

September 9, 2009

The Honorable Barbara Boxer
Chairman, Committee on Environment and Public Works
U.S. Senate
Washington, D.C.

The Honorable James Inhofe
Ranking Member, Committee on Environment and Public Works
U.S. Senate
Washington, DC

Re: Performance Standards and American Clean Energy and Security Act of 2009

Dear Chairman Boxer and Ranking Member Inhofe:

We appreciate your work in considering a climate change policy for the United States. We wanted to bring to your attention a key issue surrounding the imposition of inefficient command-and-control performance standards on certain uncapped greenhouse gas sources.

The cap-and-trade bill recently passed by the House of Representatives – the American Clean Energy Security Act of 2009 (ACES) – would require EPA to impose command-and-control performance standards on fugitive methane emissions sources such as coal mines, natural gas systems, and landfills, making landfills ineligible to create offsets that could be used to comply with emissions targets. These sectors have been expected to be a critical source of offset supply – and thereby cost containment – during the early years of the climate program when other emission reduction options will be limited.

In addition, the performance standards would impose very high costs on small landfills, many of which are operated by financially stressed municipalities facing severe budget constraints.

We are a group of companies and associations that have a strong interest in this issue. We include:

- An association with 8,000 members from public and private sector organizations that own or operate over half of the Nation's landfills, including the majority of the Nation's municipal landfills;
- The leading association in the United States promoting the recycling of organic materials through composting;
- Companies that would be regulated under a cap-and-trade program and seek to rely on offset credits for cost containment purposes; and

- Companies with extensive experience in methane measurement technologies and offset project development.

We urge you to reconsider this provision, and instead encourage emissions reductions from this sector by allowing landfills to participate in the offsets market.

A missed opportunity: Loss of cost-effective emission reductions

Under Section 331 of ACES, adding Section 811 to the Clean Air Act, it could take up to 7 years to implement performance standards for these sources. During those years, landfill operators will have no incentive to install an expensive system to capture emissions, which would result in the loss of significant cost-effective offset opportunities.

According to the EPA's Landfill Methane Outreach Program, there are approximately 200 open landfills without gas collection systems and flares in place. The average landfill in this pool could produce 40,000 tons CO₂e per year, resulting in 8,000,000 tons of cost-effective emission reduction opportunities wasted per year (or 56,000,000 tons CO₂e over 7 years).

Indeed, EPA itself has recognized the value and integrity of landfill methane offset projects. The first offset project that EPA approved under its Climate Leaders Program was the Clinton County Landfill Methane Project located near Plattsburgh, NY.

High costs for small landfills

By regulating landfills rather than allowing them to create offsets, the performance standard eliminates the opportunity for landfills to pay for expensive emission capture systems by selling emission reduction offset credits. It can cost a landfill between \$500,000 and \$1.5 million to install a methane capture and destruction system. Most of the landfills that would be affected by this standard are smaller facilities; many are municipal landfills. (In fact, 60% of the open landfills without gas collection systems are publicly owned.) In these tough economic times, financially-strapped municipalities would be forced to recover the costs of an EPA-required methane capture system in the form of increased tipping fees or municipal bonds, imposing higher costs on citizens.

Further, targeting smaller emission sources produces few environmental gains to justify the high cost. ACES generally uses the production of 25,000 or more metric tons of CO₂e per year as the threshold for including a source within the emission cap. The EPA has stated that simply requiring emissions *reporting* from sources generating less than 25,000 metric tons of CO₂e per year “would do little to further the objectives” of a GHG emissions reporting program and result in a “more burdensome reporting requirement”.¹ In fact, the EPA approximates that reducing the reporting threshold for an emissions

¹ “Mandatory Reporting of Greenhouse Gases; Proposed Rule,” 74 Fed. Reg. 16448, 16468 (April 10, 2009).

registry to 10,000 metric tons effectively doubles the number of facilities affected, while improving the national scope of emissions coverage by only 1%.²

In addition, according to news reports,³ EPA's proposal for new regulations for the Clean Air Act Prevention of Significant Deterioration (PSD) program would only affect facilities with emissions of 25,000 tons per year or more. Under the Clean Air Act, the threshold for PSD coverage of a facility is 250 tons. Yet, the Agency's proposed "tailoring" rule would increase that threshold all the way up to 25,000 tons. This is more evidence that EPA itself has concluded that command-and-control regulation of sources with emissions less than 25,000 tons is not a sensible policy. Although *some* sources within the affected sectors can generate cost-effective emission reductions, and would therefore implement methane capture offset projects, an across the board performance standard would be costly and inefficient.

Loss of cost containment in critical years

In its analysis of ACES, the EPA projects that these performance standards – which would also impact natural gas systems and coal mines – would decrease domestic offset supply by 45% and increase allowance prices by 9%. This would be particularly costly in the early years of the U.S. program, when a robust supply of offsets is needed most as the economy attempts to adjust to an economy-wide cap-and-trade system and emission reduction options are limited. There is significant experience implementing offset projects at the types of sources that the House bill would regulate with performance standards. These projects could be developed and implemented rapidly, helping to reduce the potential for allowance price volatility.

Recommendation

We strongly believe that inefficient command-and-control performance standards should be avoided. Small, municipal landfills should be eligible to produce emission reductions as revenue-generating offset projects – thereby allowing market mechanisms to drive cost-effective collection of this fugitive methane. As a result, capped entities will be able to meet their compliance obligations at lower costs, reducing the cost of the entire cap-and-trade program. Additionally, municipalities will avoid having to pay for expensive methane capture systems with no method of recovering their costs other than burdening their citizens. In the end, citizens will be the ultimate beneficiaries as offsets credits generated from these projects will result in lower costs across the entire U.S. economy under a cap-and-trade program.

We thank you again for your dedicated efforts to craft climate change legislation, and truly appreciate your consideration of this critical issue.

² Ibid.

³ "CLIMATE: EPA proposal could shield small emission sources," GREENWIRE, Sept. 1, 2009.

Sincerely,

Carbon Offset Providers Coalition (COPC)

Coalition for Emission Reduction Projects (CERP)

Participating members:

American Electric Power

C-Quest Capital

Camco Global

Deutsche Bank

DTE Energy Company

EcoSecurities

El Paso Corporation

Equator LLC

Natsource LLC

PG&E Corporation

Blue Source

C-Trade

Deere & Company

Dominion

Duke Energy

Element Markets

Environmental Credit Corporation

Leaf Clean Energy Company

Noble Carbon Credits

Verdeo Group

ITT Space Systems

Sage Metering, Inc.

Sanborn, Head & Associates, Inc.

SCC Americas (a Sindicatum Carbon Capital Company)

Solid Waste Association of North America (SWANA)

U.S. Composting Council

Cc: Members of the United States Senate
Carol Browner, White House Coordinator for Energy and Climate Policy
Nancy Sutley, Chair, Council on Environmental Quality

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