



Agricultural Council
of California

August 11, 2011

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Proposed California Cap on Greenhouse Gas Emissions Regulations: Proposed 15-Day Modifications

Submitted Electronically: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Dear Clerk of the Board:

Agricultural Council of California (Ag Council) is a public policy association representing more than 15,000 farmers across California, ranging from farmer-owned businesses to the world's best-known brands. As such, many of our member companies will be required to participate in the cap & trade portion of this regulation. Ag Council appreciates the opportunity to comment.

California is the nation's leading agricultural producing state, with almost 400 commodities processed into thousands of food products. The California Department of Food and Agriculture estimates that agriculture brings over \$36 billion in farm gate value to the state, and spans over 25.4 million acres. It is important to note that the vast majority of these commodities are harvested and transported within a four month period. The short timeframe of harvest is coupled with the perishable nature of many of our products, which need to be processed in a matter of hours once harvested. The characteristics of this business are highly specialized, in order to ensure delivery of the highest quality product while maintaining the safest food possible.

Environmental sustainability is not new to our membership. Many agricultural and food processors respond to market forces that require them to achieve certain environmental thresholds and as such, they routinely set internal standards for environmental improvements. Many of our members have the most efficient boilers and equipment available to meet these thresholds.

Ag Council appreciates the Air Resources Board's (ARB) decision to delay implementation of cap & trade for one year. There are many outstanding issues with this regulation that we continue to work on, and given these unanswered questions, the delay in implementation is appreciated by our membership.

Additionally, Ag Council welcomes ARB's effort to clarify many of the lingering implementation issues in the regulation that remained outstanding from ARB's December approval. Any certainty that ARB can provide to this process is encouraged sooner rather than later to assist with business planning purposes. Ag Council appreciates ARB specifying that the first compliance period will only be two years in length. Adjustments and clarifications to the penalty process are also appreciated.

While ARB has attempted to create a more certain template for the business community to embark on its planning process for cap & trade implementation, our central issue of concern with the regulation still remains, and that is the designation of food manufacturing being categorized in the "medium" Leakage Risk Classification in Table 8-1.

As stated in our previous comments, dated December 14, 2010, "the regulation states that the Industry Assistance Factor is essentially the ability an industry has to pass-on carbon costs. With low-cost competitors throughout the world, even a minimal increase in cost could displace certain market segments as demonstrated in the previously listed reports."

Ag Council believes the formula for trade exposure and emissions leakage should be reevaluated to give special consideration to agricultural import and export markets. Food processing should be moved to the "high" Leakage Risk Classification, due to increasing international and domestic markets as stated in data points provided in our December comments. Additionally, food manufacturing is located in the second Industry Assistance Factor tier (Industry Assistance Factor of 100%; 75%; 50%), and should be moved to the top industry assistance factor tier due to price pressures from international markets. Even a minimal increase in costs could displace U.S. markets, giving more ground to domestic and international competitors.

The EU's Emission Trading System (ETS) recognized the food processing industry as being especially vulnerable to leakage. While some food processing sectors were given 100% free allowances, others were considered under the *de minimis* category and therefore do not have to participate. California is no different as many of our commodities compete for market space in a domestic & global economy. As such, by working within this regulatory system, we support moving food processors from the "medium" to the "high" leakage category in Table 8-1. Without our food processors, many sectors of production agriculture would not have a home in the market place.

Ag Council agrees with staff assessments in the December report, regarding domestic competition as being problematic as it relates to the food and agricultural industry. A different approach should be taken for food processing in determining compliance costs and/or emissions intensity. The emissions intensity variable in the product-based allocation calculation should be replaced with another variable that truly represents the cost of compliance for the food industry. Staff should take more time to work with the food processing industry to determine an appropriate factor for this variable.



Furthermore, Ag Council urges ARB to remove the 8% threshold of offsets allowed in a company's portfolio when surrendering allowances. Given the stringent criteria ARB is requiring to register an offset project, this arbitrary 8% threshold will only further stifle investment into offset projects. While it is an improvement over the 4% threshold which was previously suggested, 8% is only a minor step forward.

Ag Council appreciates the opportunity to work with ARB on this regulation. We look forward to continuing our work on climate change and are hopeful for a workable outcome for our industry. Should you have any questions or concerns, please do not hesitate to contact me at (916) 443-4887.

Sincerely,



Emily Rooney
President

