



WASTE MANAGEMENT

Public Affairs

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June 11, 2007

Brad Musick
Air Quality Bureau
New Mexico Environmental Department
2048 Galisteo Street
Santa Fe, New Mexico 87505

Via Email: brad.musick@state.nm.us

Subject: Proposed Greenhouse Gas Reporting Regulations

Dear Mr. Musick:

Waste Management (WM) appreciates the opportunity to provide input to the New Mexico Environmental Department (NMED) regarding the proposed Greenhouse Gas (GHG) Reporting Regulations. We understand that you are requesting comment prior to June 13th that will be submitted to the New Mexico Environmental Improvement Board (NMEIB) by June 18th.

WM supports the underlying goals of the program to both measure greenhouse gas (GHG) emissions and to provide a basis for future GHG reduction efforts by New Mexico in concert with the Western Regional Climate Action Initiative and other emerging regional, national and international programs. We commend the hard work and creativity of your staff in developing the proposed regulations.

As the nation's largest provider of solid waste and recycling services and a leader in waste-based renewable energy production, Waste Management is a major stakeholder in public policy development addressing climate change. WM was the first environmental services sector company to join the California Climate Action Registry, and is also a founding member of the Chicago Climate Exchange (CCX), the nation's first voluntary industry market for trading of GHG reduction credits. We have committed to making a 6% reduction from our baseline emissions by 2010. In exchange, we have participated in developing and implementing methods for inventorying, documenting and verifying GHG emissions and reductions, so that we can present credible, understandable and verified information to the public and to buyers of our emission reduction credits.

Based on our experience as a GHG offsets developer and trader, we wish to offer some suggestions for further modification of your proposed rules.

Differentiating Between “Anthropogenic” and “Biogenic” Emissions

The regulations should distinguish, or provide reporters with the opportunity to distinguish, the difference between anthropogenic and biogenic sources of emissions. For example, a Waste-to-Energy power generating facility may derive a portion of its power and subsequent emissions from the combustion of fossil fuel derived materials (e.g., plastics, man-made synthetics, etc.). However, a larger portion of the energy and emissions are derived from the biogenic components of waste stream (yard trimmings, food wastes, paper wastes, etc.) that are widely considered by most GHG protocols to be biogenic in nature. That is, the energy and emissions are produced by the conversion of renewable materials that are part of the natural carbon cycle. All national and international protocols that we are familiar with recognize the considerable difference between anthropogenic and biogenic GHG emissions. While anthropogenic emissions are to be discouraged and reduced, biogenic sources of energy are to be encouraged and expanded.

Recognizing GHG Reduction “Sinks” and “Offsets” as well as Emissions

Waste Management believes that recognizing opportunities for reducing and offsetting GHG emissions are key to making a GHG reporting program a success. Not only do human activities result in “anthropogenic” sources of GHG emissions, but may also result in anthropogenic “sinks” that reduce GHG emissions. An example of this is carbon sequestration in modern state-of-the-art landfills. Not only do such landfills have the potential to emit GHG emissions (principally methane from the anaerobic decomposition of organic matter), but also the act of storing organic waste in an anaerobic landfill environment can result in significant organic matter sequestration or reduction in CO₂ emissions compared to what would otherwise have occurred.

Both the Intergovernmental Panel on Climate Change (IPCC) and the U.S. Environmental Protection Agency (EPA) recognize and account for carbon sequestration of biogenic materials in landfills. For example, EPA as part of its annual national reporting of GHG emissions to the United Nations (Inventory of U.S Greenhouse Gas Emissions and Sinks) includes a calculation of the negative net emissions associated with land filling forest products, yard trimmings and food wastes. Opportunities should be provided for reporting both GHG emission “sinks” as well as “sources”.

In addition, opportunities should be provided for reporting entities to report on GHG reduction offset projects that they have implemented or to which they have acquired the rights. Of course, such offset reductions must be real, additional, independently verifiable, permanent, enforceable, and transparent as those terms are defined and used in developing GHG reporting protocols. Towards this end, we request that the proposed regulations allow for the reporting of offsets to the extent they are reported in accordance with protocols approved by NMED. Within the waste management sector, if we are ever required to report, we hope that NMED would provide the opportunity for reporting and potentially crediting offsets from use of biomass, waste-to-energy, conversion of heavy-duty trucks to alternative fuels, use of landfill gas to produce energy or fuels that replace fossil fuel, and recycling.

Notwithstanding any potential requirement to do so, WM expects to report its entity-wide GHG emission sources, sinks and offsets within the State of New Mexico in the very near future.

Proposed Rules and WM Recommendations

We understand that you will be submitting two sets of regulations for consideration by the NMEIB:

- New PART 87 -- GREENHOUSE GAS EMISSIONS REPORTING, and
- Revisions to existing PART 73 -- NOTICE OF INTENT AND EMISSIONS INVENTORY REQUIREMENTS.

PART 87 -- GREENHOUSE GAS EMISSIONS REPORTING

Proposed New Part 87 currently deals only with GHG reporting from:

- Electrical generating units greater than 25 MW,
- Petrochemical refining facilities, and
- Cement manufacturing facilities.

Thus, Part 87 does not appear to affect Waste Management's current operations in New Mexico – which is supported by clear evidence that waste management facilities emit very low levels of GHGs and emissions from waste management operations have been reduced significantly over the past few decades due to improved waste management practices, including better landfill design, increased recycling and enhanced recovery of energy from waste.

However, as a matter of principle, we wish to comment that *fossil fuel* based electrical generating facilities should be the primary object of concern addressed by the proposed regulations – and more broadly -- that anthropogenic GHG emissions should be clearly differentiated from biogenic or renewable emission sources. To make this distinction, we suggest modifying the proposed regulation as follows to focus only on anthropogenic sources:

20.2.87.200 APPLICABILITY

A. The following shall report **anthropogenic** greenhouse gases **emissions** under this Part, with 2008 as the first greenhouse gas reporting year.

Alternatively, if NMED believes that all sources of emissions, both anthropogenic and biogenic (renewable) sources of emissions should be reported then the reporting protocol should allow reporting entities to distinguish between biogenic and anthropogenic sources – as well as offsets. For example, a 25 MW power plant may use 10% fossil fuel (e.g., natural gas) and 90% biomass fuel. The biomass (or biogenic) emissions must be allowed to be differentiated from the fossil fuel (or anthropogenic) emissions. Further, the portion of the power generated using the biomass fuel should be reported as a GHG offset for avoided fossil-fuel emissions by an alternative biogenic source of electrical power. The following modification would be an acceptable alternative to that suggested above:

20.2.87.201 GREENHOUSE GAS EMISSIONS REPORTING REQUIREMENTS

D. In reporting greenhouse gas emissions, the owner or operator of the reporting facility may distinguish between anthropogenic and biogenic emissions, as well as any emission offsets, sinks or credits that may be attributable to the facility through protocols accepted by the Department.

PART 73 --NOTICE OF INTENT AND EMISSIONS INVENTORY REQUIREMENTS

Amendments to Part 73 are much more broadly worded and would give authority to NMED to potentially require GHG emission reports from *any* source of GHG emissions in the state of NM. The regulations provide that NMED must allow public comment prior to requiring a source to file a GHG emission report under this section.

While these proposed amendments focus on "emissions" they do not appear to recognize "sinks" or "emission offsets". This could adversely impact a reporting entity that has verified GHG offsets or emission sinks – as well as emissions. For example, solid waste landfills are considered to be a means of sequestering carbon as well and generating GHG emissions. Although landfills are not currently considered to be a significant source of emissions warranting reporting at this time, if ever required to do so, landfill operators would wish to report verified carbon sequestration as well as GHG emissions. Similarly, GHG reduction credits may be attributed to biogenic sources of energy – such as landfill gas to energy (LFGTE) projects. A landfill operator with a LFGTE system would likely wish to report the GHG offsets attributable to the LFGTE system to the extent they are verified in accordance with protocols acceptable to NMED.

For the above reasons, we suggest the following modifications to the proposed amendments to Part 73:

20.2.73.300 EMISSION INVENTORY REQUIREMENTS:

B. Reporting requirements.

(9) . . .

- (b) emissions quantification standards and best practices approved or recommended by federal and state agencies, by greenhouse gas emissions registries, and by non-governmental bodies having expertise in *the quantification of greenhouse gas emissions sources, sinks and offsets quantification*.
- (c) the level of contribution *or reduction* of greenhouse gases from the source, ~~sink~~, ~~or~~ source type, *sink type or offset*; and
- (d) the relative contribution of specific greenhouse gases to the total greenhouse gas emissions *or sinks* from the source, ~~sink~~, ~~or~~ source type, *sink type or offset*.

We look forward to continuing to work with you and your staff to develop a successful GHG reporting program for New Mexico that will be viewed as model for the rest of the country to

follow. If you have any questions, please feel free to contact me at the letterhead address and telephone number. My email address is cwhite1@wm.com.

Sincerely,

Original Signed by:

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