

California Wastewater Climate Change Group

October 2, 2009

Ms. Lucille Van Ommering
California Air Resources Board
Submitted online at <http://www.arb.ca.gov/cc/capandtrade/comments.htm>

RE: Combined Heat and Power (CHP) in a California Cap-and-Trade Program - Workshop September 9, 2009

Dear Ms. Van Ommering:

The California Wastewater Climate Change Group's (CWCCG) mission is to address climate change policies, initiatives, and challenges through a unified voice advocating for California wastewater community perspectives. Together, CWCCG treats over 90% of the municipal wastewater in California, including beneficial use of products such as biosolids and biogas.

As CWCCG Program Manager, I attended the California Air Resources Board's (CARB) September 9th workshop covering how the state's greenhouse gas (GHG) reduction Cap and Trade Program may address Combined Heat and Power (CHP) operations. The workshop was informative and generated good discussion between CARB and CPUC staff and attendees. We appreciate the effort CARB has made to provide an open process for stakeholder involvement.

CWCCG members are essential public services that rely on CHP units to beneficially provide heat and power for wastewater treatment processes. Most members utilize renewable fuels such as digester gas in their CHP equipment. CWCCG supports CARB's efforts to encourage CHP as a means for overall GHG reduction.

This letter reaffirms and elaborates on the verbal comments I provided at the workshop, and makes three requests of CARB with respect to CHP that cover the primary issues of concern to CWCCG:

- Exclude municipal wastewater from capped sectors under a Cap and Trade regulatory framework;
- Provide incentives for CHP, in particular CHP using renewable fuels; and
- Work towards reducing regulatory barriers to implementing CHP.

Each of these is addressed below.

1. **Exclude Municipal Wastewater Agencies from Capped Sectors under the State's GHG Cap and Trade Program**

CWCCG members have been working with CARB staff to exclude the municipal wastewater sector from Cap and Trade. The basis for this request is detailed in the attached CWCCG issue paper entitled "Municipal Wastewater Perspective on a California Greenhouse Gas Cap and Trade Program." This issue paper advances several compelling reasons why our sector should be excluded from a GHG Cap and Trade Program.

- **Wastewater is a "must manage" product of society that, for public health and safety reasons, has long been considered an essential public service.** By way of example and precedent, the South Coast Air Quality Management District's Rule 1302 defines "essential public services" as including publicly owned or operated sewage treatment facilities.

- **Essential public services such as wastewater agencies have limited ability to curtail their operations (in terms of volume or quality) due to the health and safety services they provide and the strict water quality regulations under which they operate.** In fact, as population increases and water quality regulations become more stringent, wastewater agencies must increase service levels, treating more wastewater using more advanced treatment techniques. Notably, all major GHG regulatory programs implemented to date around the world exclude biogenic emissions from regulation—the majority of emissions from wastewater treatment systems are biogenic. Please note that while it is important to wastewater agencies that biogenic emissions be exempt from a facility's emissions inventory, CWCCG believes this policy decision can be made independent of the decision on how to address wastewater in a Cap and Trade Program, and we believe the reasons to exclude wastewater from capped sectors stand on their own.
- **Essential public services have budget cycles, purchasing processes, and related limitations that are incompatible with market-based compliance systems.** GHG and other air pollutant allowance markets in California and in Europe have exhibited the profound price volatility that would be difficult, and in some cases, impossible for CWCCG members to efficiently respond to.

In addition to the rationale presented above, the following reasons to exclude municipal wastewater utilities from capped sectors under a GHG Cap and Trade program relate directly to the state's goal of expanding the CHP capacity.

- **The municipal wastewater sector has significant potential to expand its use of CHP that will be greatly diminished, if not eliminated under a declining emissions cap where utility managers will be focused on minimizing emissions and keeping funds in reserve for allowance purchases, not on expanding CHP potential with its attendant emissions increases.** The County Sanitation Districts of Los Angeles County addressed these and related issues in detail in its Comments on the California Energy Commission's (CEC) Draft Report: Combined Heat and Power Potential at California's Wastewater Treatment Plants (09/18/09—see attached).
- **For many CWCCG members who would not otherwise reach the proposed emission threshold for inclusion in the Cap and Trade Program, installing or expanding their reliance on CHP would increase their emissions such that they would fall under the program, creating a strong disincentive to CHP use at their facilities.**

2. Provide Incentives for CHP, Including Renewable Fuels

The CARB has an important opportunity in its crafting of the Cap and Trade program and structuring of CHP provisions to include explicit incentives to promote use of CHP equipment and otherwise generally foster CHP development and implementation. As noted above, CWCCG members have significant opportunity to expand their use of CHP, if excluded from Cap and Trade, by increasing their reliance on renewable fuels such as digester gas, landfill gas, and biosolids. The County Sanitation Districts of Los Angeles County's letter referenced above provides examples of these options.

Specifically, making these renewable energy CHP applications eligible for offsets under Cap and Trade will do a great deal to encourage their adoption. An example of a mechanism that accomplishes this is the precedent established by the Western Climate Initiative which, for Mandatory Reporting, gives any facility implementing a renewable fuel CHP project a credit for averting fossil fuel use, which then is factored into their emissions inventory. We support this approach and encourage the exploration and consideration of other incentives as appropriate.

3. Reduce Regulatory Barriers to Implementing CHP

Local regulations in several air districts have discouraged use of renewable energy-fueled CHP applications through prohibitively strict emissions requirements. Such approaches to reduce criteria pollutants can force wastewater utilities to resort to flaring instead of using gas for CHP. The CEC's

report on CHP potential at wastewater treatment plants referenced above acknowledges the regulatory constraints restricting the expanded use of digester gas combustion devices. The County Sanitation Districts of Los Angeles County's letter referenced above lists additional specific regulatory hurdles to implementing CHP at wastewater treatment facilities (see page 3).

The workshop materials listed the agencies with which CARB plans to coordinate on implementation of the CHP goals, however, the local AQMDs are not listed. They must be included in crafting the CARB's CHP program so that all critical CHP implementation barriers can be identified, mitigated via AQMD rule revisions and/or waivers, or superseded by the CARB program as needed.

It should be noted that members of CWCCG have worked with CARB, Integrated Waste Management Board, and State Water Board officials over the past two years to develop a template to help resolve cross-media issues. It is recommended that this template be consulted as any new regulations are developed.

An additional and significant regulatory barrier is the CEQA program, which now has the added element of GHG review. CWCCG believes that CHP projects, and especially those that utilize renewable fuels, should have available a streamlined CEQA path. It does not make sense that a facility could develop a CHP project that produces significant amount of energy and reduces GHG emissions, but cannot be built because of the regulatory hurdles that exist in the CEQA program.

Thank you again for the opportunity to provide written comments on the workshop materials and discussion. Please contact me if you have any questions at (510) 206-3820 or jkepke@ch2m.com. We would welcome the opportunity to meet with you to further discuss the wastewater community's position on Cap and Trade.

Sincerely,



Jackie Kepke, P.E.

Program Manager

California Wastewater Climate Change Group

Attachments

1. "Municipal Wastewater Perspective on a California Greenhouse Gas Cap and Trade Program"
2. County Sanitation Districts of Los Angeles County Comments on the California Energy Commission's Draft Report: Combined Heat and Power Potential at California's Wastewater Treatment Plants

Cc: Michael Colvin, California Public Utilities Commission
DeeDee D'Adamo - California Air Resources Board
Dave Mehl - California Air Resources Board
Gary Collord - California Air Resources Board
Brieanne Aguila - California Air Resources Board
Manpreet Mattu - California Air Resources Board
Pramod Kulkarni, California Energy Commission