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Dr. Steve Cliff  
California Air Resources Board  
1001 I Street  
P.O. Box 2815  
Sacramento, California 95812

**Subject: Comments to 15 day Proposed Changes to the California Greenhouse Gas Cap and Trade Regulations**

Dear Dr. Cliff:

Covanta provides these comments on the CARB Informal Discussion Draft on Potential Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms ("Discussion Draft"), released January 31, 2014.

Covanta is a national leader in developing, owning and operating facilities that convert municipal solid waste ("MSW") into renewable energy (energy-from-waste or "EfW" facilities). EfW facilities provide important waste management services to municipalities seeking to avoid or minimize use of landfills, while using MSW as a fuel source for generating renewable energy. Covanta owns and/or operates 40 EfW facilities in North America, two of which are located in California, and also owns and/or operates other renewable energy facilities, including six biomass-to-energy facilities in California.

Covanta has concerns with the mechanics of the exemption as outlined in § 95852(k)(5). According to the proposed rule, ARB will place "2015 true-up allowances" in the facilities account equal to the covered emissions for the 2013 and 2014. We are concerned that these true-up allowances would not be deposited in the account until 2015. Depending on the interpretation of "covered emissions," this potentially leaves an obligation for these facilities in Q3 2014 equal to 1/3 of our 2013 emissions, since the allowances for our 2013 emissions would not be deposited into the account until 2015.

*§ 95852(k)(5). The Executive Officer will place the number of 2015 true-up allowances equal to the facility's reported, verified, and covered emissions for the 2013 and 2014 data years into their compliance account. The Executive Officer will retire the allowances placed into the account according to the surrender date in section 95856, Timely Surrender of Compliance Instruments by a Covered Entity.*

*§95102(a)(96) "Covered emissions" mean all emissions included in a compliance obligation under sections 95852 through 95852.2 of the cap-and-trade regulation, regardless of whether the cap-and-trade regulation imposes a compliance obligation for the data year."*

The following change would clarify this potential interpretation since it would make the allowances more general and not tied specifically to those issued in 2015 and ensure allowances were in place prior to the surrender date(s):

*§ 95852(k)(5). The Executive Officer will place the number of 2015 true-up allowances equal to the facility's reported, verified, and covered emissions for the 2013 and 2014 data years into their compliance account [prior to the appropriate surrender dates in 2014 and 2015 in section 95856.]. The Executive Officer will retire the allowances placed into the account according to the surrender date in section 95856, Timely Surrender of Compliance Instruments by a Covered Entity.*

We are also concerned with the language in § 95851 (d):

*Operators of eligible Waste-to-Energy Facilities, pursuant to section 95852(k) that meet or exceed the annual threshold in section 95812(d) will have a compliance obligation beginning with the second compliance period.*

The CARB Board Resolutions 11-32 and 12-33 in October of 2012 stated that the ARB will continue to work with CalRecycle and other agencies and stakeholders to "determine the most appropriate treatment of municipal solid waste under the cap-and-trade program including emission characterization methodologies. " In a 2012 study, CalRecycle concluded that the states EfW facilities provide a net GHG reduction relative to landfills, joining the European Union, the U.S. EPA, the World Economic Forum, the IPCC, and the Clean Development Mechanism of the Kyoto Protocol in recognition of EfW as a GHG mitigation measure relative to landfilling. Since the October 2012 Board Resolution and the CalRecycle study, the Intergovernmental Panel on Climate Change (IPCC) Fifth Assessment Report has updated the 100 year global warming potential of methane to 34 times as potent as CO<sub>2</sub> when climate-carbon feedbacks are included. This is a 36% increase over the last report, and a 62% increase over the methane GWP value of 21 that is used by the Air Resources Board. We encourage the ARB to update the GWP of methane. This new data on methane further demonstrates the positive characterization of EfW versus landfill from a GHG perspective and provides a sound basis to exclude the three EfW facility's in the second compliance period.

Please let us know if you have any additional question and thank you for your work.

Sincerely,



Ellie Booth  
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