving target in the sense that entities can resubmit data up until the verification deadline, both of which result in significant administrative burden for ARB staff.

ARB Staff Proposed Solutions to Double Counting

At the December 14 workshop, ARB staff presented next steps for rulemaking that included the following:

- Possible removal of the RPS Adjustment;
- Possible removal of REC serial reporting for specified sources from MRR and the Cap-and-Trade Regulation; and
- Alignment of the Cap-and-Trade Regulation with the MRR to make clear that claims of specified source electricity can/must be made when the entity does not report the RECs associated with the electricity.

CRS Comments and Recommendations

1. <u>There is risk of double counting with other state programs if the REC is not required with specified renewables imports. Removal of the existing REC reporting requirement for specified imports increases this risk of double counting.</u>

ARB should not ignore the mechanisms and instruments used in the broader electricity market for tracking RE delivery in the design and implementation of California's cap-and-trade program. There will be double counting of zero-emission power if energy is imported without the REC, counted as zero emissions specified power, and then the associated REC is counted as zero emissions by another program, e.g. toward the Oregon RPS. RECs are therefore critical in this context to prevent double counting with other programs and policies. RECs are the currency for zero-emission electricity delivery and consumption in state compliance markets and the voluntary renewable energy market. Where

[2] See Sec. 95852(b)(3)(D) of the California cap-and-trade regulation.

neighboring state programs count renewable energy, using RECs, that is also being counted as zero-emissions power delivered to California, this affects the integrity of both state actions equally.

One could alternatively characterize this as leakage for California's cap-and-trade as it allows null power (electricity without RECs or for which the RECs are sold out of state) to be imported without emissions.

2. Removal of the existing REC reporting requirement for specified imports increases the risk of double counting within the Clean Power Plan (CPP).

The CPP could be another reason not to remove the requirement for REC reporting for imports. Thinking about the same scenario as above, if Oregon (or any other state in the Western Electricity Coordinating Council) were also to adopt a mass-based state measures plan and include its RPS as a state measure, it could get CPP compliance credit for electricity that was counted as zero emissions in California, resulting in double counting between California and Oregon within the CPP. In other words, Oregon can use the REC for RPS compliance, which is a state measure under the CPP, while at the same time, California also counts the electricity from that same unit of generation toward its CPP compliance using cap-and-trade.

3. The REC reporting requirement for specified imports provides a solution to observed double counting with the RPS Adjustment.

Eliminating the REC reporting requirement for imports while keeping the RPS Adjustment would not appear to prevent the double counting. RECs associated with directly delivered power could still be used for the RPS Adjustment and double counted. This would still require monitoring by ARB, except it is made more difficult because it would result in two different tracking mechanisms being used (i.e. the power or other instrument for the import and the REC for the RPS Adjustment). Having the REC serial numbers for both allows the two to be compared. It is unclear how eliminating the requirement for REC reporting for specified imports would help prevent directly delivered RECs from being counted in the RPS Adjustment.

When the RPS Adjustment is verified with RECs, ARB can verify that the RPS Adjustment is not used for directly delivered power using the REC serial numbers reported with directly delivered power. In fact, the REC reporting requirement may be necessary to avoid double counting with the RPS Adjustment. Removal of the REC Reporting requirement appears to provide no mechanism at all.

4. The three challenges to resolving observed double counting with the RPS Adjustment that have been identified by ARB are solvable. They do not compel removal of the existing REC reporting requirement for specified imports.

First, ARB must standardize REC serial reporting, such that it allows ARB Staff to identify individual RECs reported with specified imports.

Second, to the extent that non-conformance is preventing ARB from having access to the REC serial numbers that it needs to verify no double counting and appropriate use of the RPS Adjustment, this cannot be a reason to allow continued double counting. The solution is conformance with existing rules, which must be enforced. Regardless of whether the import is specified by rule, REC serial number reporting is required, in part to prevent double counting with the RPS Adjustment.

Third, double counting is not a permissible alternative to administrative burden. There are solutions to alleviate this burden, such having an outside entity do verification of REC serial numbers, for example.

5. The existing REC reporting requirement for specified imports is nevertheless insufficient to prevent double counting with other state programs.

Ideally, ARB must ensure that RECs associated with imported electricity do not leave the state once a MWh is imported without emissions. See *Comments of Center for Resource Solutions regarding the July 2013 Discussion Draft of the California Cap-and-Trade Regulation, August 2, 2013*[3] (reproduced below).

> *Regarding the change to the criterion for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emissions factor at Sec. 95852(b)(3)(D), from "RECs must be retired" to "REC serial numbers must be reported," this change appears to be appropriate provided that 1) the importer is not itself delivering to load, and 2) the REC stays in state and the electricity is not wheeled out of state as zero emissions electricity. If the importer is delivering directly to end users, including for the RPS, then retirement of the REC should be required to prevent double counting. And if the REC is traded out of state to be used in a different system by either the importer, an in-state LSE, or other entity after the REC has been reported by the importer to avoid a compliance obligation, then there is double counting.*

We recommend that the list of REC serial numbers associated with specified imports be given to Western Renewable Energy Generation Information System (WREGIS) and that WREGIS be used to confirm that those RECs were retired in California or by a California user at the time of compliance. We have significant experience with helping states use tracking systems to verify different regulatory requirements. We would be happy to help ARB and WREGIS create the functionality needed in WREGIS to verify no double counting between the RPS Adjustment and specified imports.

Please feel to contact us with any questions about these comments, or if we can otherwise be of assistance.

Sincerely,

Todd Jones
Senior Manager, Policy and Climate Change Programs

[3] Available online at: http://resource-solutions.org/site/wp-content/uploads/2015/07/CRScommentstoARBonJuly2013draftCTreg_8-2-2013.pdf