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**June 9, 2009**

**U.S. Environmental Protection Agency  
EPA Docket Center (EPA/DC), Mail Code 6102T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
Via Electronic Mail: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov)**

**Attention Docket ID No. EPA-HQ-OAR-2008-0508**

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the proposed rulemaking to establish a national greenhouse gas reporting regime. NACWA's public wastewater treatment agency members treat and reclaim a majority of the wastewater generated each day nationwide and are committed to ensuring that they minimize the impacts of their operations on the environment. As concerns over climate change have increased in recent years, clean water agencies are working to ensure that they manage the energy and resources they use even more efficiently and look for ways to decrease their carbon footprints. Though emissions from the municipal wastewater treatment process are minimal when compared to other sources, clean water agencies continue to look for ways to offset their resource demands through the use of biogas for facility heating and electricity generation, and other energy conserving measures.

EPA has estimated that emissions from publicly owned wastewater treatment plants (POTWs) do not exceed the rule's threshold and are therefore not included in the proposal, and NACWA agrees with this decision. NACWA's members operate various types of units that could potentially be covered under the proposal's stationary combustion category, however. Accordingly, NACWA has reviewed the proposed rule and has met with EPA to seek clarifying information regarding the applicability of the rule to wastewater treatment plants and the stationary combustion sources located at those plants.

### **General Comments**

In the proposed rule, EPA makes a distinction between biogenic and anthropogenic emissions, and NACWA agrees that only anthropogenic emissions should count towards the reporting threshold.

NACWA believes that EPA's schedule for implementing the proposed reporting rule may be too ambitious. With data collection slated to begin on January 1, 2010 and

the first report due March 31, 2011, there will be little time to establish the systems necessary to facilitate the reporting and ensure that those systems are running reliably. More importantly, covered entities will have little if any time to analyze the final rule before they are expected to begin collecting data. It will be several months, well into the Fall of 2009, before EPA can address public comments on the proposal and issue a final rule. NACWA understands that the California Air Resources Board used the first year of its reporting regime as a trial run to roll out its program, and recommends that EPA consider doing the same. If these reports are to be used as the basis for a future cap-and-trade program, the initial set up of the reporting system must be done carefully.

The current proposal contemplates a 'once in, always in' approach to reporting. If a facility trips the threshold once, it will always be required to report. NACWA believes this type of provision is counterproductive to the ultimate goal of EPA's climate programs – to reduce greenhouse gases. NACWA recommends that the proposal include an opt-out provision for facilities that reduce their GHG emissions below the threshold in the future. California's program allows facilities to discontinue reporting if they are below the threshold for three consecutive reporting cycles. Some of NACWA's members are undergoing plant upgrades or other enhancements that will dramatically reduce their GHG emissions in the next few years. While they may trip the threshold now, they are targeting an annual emissions rate many times smaller in the near future. These facilities should be able to demonstrate that they are below the threshold and opt out of future reporting unless, for some unanticipated reason, they increase emissions and trip the threshold.

### Wastewater Treatment Process

NACWA commends the Agency for its comprehensive technical evaluation of the greenhouse gas emissions from wastewater treatment plants (Wastewater Treatment Technical Support Document, EPA-HQ-OAR-0508-035). NACWA has worked over the past few years to help EPA refine the estimates for the wastewater treatment category in its *Inventory of U.S. Greenhouse Gas Emissions and Sinks* and believes that based on current confirmed information and estimation methodologies, the Agency has made the correct determination that no municipal wastewater treatment plant will trip the reporting threshold, on the basis of the emissions from the treatment process, and therefore should be excluded from the reporting rule.

NACWA along with the Water Environment Research Foundation (WERF) are working on independent but coordinated efforts to increase our understanding of the actual emissions from the wastewater treatment process. We hope that future results from this work will further inform EPA's efforts on the *Inventory* and the reporting rule.

### Stationary Combustion Sources

Many wastewater treatment plants operate units that would fall under the rule's definition of stationary combustion source and NACWA has reviewed in depth these sections of the proposal. Based on this review, NACWA offers the following comments and requests for clarification.

1. Clearer instructions should be provided indicating when a facility is required to calculate its emissions for comparison against the threshold. The process of calculating a facility's emissions is not trivial and many clean water agencies have multiple facilities that would require separate calculation.

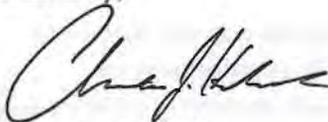
- a. Specifically, in Subpart A, General Provisions, additional clarity is needed to differentiate between two of the three applicability paragraphs, 98.2(a)(2) and (a)(3). NACWA understands from conversations with EPA that if a POTW does not have a maximum rated heat input capacity greater than 30mmBtu/hr, then it does not have to calculate its emissions to compare against the threshold. This is not clear from the regulatory text or the preamble.
  - b. It is unclear which applicability paragraph would apply for a POTW that may be generating a small amount of electricity using biogas. This would seem to fall under 98.2(a)(2) and the electricity generation source category, no matter what quantity of electricity is being produced (98.2 (a)(3)(i) excludes any facility with a source category listed in (a)(1) or (a)(2)). We understand this to mean that the 30mmBtu/hr heat input capacity threshold would not be relevant in this case and the facility would have to calculate its emissions regardless of its heat input capacity.
2. NACWA understands that if a facility has a maximum rated heat input capacity greater than 30mmBtu/hr, then it must calculate its greenhouse gas emissions to determine if the facility exceeds the threshold. Based on NACWA's review, there is no information on the documentation such a facility would have to maintain if it determines that the facility does not exceed the 25,000 mt CO<sub>2</sub>e threshold after completing the calculations.
3. Since the reporting rule is being developed using EPA's Clean Air Act authority, the rule will be an "applicable requirement" under future Title V operating permits. In order to sustain "reasonable inquiry" into the facility's compliance with the GHG reporting requirement or the facility's claim of exemption based on not crossing the 25000 metric ton threshold, it may become necessary to document an annual estimate with most of the same detail and rigor required to support actual reporting.
4. NACWA believes that EPA should consider using a quantity of fossil fuel consumed as the threshold for deciding what facilities need to calculate their emissions. The 30 mmBtu/hr requirement to estimate is apparently based on a type of "potential to emit" assumption that all stationary combustion equipment uses fuel which contributes substantial CO<sub>2</sub>e emissions. Many wastewater treatment plants, especially those with sewage sludge incinerators, will have a fairly large heat capacity, but few are likely to exceed the reporting threshold due in large part to the use of biogas and heat released during combustion of biomass to minimize the use of auxiliary fossil fuels. Use of a fossil fuel quantity burned threshold rather than heat capacity would minimize the burden for the facilities EPA intended not to include in the reporting rule.
5. NACWA agrees that CO<sub>2</sub> emissions from the combustion of biomass and biogas should not be included in the threshold determination.
6. Additional clarification is needed on the scope of the combustion units that must be included. Are units that are currently considered insignificant activities under Title V required to be included? For example, are small boilers or furnaces using natural gas to heat office space required to be included when calculating total facility emissions for comparison against the threshold?

7. EPA should provide more detail or specific examples in its definition of biomass. NACWA believes based on its reading of the proposal that biosolids or sewage sludge would be considered a biomass fuel, but it is not absolutely clear that this is consistent with EPA's intent.
8. NACWA recommends that EPA provide additional flexibility and guidance for using actual emissions data to calculate emissions. Many of the factors included in the proposal could be debated or changed, and NACWA believes that many POTWs may have additional information on their combustion units that could provide for more accurate estimates. For example, a number of POTWs will be conducting tests to determine N<sub>2</sub>O emissions associated with the burning of biomass. POTWs should be allowed to use the results from these tests to determine their emissions, rather than using the default heating values and emission factors provided by EPA to calculate emissions.
9. NACWA supports the proposed exclusion of emissions from emergency power generators. Many emergency units may be permitted by rule in some states or not specifically permitted by the state. NACWA believes that all emergency power generators should be excluded, regardless of whether or not they are specifically permitted.

NACWA appreciates the opportunity to provide comments on this proposal. NACWA recommends that the Agency act cautiously when reviewing the public comments and finalizing this rule and ensure it does not rush to finalize the rule simply to meet a timetable. If this reporting program will serve as the basis for future regulation and legislation, which seems likely, it must be produce accurate and reliable information.

Please contact me at [chornback@nacwa.org](mailto:chornback@nacwa.org) if you have any questions regarding our comments.

Sincerely,



Chris Hornback  
Senior Director, Regulatory Affairs