



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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Chief Engineer and General Manager

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Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, California 95812-2815

Dear Ladies and Gentlemen:

Comments on Amendments to the Regulation for the Cap and Trade Program

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate this opportunity to comment on CARB's Proposed Amendments to the Regulation for the Cap and Trade Program. The Sanitation Districts provide environmentally sound, cost-effective wastewater and solid waste management for about 5.7 million people in Los Angeles County and, in the process, convert wastes into resources such as reclaimed water, energy, and usable recycled materials.

The Sanitation Districts are very concerned that CARB staff removed from the discussion draft of the 15-day amendments, language in § 95852.2 that excluded from compliance obligations, "*Direct combustion of municipal solid waste with energy recovery in an existing permitted facility.*" We have not been provided with an adequate reason why this occurred. We therefore request that the language be re-inserted for the reasons described below.

By way of review, the CARB Board passed a resolution at the 12/16/10 Board Meeting requiring:

"the Executive Officer to determine and report back to the Board a mechanism to satisfy all the risk of emissions leakage and compliance obligations of existing municipal waste-to-energy facilities in the proposed cap and trade program."

Working to this end, the Sanitation Districts and Covanta Energy, have provided extensive analysis of the leakage to landfills that would occur if the three existing waste-to-energy facilities in the state were placed in the cap and trade program. The analysis rested on a determination that if the post-recycled waste received by the facilities were instead landfilled, there would be a net increase in greenhouse gas (GHG) emissions. All the calculations used in the analysis were very conservative. For example, regulatory defaults were used for collection

efficiency and methane soil oxidation. Values for collection efficiency and methane soil oxidation are very controversial with some saying these values are very low while others claim them to be higher than typical defaults. In this analysis, we remained conservative and used defaults that are consistent with the analysis CARB performed in estimating the AB32, 1990 landfill GHG emissions inventory, and in the Early Action Landfill Methane Reduction regulation. It is also consistent with defaults EPA has established for the NSPS for landfills and in many other documents, such as the Climate Action Registry Local Government Protocol and many of their offset protocols that rely on landfill methane avoidance. In addition to the basic analysis, many sensitivity analyses were performed (e.g., operating the landfill gas collection system operation past 70 years; a very conservative assumption), with all results pointing to the same conclusion; landfilling municipal solid waste that would otherwise be managed at a waste-to-energy facility, would result in a net increase in GHG emissions. Finally, as a further conservative measure, no credit was taken for additional GHG savings from post-combustion recycling and from avoided fossil emission from the utilities, which would normally be included in a true life-cycle analysis.

In addition to the life-cycle analysis, we also addressed the question of why post-recycled waste would instead be landfilled if the existing waste-to-energy facilities were in the cap and trade program. Essentially, the three waste-to-energy facilities have no ability to control the incoming municipal solid waste, so there would be no opportunity to reduce fossil-fueled CO₂ emissions, leaving the purchasing of allowances as the only option for meeting compliance obligations. Furthermore, these facilities cannot spread the cost of allowances to a consumer base since their customers would instead choose the cheaper option of landfilling, leading to a net increase in GHG emissions (as outlined above). Clearly, requiring waste-to-energy facilities to be included in the cap and trade program will have the unintended consequence of incentivizing landfilling, increasing GHG emissions. It would also have the unintended consequences of diverting funds local governments could use for municipal programs that support recycling or composting.

Some environmental groups have opposed providing an exclusion from compliance obligations for these three facilities on the basis that beneficial recycling and composting will be reduced, and GHG emissions will be increased due to the burning of plastics, but if disposed of instead, plastics would not decompose.

To the first point, waste-to-energy does not impact recycling or any other beneficial use of MSW, and in fact, these facilities complement these activities. The waste these facilities receive are post-recycled, or after any other beneficial use a region decides meets its diversion goals. If required diversion goals are increased, the waste-to-energy facilities would continue to receive waste that is post-recycled, but now meeting the higher diversion rates.

To the second point, it is correct that burning plastics creates anthropogenic CO₂ and landfills sequester plastics. However, the lifecycle analysis provided to CARB assumes these

facts, and yet the results consistently show that landfilling post-recycled waste instead of managing the same waste in a waste-to-energy facility results in a net increase in GHG. Also, bear in mind our analysis does not account for the fossil energy avoided due to managing the plastics, or any fossil-based MSW in a waste-to-energy facility, which would further increase the advantage waste-to-energy facilities have in reducing GHG emissions.

Conclusion:

Under the direction from the 12/16/11 Board Resolution, staffs of the Sanitation Districts, Covanta Energy and CARB have worked to find a mechanism to satisfy any compliance obligations of the three waste-to-energy facilities located in California. All the work and analyses pointed to an exclusion from compliance obligations as the best option. This was based upon analyses that demonstrated that placing waste-to-energy under a cap would have two consequences: first, placing a severe financial burden on the facilities; and second, incentivizing landfilling which would result in a net increase in GHG emissions. CARB had recognized this and developed language to exclude these facilities when the discussion draft of the 15-day amendments was released, but without explanation withdrew this wording when the draft changes were released. We request that this language be re-inserted and are willing to meet with CARB staff at anytime to resolve any remaining issues.

The Sanitation Districts appreciate the opportunity to comment on the proposed amendments to the Regulation. Please contact the undersigned at this office with any questions or comments.

Very truly yours,

Stephen R. Maguin

A handwritten signature in black ink, appearing to read "Frank R. Caponi", with a long horizontal stroke extending to the left.

Frank R. Caponi
Supervising Engineer
Air Quality Engineering
Technical Services Department

FRC:bb