Solid Waste Industry for Climate Solutions

California Biomass Energy Alliance
City of Sunnyvale
County Sanitation Districts of Los Angeles County
OC Waste & Recycling
National Solid Waste Management Association
Norcal Waste Systems
Regional Council of Rural Counties
Republic Services
Waste Connections
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September 2, 2009

Jon Costantino
Office of Climate Change
California Air Resources Board
P.O. Box 2815
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Via Email: ccworkshops@arb.ca.gov
jcostant@arb.ca.gov

Subject: Fees for Sources of Greenhouse Gas Emissions

Dear Mr. Costantino:

The Solid Waste Industry for Climate Solutions (SWICS) is an informal collaboration of public and private organizations that provide solid waste and recycling services in California and throughout North America.

Thank you for holding the workshop on Tuesday, August 25, 2009 regarding the proposed further modifications to the proposed regulations to establish a fee on source of greenhouse gas emissions in California (fee regulations). We have reviewed the April 17, 2009 proposed regulation as well as the concept papers that were recently posted on your website regarding possible future changes to the proposed regulations. We understand that you are asking for further comments on these documents by Wednesday, September 2, 2009 to be considered in the revised regulations you will be presenting to the CARB board on September 25, 2009 in Diamond Bar. SWICS appreciates the opportunity to comment further on the proposed regulations and the recent concept papers.

Electricity -- Applicability and Point of Regulation -- Biomass Energy

We understand that you are proposing to shift from fuels to MWh delivered to the grid as a basis for the GHG fee on electrical generating power plants and imported energy that serves the grid. SWICS believes that if this approach is used, the fuel source of the MWh should be taken into consideration – which we believe is your intent particularly with respect to biofuels (e.g., landfill gas and biomass) used to generate electricity. These fuels are generally considered biogenic, producing CO_2 emissions that are part of the natural carbon cycle, and are a vital component in meeting the renewable energy mandates of the State of California. As such, the use of these fuels should be encouraged without any additional financial barriers. However, the concept paper on this issue is not clear, nor were statements made in the workshop that the GHG fee would be applied to ***all*** electricity delivered to the grid. A number of SWICS members operate electrical generating facilities in California that use landfill gas or biomass as a source of fuel – rather than fossil fuels, although small amounts of fossil fuel, typically natural gas, may be used for purposes such as flame stabilization. We therefore request that the modifications to the proposed regulations clearly indicate that electricity provided to the grid from biomass or biogas sources, nor the incidental use of fossil fuel to support these operations, not be subject to the proposed GHG fee for electrical generation. *SWICS requests that the regulations contain specific provisions to ensure that these biomass sources of electrical power are exempt from the GHG fee provisions – both for electricity generated in California and for that imported from other states.*

GHG Fees on Natural Gas: Grid Electricity vs. Other Combustion

It is not clear from the existing proposed regulations and the concept papers how you will differentiate between natural gas used to generate grid electricity and natural gas used for other combustion purposes. As stated in the previously proposed regulations:

> 95201 (a)(1) - All public utility gas corporations operating in California. Fees shall be paid for each therm of *natural gas delivered to **any** end us*er. (Emphasis added)

However, now it appears that power plants that use natural gas to generate electricity will separately pay the fee based on MWh delivered to the grid. The GHG fee on electricity to the grid would appear to be based on the type of fuel used to produce the power to the grid and the MWh actually delivered – and would be paid by the electrical generating entity. For other entities that combust natural gas, it appears that the GHG fee will be charged to the utility that delivers the pipeline gas to the combusting entity – including entities that generated on site power or heat (but not to the grid), or who are co-generation facilities – as per the language of the previously proposed regulation.

For natural gas fueled electrical generation to the grid, this natural gas is usually provided by a public utility via a pipeline. Thus, it would not be appropriate for the fee to also be charged on the pipeline natural gas delivered to the electrical generating facility by public utility. We assume that the new revised regulations will contain provisions that allow the gas pipeline utility to *subtract* the natural gas they deliver to the electrical generating facility so as to not result in a double payment of fees (i.e., both by the pipeline utility and by the natural gas fueled electrical generating facility). Further clarification of this point would be much appreciated. *This is particularly important with respect to a similar parallel issue, discussed next, involving pipeline gas used as a transportation fuel.*

GHG Fees on Pipeline Natural Gas Used as Transportation Fuel

The previously proposed regulations and supporting documents appear to indicate that the intent of the regulations is to only impose the GHG fee on two types of transportation fuels: diesel and gasoline. However, the regulations as proposed appear to *also* impose the fee on at least one form of natural gas used for transportation fuels: *pipeline natural gas delivered in California*. A number of SWICS members increasingly rely on pipeline natural gas to fuel their fleets of compressed natural gas HD vehicles used for the collection of wastes and recyclable materials. This increased reliance on compressed natural gas vehicles is in large part due to their *beneficial impact on air quality* and *reduced emissions of greenhouse gases*. Recent carbon intensity pathways developed by CARB show that California or North American natural gas used as a fuel easily meets the 2020 goal of CARB's recently adopted Low Carbon Fuel Standard with a carbon intensity of almost 30% lower than gasoline and diesel.

Interestingly, another form of natural gas used as transportation fuel may or may not be subject to the new GHG fee; Liquefied natural gas (LNG). There does not appear to be a mechanism in the GHG fee regulation to impose the GHG fee on LNG that is trucked into California from other states (e.g., Arizona) for use as transportation fuel – which we support. However, LNG produced from pipeline natural gas *in California* (e.g., Clean Energy, Boron) would be subject to the GHG fee paid by the utility providing the pipeline gas to producer of LNG.

SWICS requests that the regulations be clarified to provide that pipeline gas that is metered separately and used to produce a low carbon transportation fuel *not be subject to the GHG fee*. Just as pipeline natural gas used to produce electricity to the grid needs to be subtracted from the total quantity of gas that the pipeline utility must pay a GHG fee (as discussed above), the regulations should provide that pipeline gas that is separately metered to provide transportation fuel should be deducted from the total quantity of natural gas for which the pipeline utility must pay a fee. *SWICS requests that the regulations be modified to ensure that GHG fees are not charged on any form of natural gas that is used for vehicle fuel.*

No GHG Fees on Biomass-derived fuels

SWICS has recieved some indication that it is not CARB's intent to impose GHG fees on any biomass-derived fuels at this time. However, the recent concept papers did not appear to address this issue clearly. *SWICS requests that CARB provide clear indication that these regulations will not impose GHG fees on any sources of biomass fuels, and any incidental fossil fuels required in their use, regardless of whether they are used for stationary power generation or for vehicle fuels.*

Thank you for the opportunity to provide these comments for your consideration. Please contact any one of the undersigned if you have questions.

Sincerely,

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