



Department of Energy

Bonneville Power Administration
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To: California Air Resources Board

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

The Bonneville Power Administration (BPA) provides these comments in response to the California Air Resource Board's (CARB) solicitation for comments on its Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market- Based Compliance Mechanisms Regulation. BPA is a federal Power Marketing Administration (PMA) within the Department of Energy and located in the Pacific Northwest. BPA markets power across the West, including to California entities, and is a participant in the California Independent System Operator's Western Energy Imbalance Market. BPA is an Asset Controlling Supplier under CARB's program, marketing power from a system comprised of 31 federal hydroelectric projects located in the Columbia River basin, one nuclear plant, and some other small nonfederal power plants. BPA provides comments on a few areas of CARB's proposed rules.

1) Registration Requirements as applied to a Federal Power Marketing Administration

There are a few sections in § 95830 that, as applied to a PMA like BPA, are inapplicable or overly broad. Specifically, subsection (c)(1)(B) refers to "directors and officers," which are terms with a legal meaning specific to corporations. BPA is a federal agency, not a corporation, and does not have corporate "directors and officers." Subsection (c)(1)(B) ostensibly fits BPA by using the word "individuals," but the phrase "with authority to make legally binding decisions on behalf of the entity" is overly broad. As currently articulated, that phrase could potentially apply to any BPA employee with delegated authority. BPA asks CARB to constrain this requirement insofar as it applies to a PMA with more precise language, perhaps by adding a narrowing clause such as "individuals with authority to make legally binding decisions [regarding the subject matter at issue] on behalf of the entity."

Similarly, subsection (c)(1)(J) is excessively broad in its application to a PMA. Information concerning compliance instruments or covered emissions may be deliberated in BPA's public processes, such as Rate Case proceedings, making this information accessible to an unknown number of individuals. BPA suggests CARB extend the exemption, which currently applies to "Employees and delegates of local, state, and federal regulatory agencies who have the ability to gain knowledge of or access to the entity's specific market positions . . .", to federal entities generally. Although BPA is a federal entity, it is not a regulatory agency and therefore does not fall under the current classification of a "federal regulatory

agency." Extending this exemption would not only reduce unnecessary administrative burden but also acknowledge the unique operational and governmental nature of federal PMAs.

2) Compliance Periods

BPA urges CARB to reconsider the compliance periods proposed in § 95840. The proposed two-year compliance periods are a notable departure from CARB's historical and more practical use of three-year compliance periods. A three-year compliance period offers considerably more flexibility for covered entities to strategically plan for and effectively meet their compliance obligations. This extended horizon is particularly crucial for electric power entities like BPA that rely heavily on hydroelectric generation. The inherent year-to-year variability in hydro generation, which directly influences BPA's Asset Controlling Supplier emission factor, necessitates longer planning horizons to enable robust compliance management without imposing undue burdens.

Further, BPA suggests that CARB contemplate aligning its compliance periods with those established by Washington's cap-and-invest program. While BPA understands that CARB intends to address program linkage in a later, separate rulemaking, establishing consistent compliance period lengths now could facilitate future linkage efforts and provide covered entities with valuable additional time to prepare for future compliance periods.

Please contact me at (503) 312-6816 if you have questions about these comments.

Sincerely,



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