

**Allied Grape Growers
California Cattlemen's Association
California Citrus Mutual
California Cotton Ginners and
Growers Associations
California Dairy Campaign
California Floral Council
California Grape & Tree Fruit League
California Strawberry Commission
Fresno County Farm Bureau
Nisei Farmers League**

**Raisin Bargaining Association
Tulare Lake Resource Conservation
District
Ventura County Agricultural
Association
Western Agricultural Processors
Association
Western Growers Association
Western Pistachio Association
Western Plant Health Association**

December 13, 2010

Ms. Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95812

RE: Comments on Cap-and-Trade and Mandatory Reporting

Dear Ms. Nichols,

On behalf of the members of the above mentioned agricultural organizations, we appreciate the opportunity to submit comments on the Cap-and-Trade proposal and the revisions to the Mandatory reporting that will be before your board on December 16th.

The 3,300 page Cap-and-Trade document and the Mandatory Reporting were released on October 28th giving the affected stakeholders 48 days to review, comment, and recommend changes to the program. This is even more troublesome because this is essentially the 1st Draft of the Cap-and-Trade regulation and is the very 1st Draft of the Mandatory Reporting Changes. There are serious errors in both of the documents because of the lack of stakeholder review.

Mandatory Reporting

Staff held the only workshop on the proposed revisions to the Mandatory Reporting Regulation in March and discussed the idea of lowering the reporting threshold to 10,000 mtCO₂e. At that time, the change would have added 200 facilities to the 600 facilities already subject to

reporting. Staff estimated that the addition of the 200 facilities would add only an additional 3 % in emissions. We believe that the number is higher than 200 facilities because staff gathered their estimates from fuel usage reports from individual permits. The definition of facility for reporting is different than the determination Air Districts use for permitting.

We believe that the number of sources subject to the reporting threshold would be significantly higher and would bring in many agricultural facilities and farming operations. Further review of the lower threshold and the impacts and burdens on the affected industry needs to occur prior to Board approval on this item. We ask that the Board delay approval of the lowering of the reporting threshold until a workshop can be conducted and staff has time to work with the affected stakeholders. There is no statutory deadline that the Board must approve the lower threshold during the December meeting.

Cap-and-Trade

Auction

The most cost-effective way to implement a Cap-and-Trade program is through output-based free allocation. The cost of allowances in the near term and long term will be a huge burden on those who are unable to pass on the costs of the program to the consumer. The auction system will create a bidding war between entities that will be limited in the price they can pay for allowances and utilities and other industries that can pay a significantly higher price because they have the ability to increase prices to consumers. This will lead to GHG reductions by forcing the shutdown of facilities that are unable to compete in the auction market.

Another concern that we have with the way that the auction is set up is that it allows non-regulated entities to participate. These entities will have the ability to hold allowances for a profit therefore increasing the costs of the program. Hedge funds have already begun developing strategies for the offset market and could potentially be developing the same for the allowance market. There is a profit to be made by holding entities hostage to the allowance market. Other groups will have the ability retire allowances and prevent the regulated entities continuing to operate in California because the allowances will not be available for purchase.

Also, entities that are allowed voluntarily enter the Cap-and-Trade program need to have their emissions added to the available allowance pool. Hundreds of thousands of allowances could potentially be taken out of the supply for regulated entities if their GHG emissions are not added to the cap.

Cap Setting

Staff is proposing to lower the original cap by 34 mmtCO₂e because of the recession and the updated emission inventory. The advancement of the reductions does not allow a transition period into the program. We believe that this will lock in a recession and prevent growth and recovery by the effected entities. The cap level should stay at the original level and be lowered as needed to reach the goals of AB 32 by 2020.

Cost Containment

The proposed method of containing costs in the program is insufficient and will actually increase the prices of allowances. By moving 4% of allowances to the reserve at higher set prices, it will limit the supply to all and therefore increasing prices. Staff proposes to increase the offset allowances by 4% to 8% to compensate for the 4% being removed from the auction. It is our belief and one that staff has shared at a workshop that the number of offsets available would not be expected to reach 4% of the allowances and therefore 8% would definitely not be available. So by trying to contain costs the program will remove a real 4% from the supply and compensate it with a 4% that is unlikely to be achieved because of the protocol standards. Real cost containment would be placing a cap on the price of emissions or increasing the total supply when high prices are reached.

Staff has proposed other measures in the draft that will not contain costs but increase them. Automatic increases of 5% plus the urban consumer price index annually is unnecessary. Another example of increasing costs is the way that fines are set up in the program. If an entity is late in their surrender of allowances, the penalty will be that they have to purchase 3 additional allowances for every 1 that they were unable to surrender. This will shorten the supply available in the auction.

Offsets

Staff developed the original 4% offset level to align with the Scoping Plan goals of ensuring that half of the reductions occur within California. Staff is proposing to limit each facility to 8% offsets for compliance. We believe that individual facilities should not be imposed to a restriction on offsets. The restriction should be on total number of offsets overall allowed into the program. This would give regulated entities that get priced out of the allowance market to go into the offset market for the remainder of their surrender.

The agriculture industry has worked and will continue to work on the development of offset protocols. We have been at the table, but continue to find impediments to making protocols work in California as we get further into the details. California agriculture is beginning at a disadvantage in being able to participate in offset programs because we are already implementing modern practices and because of the regulatory environment. Rules already on the books and those that are scheduled to move forward will prevent California agriculture from creating an offset while a neighboring state or country can implement the same practice and get paid for it. Another impediment is our diversity of crop and crop rotations which limits us to longer term contracts that are required by the standards. Additional direction from the Board is needed to ensure that the standards will allow California agriculture to participate in offset development in a large scale.

Economic Analysis

The economic analysis that was conducted for the Cap-and-Trade program was completed only

at a macroeconomic level and failed to analyze the costs of the individual facilities costs in complying with the program. The proposed program will lead to hundreds of thousands of increased annual cost just to continue operating in California. Statewide allowance cost will be anywhere from \$3 billion to \$73 billion annually in increased cost to affected entities.

Auction Revenue

ARB does not have the authority to allocate the auction proceeds, but does make recommendations as to how that value should be distributed back to the consumer. One suggestion that staff made was to return the value on a per capita basis. We strongly oppose this method because it does not adequately compensate the increased energy costs to consumers. The agriculture industry is going to incur substantial increases in energy costs due to the program, but the rebate will be very minimal based on the amount of use. If any rebate does occur under the program for the costs of the program, the rebate needs to be comparable to the costs incurred.

In closing, because of the short public process on the Mandatory Reporting Regulation we must request that the Board delay action on the lower threshold until a more thorough public process can take place with the involvement of the regulated community. We also believe that it would be advisable to have some time to address the issues that we have outlined in our comments to ensure the proper implementation of a Cap-and-Trade regulation that has the least economic impact to the California economy while still achieving the goals of AB 32.

Sincerely,

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