

CALIFORNIA ENERGY COMMISSION1516 Ninth Street
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In the matter of:)	Docket No. 11-RPS-01
)	
Developing Regulations and Guidelines for the)	Docket No. 02-REN-1038
33 Percent Renewables Portfolio Standard)	
)	STAFF NOTICE RE:
and)	Implementation of Assembly Bill
)	2196
)	
Implementation of Renewables)	
Investment Plan Legislation)	

Notice Regarding Implementation of Assembly Bill 2196 Pertaining to the Renewables Portfolio Standard Program

This notice informs stakeholders about the California Energy Commission staff's plan for implementing Assembly Bill 2196.¹ With the enactment of AB 2196, the Energy Commission plans to revise its guidelines for implementing the Renewables Portfolio Standard Program (RPS) to incorporate revisions pertaining to electricity generation facilities using biomethane for purposes of the RPS.

Background

Renewables Portfolio Standard

The California Energy Commission is responsible for certifying eligible renewable energy resources that may be used by retail sellers of electricity and local publicly-owned electric utilities (POUs) to satisfy their RPS procurement requirements and for developing an accounting system to verify a retail seller's or POU's compliance with the RPS. The Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook* describes the eligibility requirements and process for certifying renewable energy resources as eligible for California's RPS and describes how the Energy Commission verifies compliance with the RPS. The Energy Commission is also responsible for adopting regulations specifying the RPS enforcement provisions for the POUs.

Under AB 2196, the Energy Commission is responsible for establishing RPS-eligibility requirements for electric generating facilities using biomethane and establishing a

¹ AB 2196 (Chesbro), Chapter 605, Stats. 2012; effective date January 1, 2013.

system for tracking and verifying the procurement and delivery of biomethane and the required attributes that is comparable to the system required by Public Utilities Code Section 399.25(c).

Eligibility of Pipeline Biomethane

In 2010, the Energy Commission added the term “pipeline biomethane” to the Fourth Edition of the *RPS Eligibility Guidebook* to distinguish between biogas that is used on the site of production to generate electricity and biogas that is pipeline quality, injected into the natural gas pipeline system, and used to generate electricity at an offsite location.

Senate Bill X1-2,² signed into law in April 2011, establishes a preference for electricity generation that provides more environmental benefits to the state by displacing in-state fossil fuel consumption, reducing air pollution within the state, and helping the state meet its climate change goals by reducing emissions of greenhouse gases (GHG) associated with electrical generation.

In September 2011, the Energy Commission held a public workshop to solicit comments on the RPS eligibility criteria of pipeline biomethane in light of recent changes in law due to SB X1-2.

On March 16, 2012, the Energy Commission published a notice of staff’s proposed suspension of the RPS eligibility guidelines related to biomethane, which provided information on the current biomethane requirements, the shortcomings of these requirements in light of SBX1-2, and the purpose and conditions of the proposed suspension. On March 28, 2012, the Energy Commission adopted a resolution³ to suspend the RPS-eligibility of biomethane to provide the Energy Commission (and the Legislature) additional time to evaluate the RPS eligibility of biomethane under the new law. In its resolution, the Energy Commission noted that it is not clear whether, or to what extent, the biomethane requirements in the *RPS Eligibility Guidebook, Fourth Edition*, advance the environmental goals of SBX1-2 with respect to biomethane, because the guidebook did not require that the use of biomethane displace fossil fuel consumption or reduce air pollution, did not require a showing that the use of biomethane results in GHG reductions, and did not establish rigorous requirements to verify that the claimed quantity of biomethane was actually used by the designated power plant, or that the necessary biomethane attributes were transferred to the power plant operator for purposes of the RPS and not double counted for other purposes.

On September 27, 2012, Governor Brown signed AB 2196 into law. AB 2196 defines “biomethane” as landfill gas or digester gas, consistent with Public Resources Code Section 25741, and grandfathered the procurement of electricity from generating facilities using biomethane delivered through a common carrier pipeline under the rules in place

² SB X1-2, Stats. 2011, 1st Ex. Sess., Chapter 1.

³ California Energy Commission, Resolution Number 12-0328-3. March 28, 2012.

www.energy.ca.gov/portfolio/notices/2012-04-06_corrected_resolution_biomethane_suspension.pdf

at the time the biomethane procurement contract was executed, including the *RPS Eligibility Guidebook, 4th Edition*, subject to the additional requirements specified in AB 2196. These additional requirements include the following:

- The biomethane was procured under a contract executed by a retail seller or POU and reported to the Energy Commission before March 29, 2012; and
- The biomethane is procured from sources that are producing and injecting the biomethane into a common carrier pipeline on or before April 1, 2014.

AB 2196 also establishes RPS-eligibility requirements for any quantities of biomethane associated with biomethane procurement contracts executed on or after March 29, 2012, or for amendments made after March 29, 2012, to existing contracts. These RPS-eligibility requirements apply to biomethane used by an onsite generating facility, biomethane used by an offsite generating facility and delivered through a dedicated pipeline, and biomethane used by an offsite generating facility and delivered through a common carrier pipeline. With respect to the latter, AB 2196 imposes the following requirements:

- The biomethane is injected into a common carrier pipeline that flows within California or toward the generating facility.
- The biomethane source did not inject biomethane into a common carrier pipeline before March 29, 2012, or the source began injecting sufficient incremental quantities of biomethane after March 29, 2012, to satisfy the biomethane procurement contract requirements.
- The seller or purchaser of biomethane demonstrates that capture and injection of biomethane into a common carrier pipeline directly results in at least one of the following:
 - Reduces or avoids criteria air pollutant emissions in California.
 - Reduces or avoids pollutants that adversely affect California waters.
 - Alleviates local nuisance associated with odor emissions within California.
- Retail seller or POU procurement of generation from facilities using biomethane under contracts initially executed on or after March 29, 2012, or for quantities of biomethane associated with contract amendments executed after March 29, 2012, shall be assigned to the appropriate portfolio content category based on criteria in Public Utilities Code Section 399.16.

AB 2196 requires all biomethane sellers and purchasers of biomethane, irrespective of the date of the biomethane procurement contract, to comply with a system for tracking and verifying the use of biomethane, established by the Energy Commission, that is equivalent to the system required by Public Utilities Code Section 399.25 subdivision (c). In addition, for biomethane-based electricity generation to count for a retail seller or POU's RPS procurement requirements, AB 2196 requires that sufficient renewable and environmental attributes of the biomethane production and capture to be transferred to the retail seller or POU using the biomethane to ensure that there are zero-net emissions associated with the production of the electricity from the generating facility using the biomethane.

Next Steps

Energy Commission staff plans to implement AB 2196 as part of its process to revise the *RPS Eligibility Guidebook*. The *RPS Eligibility Guidebook* is revised periodically to implement changes in relevant laws, incorporate decisions by the California Public Utilities Commission related to the RPS, and clarify requirements based on staff and stakeholder input. Staff, under the direction and guidance of the lead commissioner on renewables, Commissioner Carla Peterman, plans to propose revisions to the Energy Commission's guidebooks that will, at a minimum:

- Address the March 28, 2012, suspension on biomethane eligibility.
- Establish requirements for electric generation facilities using biomethane that was procured under a contract executed by a retail seller or POU and reported to the Energy Commission before March 29, 2012; and under which biomethane is produced and injected into a common carrier pipeline on or before April 1, 2014.
- Establish requirements for electric generation facilities using biomethane that was procured under a contract executed after March 29, 2012, or for amendments made after March 29, 2012, to an existing contract.
- Establish a system for tracking and verifying the procurement and delivery of biomethane and the required attributes that is comparable to the system required by Public Utilities Code Section 399.25(c).

To implement AB 2196, Energy Commission staff will propose draft eligibility requirements and a system for tracking and verifying the use of biomethane in a *Staff Draft RPS Eligibility Guidebook, 7th Edition*, which staff expects to release in December 2012. To help develop these proposals, staff intends to release a concept paper in November 2012 to solicit public input. Staff may conduct a webinar or focused meeting to receive input on the concept paper from stakeholders. After carefully considering stakeholder input and under the direction of Commissioner Peterman, a draft *RPS Eligibility Guidebook, 7th Edition*, is planned for release in December 2012, followed by a public workshop on the staff's proposed revisions to the draft guidebook. After incorporating stakeholder input on the draft guidebook, staff anticipates that the Energy Commission will consider adoption of the final draft *RPS Eligibility Guidebook, 7th Edition* at a business meeting in February 2013.

Staff expects the March 28, 2012, biomethane suspension to be lifted as part of and in conjunction with the revisions to the RPS Eligibility Guidebook. The provisions and requirements in the revised guidebook would apply to all generation facilities using biomethane for purposes of the RPS, including facilities certified to use biomethane procured under contracts approved prior to March 29, 2012.

Immediately prior to the March 28, 2012, suspension, the Energy Commission received a number of applications for the RPS certification and precertification of facilities using biomethane. These applications are subject to additional requirements as a result of AB 2196. To expedite the ultimate processing of these applications consistent with the new

requirements under AB 2196, staff plans to contact these applicants to request additional information on the applicant's biomethane contracts, including the following:

- Execution and termination dates of each biomethane procurement contract.
- Biomethane sources specified under each contract.
- The date each biomethane source under each contract commences biomethane production and injection into a common carrier pipeline.
- Quantities of biomethane from each source under each contract.
- Any optional quantities of biomethane from each source under each contract that can be exercised at the discretion of the buyer.
- The methods and arrangements for delivery of the biomethane from each source under each contract.
- Terms for amending/extending biomethane quantities and/or the termination date under each contract.

To proceed with determining eligibility for these facilities, staff must also review copies of contracts that generation facilities have executed for biomethane sources injected into a common carrier pipeline and used by the generation facility for purposes of the RPS. An applicant may redact any information not specifically requested by the Energy Commission staff that is confidential. Instructions for submitting this information to the Energy Commission will be provided in future correspondence with applicants. The final RPS-eligibility of these facilities will not be determined until after the adoption of the *RPS Eligibility Guidebook, 7th Edition*, to ensure the appropriate requirements under AB 2196 are reflected in the certification of the facilities.

Staff encourages stakeholder participation in this process. Public notices are released via the Energy Commission's listservers; visit www.energy.ca.gov/portfolio/index.html to subscribe to the Renewable listserv for this proceeding.

Public Comment

Written comments are not being accepted at this time. The Energy Commission will solicit public input on the staff concept paper and during its guidebook revision process, each of which will be separately noticed at future dates.

Public Adviser and Other Commission Contacts

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser's Office at PublicAdviser@energy.ca.gov or (916) 654-4489 (toll free at (800) 822-6228).

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have questions on the subject matter of this issue, please contact Kate Zocchetti at kate.zocchetti@energy.ca.gov or (916) 653-4710.

Availability of Documents on This Matter

Documents and presentations regarding this proceeding are available online at:
www.energy.ca.gov/portfolio/documents/index.html.

Mail List: renewable listserv

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