

Program Manager

Sarah Deslauriers -
Carollo Engineers

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October 17, 2013

Mary Nichols, Chairman
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Re: California Wastewater Climate Change Group Comments Regarding the Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

Dear Chairman Nichols and Board Members:

The California Wastewater Climate Change Group (CWCCG) appreciates the opportunity to comment on the Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms and we appreciate the leadership of the California Air Resources Board (CARB) on climate change issues. The CWCCG is a statewide group of municipalities that collect and treat over 90 percent of municipal wastewater in California, many of whom also provide recycled water services and actively participate in the beneficial use of biosolids and biogas. The CWCCG's mission is to address climate change policies, initiatives, and challenges through a unified voice advocating for wastewater community perspectives. CWCCG members are focused on helping the State achieve its multiple mandates and goals by 2020. These include: (1) providing 33 percent of the State's energy needs from renewable sources; (2) reducing carbon dioxide equivalent (CO₂e) emissions to 1990 levels; (3) reducing the carbon intensity of transportation fuel used in the State by 10 percent; and (4) recycling 75 percent of the solid waste generated in the State.

The focus of this comment letter is the potential consequence of the amended language in § 95101(b)(2) of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. Specifically, the addition of the following language:

“...if all the emissions captured within the reporting entity's facility boundary, **including vented and fugitive emissions**, exceed the 25,000 metric ton CO₂e threshold specified in sections 95103(a) and 95103(f), the reporting entity is not eligible for the abbreviated reporting option provided in section 95103(a) and must submit a GHG report pursuant to the full requirements of this Article, including obtaining verification services pursuant to section 95103(f).”

Impact of including vented and fugitive emissions in § 95101(b)(2)

This language unintentionally requires the estimation of fugitive carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) emissions from municipal wastewater treatment plants (WWTPs).¹ Reporting of these constituents, especially fugitive N₂O, will significantly increase the number of WWTPs that will no longer qualify for the abbreviated reporting allowed by being under the 25,000 metric ton CO₂e emissions threshold, and could also bring many municipal WWTPs into the cap-and-trade program. The latter consequence will occur because an exemption for fugitive and process CH₄ and N₂O emissions from municipal WWTPs was removed from § 95852.2

in a 2011 revision to the cap-and-trade regulation. The following discussion expands on these issues.

Overview and background of issues

In general, wastewater treatment relies on aerobic biological processes to break down organic matter in wastewater. One byproduct of this natural process could be fugitive N₂O emissions. Currently, the EPA Mandatory Reporting Program does not require the estimation of these fugitive emissions due to the lack of a standardized estimation protocol. In general, these fugitive emissions from municipal WWTPs are difficult to quantify because of significant variation in the types of aerobic processes at WWTPs and other local factors (e.g., biological oxygen demand loading). In fact, as reported by EPA, N₂O emissions from internal WWTP processes are dwarfed by those occurring off-site in the treated effluent receiving waters due to downstream natural biological processes.

In 2010, the Sanitation Districts of Los Angeles County (LACSD) met with CARB staff, followed by a letter (see attachment) requesting that fugitive emissions of CH₄ and N₂O from municipal WWTPs be explicitly excluded from a compliance obligation to avoid a situation that occurred with landfills when the State Mandatory Reporting Program was merged with the EPA Mandatory Reporting Program. The EPA requires reporting of fugitive landfill emissions in its program. The aligned reporting programs inadvertently brought landfills into the cap-and-trade program due to their fugitive CH₄ emissions. Language had to be added to § 95852.2 excluding fugitive landfill CH₄ emissions from a compliance obligation to avoid this unintended complication. To avoid the same situation with WWTPs if EPA were to require reporting of fugitive CH₄ and N₂O emissions in its Mandatory Reporting Program (which is being studied), CARB staff agreed with LACSD's recommendation and inserted language in the July 2011 draft cap-and-trade regulation to exclude this source. However, despite full agreement on this language between the wastewater industry and the CARB regulatory staff, and no comments in opposition from the public during the 15-day public review period, the language was removed in a later draft. In the "Supplement to the Final Statement of Reasons" dated December 2011, staff stated (see link - <http://www.arb.ca.gov/regact/2010/capandtrade10/suppsor.pdf> - page 46) that the language was removed as a "general cleanup." Staff later clarified that the reasoning behind the draft exclusion was lost in the final cleanup.

Conclusion

To eliminate the problems that will result from the proposed amended language, **CWCCG recommends that two amendments be considered.**

- First, an exclusion should be added to § 95101(f-Exclusions)(7) of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions for "fugitive and process emissions of CH₄ and N₂O from municipal WWTPs." This language will resolve the reporting issue described above.
- Second, language should be re-inserted in § 95852.2 of the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Program, excluding "fugitive and process emissions of CH₄ and N₂O from municipal WWTPs" from a compliance obligation. This language will prevent any unintended consequences from EPA potentially requiring reporting of these fugitive emissions in its Mandatory Reporting Program.

Bear in mind that many of the WWTPs currently in the State's Mandatory Reporting Program are there entirely because of biogenic CO₂ emissions from the combustion of digester gas, an essentially carbon-neutral, renewable fuel. Bringing any new source, especially those that provide an essential public



c/o California Association of Sanitation Agencies
1225 Eighth Street, Suite 595
Sacramento, CA 95814

service into the cap-and-trade program should be preceded by careful evaluation of CARB staff and the impacted industry, as well as thorough public review. We appreciate this opportunity to work with CARB staff to improve the Mandatory Reporting Program and further appreciate your willingness to consider our recommendations.

Please contact me if you have any questions at (925) 705-6404 or sdeslauriers@carollo.com. We welcome the opportunity to further discuss the wastewater community's position.

Sincerely,

Sarah A. Deslauriers
Program Manager
California Wastewater Climate Change Group

ⁱ **A municipal wastewater treatment plant (WWTP) is a facility consisting of devices and systems used to meet existing and anticipated demands for the storage, conveyance, collection, treatment, monitoring, recycling, and reclamation of municipal sewage and any by-products of these devices or systems. These devices and systems include: intercepting sewers, outfall sewers, sewage collection systems (including combined storm water and sanitary sewer systems), pumps, power generation, power transmission, and power metering, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land to host the treatment process (including storage basins for treated wastewater in land treatment systems prior to land application and/or wetlands) or is land used for ultimate disposal of residues resulting from such treatment. A municipal WWTP is often categorized as primary, secondary, tertiary or advanced according to the pollutant removal demands and the mechanisms (physical, biological, or chemical) by which pollutants are removed. Septic tank systems not owned or operated by municipalities are not considered WWTPs under this definition.**