



## WASTE MANAGEMENT

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October 22, 2013

Dr. Steven Cliff  
Climate Change Program Evaluation Branch  
California Air Resource Board  
1001 I Street  
Sacramento, California 95812

Via Email: [scliff@arb.ca.gov](mailto:scliff@arb.ca.gov)

**Subject: Supplemental Comments of Waste Management and Wheelabrator Technologies, Inc. on 2013 Proposed Regulation Amendments to Cap & Trade Regulations as pertains to Legacy Contracts**

Submitted via website: [http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=cap-trade-draft-ws&comm\\_period=1](http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=cap-trade-draft-ws&comm_period=1)

Dear Dr. Cliff:

On behalf of Waste Management (WM) and its subsidiary Wheelabrator Technologies, we wish to supplement our comments submitted October 9, 2013 on amendments to the Cap & Trade Regulation (the "C&T" or the "Regulation") released on September 4, 2013 to discuss two issues. First, we strongly support the ARB Staff's October 16, 2013 proposed revisions to the legacy contract provisions. As we noted in our October 9, 2013 comments, providing for transitional assistance through the second triennial compliance period is necessary to ensure that Legacy Contract generators do not face an untenable financial situation due to their inability to pass through GHG costs. Second, as discussed below, Wheelabrator Norwalk has discovered an internal citation that is needed to effectuate the changes in Section 95894 of the Cap-and-Trade Regulation.

Our supplemental comments focus on Section 95856(h)(3). Section 95856(h)(3) should be revised to reflect the new true-up provisions that would be provided in Section 95894 for Legacy Contracts. Section 95856(h)(3) provides a limited exemption from the vintage rules for allowances that have been allocated pursuant to certain Cap-and-Trade provisions. However, the current proposed amendment of Section 95856(h)(3) would not include Sections 95894(c)(1), 95894(c)(2), and 95894(d)(2) in the list allowance allocation Sections.

The entities described in 95894(c)(1), 95894(c)(2), and 95894(d)(2) are entities that qualify for a true-up under Section 95894. We propose that the ARB amend this Section 95894 to make these

entities eligible to use 2015 vintage allowances for a 2013 or 2014 emissions year compliance obligation prior to 2015 for compliance. WM and Wheelabrator Norwalk recommends adding these three Sections to the list in Section 95856(h)(3). Corresponding changes should also be made in Section 95856(h)(1)(D) and 95856(h)(2)(D). These changes are necessary to clarify that entities receiving “true-up” allowances can fulfill their compliance obligation with allowances “allocated immediately before the current surrender deadline.

We appreciate ARB’s proposal to provide recovery by assigning allowances to the Norwalk facility and other similarly situated power plants without cost recovery. We believe our proposed amended language provided in our October 9, 2013 comments and our suggested revision explained in this supplemental comment letter are essential to make clear the ARB’s intent and reach the goal of enforcing a fair and effective program that lowers the emissions of greenhouse gases into our atmosphere.

Thank you for this opportunity to provide initial comments. We look forward to working with you to resolve this important issue.

Sincerely,



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Director of Regulatory Affairs, West

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