



Association of California Water Agencies
910 K Street, Suite 100,
Sacramento, California 95814-3577
916.441.4545 FAX 916.325.4849

Hall of the States
400 N. Capitol St., N.W., Suite 357 South,
Washington, D.C. 20001-1512
202.434.4760 FAX 202.434.4763
www.acwa.com

December 15, 2010

California Air Resources Board
Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814
Submitted electronically to: <http://www.arb.ca.gov/lispub/comm/bclist.php>

RE: Amendments to the Regulation for Mandatory Reporting of Greenhouse Gas Emissions

To Whom It May Concern:

The Association of California Water Agencies (“ACWA”) appreciates this opportunity to comment on the California Air Resources Board’s (“ARB”) proposed amendments to the mandatory reporting requirements of greenhouse gas (GHG) emissions that were made available for public review and comment on October 29, 2010.

ACWA represents nearly 450 urban, rural and agricultural water districts throughout the diverse state of California. ACWA is the largest coalition of public water agencies in the country, and together our members are responsible for 90% of the water delivered to communities, farms and businesses in California. ACWA member agencies operate water conveyance facilities, drinking water storage reservoirs, and wastewater treatment facilities throughout the state. From legislation, to regulatory compliance, to broader policy issues, ACWA is a respected advocate for California’s public water agencies. A number of our members currently report under the California Air Resources Board (ARB)’s Mandatory Reporting Regulation, and we appreciate the opportunity to offer comments on these proposed amendments.

ACWA’s primary comments are as follows:

- The regulation should exclude biomass CO₂ emissions for consistency with the Federal rule and the cap-and-trade program.
- Facilities without a cap-and trade-compliance obligation should not be subject to third-party verification requirements.
- We support the deletion of the cogeneration reporting category.

- We concur with the rule's exclusion of fuel cell emissions from mandatory reporting requirements.

Additional detail on these comments is provided below.

The regulation should exclude biomass CO₂ emissions for consistency with the Federal rule and the cap-and-trade program.

ARB has indicated that its intent in revising the state mandatory reporting rule is to align with the requirements of the Federal mandatory reporting rule adopted by the U.S. Environmental Protection Agency and the proposed cap-and-trade program. Section 98.2(b) of the Federal rule states that to calculate emissions, stationary fuel combustion units are to "Exclude carbon dioxide emissions from the combustion of biomass, but include emissions of CH₄ and N₂O from biomass combustion." This distinction stems from their exclusion of biogenic emissions, defined as follows: "Biogenic CO₂ means carbon dioxide emissions generated as the result of biomass combustion from combustion units for which emission calculations are required by an applicable part 98 subpart." Consistent with this approach, the proposed cap-and-trade regulation also excludes biomass emissions from compliance obligations. Therefore, if ARB is truly seeking consistency between the state mandatory reporting program, the Federal mandatory reporting rule, and the cap-and-trade program, it should exclude biomass emissions from reporting requirements.

Facilities without a cap-and-trade compliance obligation should not be subject to third-party verification requirements.

In the amended regulation, ARB has proposed a streamlined reporting process for facilities emitting under 25,000 tonnes per year and has not required third-party verification for these facilities. In its Notice of Public Hearing for the proposed changes, staff states that, "This will minimize costs while providing ARB a means of monitoring what is happening 'below the cap' for the cap-and-trade program." This implies that a primary purpose of the rigorous reporting and verification is to support the cap-and-trade program, and that facilities outside the cap warrant a different set of reporting procedures that still provide information, but is less costly. Consistent with this approach, we recommend that all facilities without a cap-and-trade compliance obligation be exempt from verification requirements, regardless of whether they are over or under the 25,000 tonne threshold.

All of the wastewater treatment facilities reporting under the current regulation have reported a combination of fossil fuel emissions and biomass emissions. While the total of this combination may be greater than 25,000 tonnes per year, emissions associated with biomass do not generate a compliance obligation under the cap-and-trade regulation as proposed. Therefore, these facilities do not trigger into the cap, but according to the proposed amendments to mandatory reporting, they still require third-party verification. If exclusion for biomass emissions is not added, we suggest that the regulation language be modified to allow all facilities without a cap-and-trade compliance obligation to report under the streamlined reporting requirements, even if they exceed 10,000 tonnes per year. At a minimum, we believe facilities without a compliance obligation should not be required to undertake third-party verification.

ACWA supports the deletion of the cogeneration reporting category.

Several wastewater treatment agencies were subject to reporting under the current regulation because they operate cogeneration facilities with a nameplate capacity greater than 1 MW and have emissions greater than 2500 metric tonnes per year. This reporting requirement placed a significant administrative and cost burden on these public agencies, whose emissions were barely over the 2500 ton mark. We therefore strongly support the removal of this reporting category. This change will remove a disincentive associated with cogeneration, which runs counter to the state's goals of increasing efficient combined heat and power capacity.

ACWA concurs with the rule's exclusion of fuel cell emissions from mandatory reporting requirements.

Several ACWA members in the wastewater sector currently operate fuel cells fueled by digester gas, and others are contemplating their installation as a way of generating clean renewable energy. We agree with ARB's conclusion that emissions from fuel cells are relatively insignificant, as stated on page 71 of the Initial Statement of Reasons for Rulemaking. Accordingly, we support the rule's exclusion of fuel cell emissions from mandatory reporting requirements.

This concludes our comments. Once again, ACWA appreciates this opportunity to provide comments. Thank you for your consideration. If you have any questions, please contact ACWA Energy and Climate Change Specialist, Scott Hernandez, at (916) 441-4545 or via email at scotth@acwa.com.

Sincerely,



Mark S. Rentz
Director of Regulatory Affairs