



September 27, 2011

Clerk of the Board California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, California 95812

Subject: PROPOSED RULEMAKING TO CONSIDER THE ADOPTION OF A PROPOSED CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET- BASED COMPLIANCE MECHANISMS REGULATION, INCLUDING COMPLIANCE OFFSET PROTOCOLS – 2ND 15-DAY NOTICE

Dear California Air Resources Board:

On behalf of Republic Services, inc. (RSI), I am submitting comments on the CARB 15- Day Modifications to the Proposed Cap and Trade (C&T) Regulation issued September 12, 2011 for public comment. Because these regulations will have a significant impact on solid waste management, we appreciate the opportunity to submit these comments. Specifically, we are interested in the regulation's impact on the generation of renewable energy from waste and the advancement of technologies that will help us reduce greenhouse gas emissions at our facilities while promoting Renewable energy production.

Republic Services, Inc. provides non-hazardous solid waste collection services for commercial, industrial, municipal, and residential customers through 348 collection companies in 40 states. Republic also owns or operates 204 transfer stations, 193 solid waste landfills, and 76 recycling facilities. Republic solid waste handling and recycling services to millions of single family and multi-family customers under terms of contracts with more than 2,800 municipalities for waste collection and residential services. Many of these facilities operate in California.

Over the past three years, we have provided comments on the development of these Cap and Trade Regulations and we appreciate the efforts that the Board and staff have made to accommodate our concerns. However, before these draft regulations are finalized, we believe that there are several key concerns that require resolution so that we can continue to develop renewable sources of energy for California.

Removal of the Exemption for Fugitive Emissions from Landfills and Wastewater Treatment Plants

The exemption from a compliance obligation for landfill fugitive emissions and wastewater treatment plants has been removed in revised Section 95852.2 (b) paragraphs (4) and (5) on page A-105 of the 2nd 15-day notice proposal. We are very concerned that deleting this language is contrary to our previous understanding these fugitive emissions would not incur a reporting obligation.

While we are pleased that the CARB stated reason for this modification appears to recognize that there can't be a compliance obligation for emissions that will not required to be reported, that does not remove the need to make sure it is clear that there is no compliance obligations for fugitive emissions from landfills and wastewater treatment plants. Restoring the deleted language provide necessary clarity in the regulations.

With respect to landfill fugitive emissions, we specifically request that "Methane from Landfills" be added back into those fugitive emissions that are excluded from a compliance obligation in subdivision (b) of Section 95852.2 for the following reasons:

- It is virtually impossible to accurately measure fugitive emissions from landfills. Unless revised, the proposed regulations may impose a compliance obligation on emissions that cannot be accurately measured imposing an untenable regulatory burden on our facilities.
- CARB has already included fugitive methane emissions from landfills in a discrete early action measure, the Landfill Methane Control Measure Regulations. These regulations require owners and operators of certain uncontrolled MSW landfills to install gas collection and control systems, and existing and newly installed gas and control systems to operate in an optimal manner. These regulations represent the most stringent landfill methane control regulations in the country and there is no reason to impose an additional compliance obligation for fugitive landfill emissions.
- These regulations should provide an incentive to maximize the capture and beneficial use of biomethane as a replacement for fossil fuel. As currently written, these draft regulations may well provide a disincentive through multiple compliance and reporting obligations.

Similar arguments can be made for fugitive methane from waste water treatment plants. We ask that you restore the specific exemptions from a compliance obligation in Section 95852(b) for:


- Methane from Landfills, and
- CH₄ and N₂O from municipal wastewater treatment plants.

Prospective Invalidation of CARB Offset Credits – Offset Buyer/Seller Liability

We have strong concerns about ARB's "buyer liability" approach to addressing situations in which problems are identified with offset credits at some point after issuance. We believe the risk of such post-issuance problems is small because of the rigor of the ARB offset regulations. However, any policy under which already-issued offset credits carry a risk of invalidation will prevent the development of a market in offsets. In an offsets program, covered entities should be able to rely on the work of verifiers — and on ARB itself as credit issuer. For this reason, making covered entity buyers liable for problems not detected through the regulatory system will impose substantial new costs on buyers without materially reducing the risk that such problems will occur. We continue to believe that the risk that an offset can be invalidated eight years after its certification will undermine market stability and increase program costs. In our view, the State of California must stand behind its offset validation system and, absent fraud or intentional misrepresentation, stand behind a certified offset. This approach will provide the security essential for a strong and cost-effective Cap and Trade program.

Thank you for consideration of our comments.

Sincerely,


Anthony M. Pelletier, PE Frank R. Caponi
Director, Engineering & Environmental Supervising Engineer
Management, West County Sanitation Districts of Los
Republic Services Angeles County
(925) 201-5807

cc: Steve Cliff, Chief, Climate Change Program Evaluation Branch, ARB, scliff@arb.ca.gov
Mark Leary, Acting Director, CalRecycle, Mark.Leary@CalRecycle.ca.gov
Jim Boyd, Vice-Chair, California Energy Commission, c/o melliott@energy.state.ca.us
Sarah Michael, Advisor, California Energy Commission, smichael@energy.state.ca.us
Tim Olson, Advisory, California Energy Commission, Tolson@energy.state.ca.us