

FINAL REGULATION ORDER

Subchapter 10. Climate Change

Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

NOTE: Changes to the regulation are shown in underline; deletions from the regulation are shown in ~~strikeout~~. "****" indicates that sections of regulation not printed are not changed.

Amend Division 3, Chapter 1, Subchapter 10, Article 5, Section 95802, title 17, California Code of Regulations to read as follows:

Article 5: CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS

§ 95802. Definitions.

(a) Definitions. For the purposes of this article, the following definitions shall apply:

*** [No changes were made to subsections (1) through (13).]

- (14) "Asset-controlling supplier" means any entity that owns or operates inter-connected electricity generating facilities or serves as an exclusive marketer for ~~certain generating these~~ facilities even though it does not own them, and is assigned a supplier-specific identification number and ~~specified source system~~ emission factor by ARB for the wholesale electricity procured from its system and imported into California. ~~Bonneville Power Administration (BPA) is recognized by ARB as an asset-controlling supplier.~~

*** [No changes were made to subsection (15).]

- (16) "Associated Gas" or "Produced Gas" means a natural gas that is produced ~~from gas wells or gas produced in~~ association with the production of crude oil.

*** [No changes were made to subsections (17) through (49).]

- (50) “Cogeneration” means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve onsite generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (a) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (b) Steam turbines generating electricity as a byproduct of steam generation through a fired boiler; (c) Cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this article, a combined-cycle power generation unit, where none of the generated thermal energy is used for industrial, commercial, or heating and cooling purposes (these purposes exclude any thermal energy utilization that is either in support of or a part of the electricity generation system), is not considered a cogeneration unit.

*** [No changes were made to subsections (51) through (86).]

- (87) “Electricity Importers” ~~are marketers and retail providers that~~ deliver imported electricity. For electricity that is scheduled with a NERC e-Tag to a final point of delivery inside the state of California~~delivered between balancing authority areas,~~ the electricity importer is identified on the NERC e-Tag as the purchasing-selling entity (PSE) on the last segment of the tag’s physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located outside the state of California with the first point of interconnection to a

California balancing authority's transmission and distribution system when the electricity is not scheduled on a NERC e-Tag, the importer is the facility operator or scheduling coordinator. Federal and state agencies are subject to the regulatory authority of ARB under this article and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA), and California Department of Water Resources (DWR).

*** [No changes were made to subsections (88) through (94).]

- (95) "Enterer" means an entity that imports into California motor vehicle fuel, diesel fuel, fuel ethanol, biodiesel, non-exempt biomass-derived fuel or renewable fuel and who is the importer of record under federal customs law or the owner of fuel upon import into California if the fuel is not subject to federal customs law. Only enterers that import the fuels specified in this definition outside the bulk transfer/terminal system are subject to reporting under the regulation.

*** [No changes were made to subsections (96) through (100).]

- (101) (A) "Facility," unless otherwise specified in relation to natural gas distribution facilities and onshore petroleum and natural gas production facilities as defined in section 95802(a), means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.
- (B) "Facility," with respect to natural gas distribution for the purposes of sections 95150 through 95158 of MRR, means the collection of all distribution pipelines and metering-regulating stations that are operated by a Local

Distribution Company (LDC) within the State of California that is regulated as a separate operating company by a public utility commission or that are operated as an independent municipally-owned distribution system.

(C) "Facility," with respect to onshore petroleum and natural gas production for the purposes of sections 95150 through 95158 of MRR, means all petroleum and natural gas equipment on a well-pad or associated with a well pad and CO₂ EOR operations that are under common ownership or common control including leased, rented, or contracted activities by an onshore petroleum and natural gas production owner or operator and that are located in a single hydrocarbon basin as defined in section 95102(a) of MRR. Where a person or entity owns or operates more than one well in a basin, then all onshore petroleum and natural gas production equipment associated with all wells that the person or entity owns or operates in the basin would be considered one facility.

*** [No changes were made to subsection (102).]

(103) "Final Point of Delivery" means the sink specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the NERC e-Tag.

(104)(103) "First Deliverer of Electricity" or "First Deliverer" means the owner or operator of an electricity generating facility in California or an electricity importer.

(105) "First Point of Receipt" means the generation source specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating

facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.

*** [No changes were made to subsections (104) through (147) except to renumber.]

~~(150)(148)~~“Lead Verifier Independent Reviewer” or “Independent Reviewer” means, for purposes of this article, a lead verifier within a verification body who has not participated in conducting offset verification services for an Offset Project Developer or Authorized Project Designee for the current Offset Project Data Report and who provides an independent review of offset verification services rendered for an Offset Project Developer or Authorized Project Designee as required in section 95977.1(b)(3)(R). The independent reviewer is not required to also meet the requirements for a sector specific or offset project specific verifier.

*** [No changes were made to subsections (149) through (167) except to renumber.]

~~(170)(168)~~“Natural Gas” means a naturally occurring mixture or process derivative of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth’s surface, of which its constituents include methane, heavier hydrocarbons, and carbon dioxide. Natural gas may be field quality (which varies widely) or pipeline quality. For the purposes of this rule, the definition of natural gas includes similarly constituted fuels such as field production gas, process gas, and fuel gas.

~~(171)(169)~~“Natural Gas Liquids” or “NGLs”, means those hydrocarbons in natural gas that are separated from the gas as liquids through the process of absorption, condensation, adsorption, or other methods. Natural gas liquids can be classified according to their vapor pressures as low (condensate), intermediate (natural gasoline), and high (liquefied petroleum gas) vapor pressure. Generally, such liquids consist of ethane, propane, butanes, ~~and~~ pentanes ~~plus~~, and higher molecular weight hydrocarbons. Bulk NGLs refers

to mixtures of NGLs that are sold or delivered as undifferentiated product from natural gas processing plants.

*** [No changes were made to subsections (170) through (199) except to renumber.]

~~(202)~~~~(200)~~ “Point of Delivery” or “POD” means the point on an electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point can be an interconnection with another system or a substation where the transmission provider’s transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into California over a multi-jurisdictional retail provider’s distribution system.

~~(203)~~~~(204)~~ “Point of Receipt” or “POR” means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. This point can be an interconnection with another system or a substation where the transmission provider’s transmission and distribution systems are connected to another system.

*** [No changes were made to subsection (202) except to renumber.]

~~(205)~~~~(203)~~ “Position Holder” means an entity that holds an inventory position in motor vehicle fuel, ethanol, distillate fuel, biodiesel, or renewable diesel as reflected in the records of the terminal operator or a terminal operator that owns motor vehicle fuel or diesel fuel in its terminal. “Position holder” does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

~~(206)~~~~(204)~~ “Positive Emissions Data Verification Statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and that the

emissions data conforms to the requirements of MRR. For purposes of this definition, 'material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

~~(207)~~~~(205)~~ "Positive Product Data Verification Statement" means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and that the product data conforms to the requirements of MRR. For purposes of this definition, 'material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

*** [No changes were made to subsections (206) through (207) except to renumber.]

~~(210)~~~~(208)~~ "Primary refinery products" means aviation gasoline, motor gasoline (finished), kerosene-type jet fuel, distillate fuel oil, renewable liquid fuels, and asphalt. For the purpose of calculating this value for each refinery ARB will convert blendstocks into their finished fuel volumes by multiplying blendstocks by an assumed blending ratio.

*** [No changes were made to subsections (209) through (214) except to renumber.]

~~(217)~~~~(215)~~ "Product Data Verification Statement" means the final statement rendered by a verification body attesting whether a reporting entity's product data in their covered emissions data report is free of material misstatement, and whether the product data conforms to the requirements of the MRR. For purposes of this definition, 'material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

*** [No changes were made to subsections (216) through (226) except to remember.]

~~(229)~~~~(227)~~“Qualified Positive Emissions Data Verification Statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the emissions data may include one or more other nonconformances with the requirements of MRR which do not result in a material misstatement.

~~(230)~~~~(228)~~ “Qualified Positive Product Data Verification Statement” means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the product data may include one or more other nonconformance(s) with the requirements of MRR which do not result in a material misstatement.

*** [No changes were made to subsections (229) through (260) except to renumber.]

~~(263)~~ “Sink” or “sink to load” or “load sink” means the sink identified on the physical path of NERC e-Tags, where defined points have been established through the NERC Registry. Exported electricity is disaggregated by the sink on the NERC e-Tag, also referred to as the final point of delivery on the NERC e-Tag.

~~(264)~~~~(264)~~“Soda Ash Equivalent” means the total mass of all soda ash, biocarb, borax, V-Bor, DECA, PYROBOR, Boric Acid, ~~and~~ Sodium Sulfate, Potassium Sulfate, Potassium Chloride, and Sodium Chloride produced.

*** [No changes were made to subsections (262) through (263) except to renumber.]

~~(267)~~ “Source of generation” or “generation source” means the generation source identified on the physical path of NERC e-Tags, where defined points have

been established through the NERC Registry. Imported electricity and wheels are disaggregated by the source on the NERC e-Tag, also referred to as the first point of receipt.

*** [No changes were made to subsections (264) through (277) except to renumber.]

~~(282)(278)~~“Unspecified Source of Electricity” or “Unspecified Source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. ~~generation that cannot be matched to a specific electricity generating facility or electricity generating unit or matched to an asset-controlling supplier recognized by ARB. Unspecified sources contribute to the bulk system power pool and typically are dispatchable, marginal resources that do not serve baseload.~~

*** [No changes were made to subsections (279) through (288) except to renumber.]

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code.