

19 December 2013

Hon Greg Hunt
Member for Flinders
Minister for the Environment
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Dear Greg

Coverage of the waste sector under Direct Action

The Australian Landfill Owners Association (**ALO A**) considers that the Government should exclude the waste sector from mandatory coverage under its Direct Action plan. Instead, the Government should allow full participation of the waste sector in the expanded Carbon Farming Initiative (**CFI**) thereby enabling the sector to benefit from the opportunities available under the Emissions Reduction Fund and maximise its contribution to Australia's 2020 emissions reduction target.

Background

ALO A is an incorporated entity comprising landfill owners across Australia sharing a concern for the future viabilities of the environment and their businesses. ALO A members provide services in waste disposal and collectively operate over 75% of the landfill capacity across Australia receiving over 15 million tonnes of solid waste annually. ALO A is the representative voice of the landfill industry in Australia.

ALO A has consistently maintained the position that the waste industry should not be covered by an emissions trading scheme, both when the Carbon Pollution Reduction Scheme (**CPRS**) was proposed and more recently when the Carbon Pricing Mechanism (**CPM**) was developed.

As has been regularly documented, ALO A considers that including the waste sector within the CPM has led to unnecessary complications, complexity and expense for both the government and the industry. ALO A conveyed this position to the previous Government on many occasions.

Consistent with this position, ALO A believes that there are a number of reasons why the waste sector should not be covered by a "baseline and penalty" mechanism (**Mechanism**), which has been proposed as part of the Coalition's Direct Action plan.

Measurement issues

There is currently no cost effective or widely adopted approach to the actual measurement of emissions generated by landfills. Accordingly, it is necessary to estimate these emissions by complex modelling, which has an overall accuracy of +/-35%.

The complexity of estimating emissions from the landfill sector has been demonstrated through the continuous need to update and improve Chapter 5 of the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*. ALOA has been heavily involved in this process. More recently, the industry and the Department has had to deal with the complicating factor of the global warming potential of methane moving from 21 to 25.

Thus, any penalty imposed on the sector through the Mechanism would be associated with an inherent level of inaccuracy, which ALOA considers to be inappropriate.

Existing regulation

The waste sector is already heavily regulated through State based legislation to address environmental and amenity issues arising from landfill activities. These regulations have the dual impact of requiring or encouraging actions to reduce methane emissions.

Further, landfill levies are applied in most States, which means the landfill sector is already subject to a “penalty” mechanism, which is designed to reduce the volumes of waste being sent to landfill, thereby reducing the emissions released.

Baselines

As the Minister will be aware, particular complexities attach to emissions generated by landfills given that the emission profile can cover a period of between 40 to 100+ years. There are also variations in the emissions generated by landfills as a result of location; waste type; age of the landfill; design, construction and operation; capping; rainfall; and landfill gas infrastructure. Accordingly, it will be an extremely difficult exercise to determine an appropriate baseline for the sector and an individual site by site approach is likely to be required. Additionally, given the measurement issues discussed above, if emissions estimates are used to set baselines this may penalize the best-practice, environmentally efficient landfills whilst benefiting the poor performers.

ALOA submits that this would be an entirely unnecessary waste of time and resources. In particular, if the liable entities under the CPM were covered, this would result in baselines being required for 57 different sites, in circumstances where these sites contribute less than 3% of Australia’s national emissions profile.

An associated difficulty will be that once the *Clean Energy Act 2011* is repealed, local councils will no longer have any liability to report their emissions. Therefore, the data necessary to establish whether a council owned landfill has exceeded its baseline will not be available to the Government. Given that councils have only been reporting emissions since the start of the CPM, it is also questionable as to whether there is even sufficient data to determine a baseline for these landfills in the first instance.

Inequity

There would be at least two inequity issues created by covering landfills under the Mechanism: pricing issues and competition issues.

Under the CPM, the industry adopted the approach of charging customers up front for the total liability attaching to a tonne of waste. This approach was generally accepted by landfill customers and was seen as appropriate in order to ensure that future customers were not paying for the carbon liability of previous customers. Under a penalty scenario, a landfill would be unlikely to know in advance the cost of future liability and would be unable to recover up front. Instead, future customers (who would be charged any penalty attaching to emissions from the landfill, as currently happens with landfill levies) would be paying for a liability generated by historical customers. This was the very reason why it was necessary to introduce the legacy waste distinction in the CPM.

An associated issue is that landfills may still be subject to penalties after they have closed (given that emissions will continue to be generated after closure). Landfills may not be able to predict the value of this residual liability and therefore may not be able to make provision for this liability pre closure. This could possibly result in an unfunded liability which the States may become responsible for. In contrast, under the CPM it was proposed that a landfill would have the option of “over surrendering” carbon units to extinguish its future liability. ALOA has difficulty in seeing how such an approach could be accommodated in a “penalty” scenario.

In relation to competition issues, the use of the 25,000 tonne trigger for coverage under the CPM was always viewed as problematic, given that it would provide a differential pricing model for large and small landfills and had the potential to lead to diversion of waste away from large well-run best practice landfills to smaller non-best practice landfills. This concern was realised in some States after the introduction of the CPM and the previous Government was made aware of this problem, but determined not to take action to address it.

A more equitable approach would be to adopt a lower threshold for coverage under the Mechanism, but this would then impose administrative and resourcing burdens on a greater number of participants, which as highlighted above is not warranted given the small contribution that the sector makes to Australia’s total emissions. Further, this burden would likely be primarily imposed on local councils, who would experience significant resourcing issues.

Incentive rather than penalty

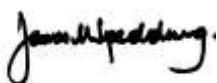
As the Minister will be aware, the waste sector has been an ‘early mover’ in terms of participation in the CFI (to date, the waste sector has generated just over 3.2 million ACCUs, which amounts to 93% of all ACCUs issued by the Clean Energy Regulator). The sector is well positioned to contribute to the Government’s abatement target for 2020 and ALOA considers that the Government is likely to achieve a better abatement outcome by allowing the waste sector to fully participate in the Emissions Reduction Fund, rather than covering it under the Mechanism.

Waste should continue to be treated in accordance with other land based activities, such as agriculture and forestry, which currently have full participation rights under the CFI and are not covered by the CPM.

Consistency with international action

With the exception of New Zealand, waste is not a covered sector in any other operating emissions trading scheme. In particular, the European Union Emissions Trading Scheme (which is currently the largest operating scheme) did not include the waste sector when it commenced in 2005, nor following its review, in 2013. The reasons for this exclusion included: the sector was already regulated by other regimes (in particular, the Landfill Directive); the sector only contributed a small percentage of emissions; the sector did not allow exact measurement of emissions; and technologies to reduce emissions were already available. ALOA submits that all of these factors are present in Australia and therefore, just as it was inappropriate for the waste sector to be covered by the CPM, it would be inappropriate to make it a covered sector under the Mechanism.

Regards



Max Spedding

Secretary/Spokesperson

Australian Landfill Owners Association (ALOA)