



September 27, 2011

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814
<http://www.arb.ca.gov/cc/capandtrade/capandtrade.htm>

Re: Comments on CARB Item “capandtrade10”: Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, Including Compliance Offset Protocols

To Whom It May Concern:

This letter timely provides public comments on the California Air Resources Board’s proposal for a cap on greenhouse gas (“GHG”) emissions and market-based compliance mechanisms regulation, including compliance offset protocols.

Effective April 2010 all Saint-Gobain glass packaging businesses around the globe (including Saint-Gobain Containers, Inc. in the U.S.) became a single brand: Verallia. In North America Verallia, (VNA,) operates 13 glass container manufacturing facilities across the United States that employ over 4,500 employees, (including over 3500 represented employees,) and produces billions of glass containers per year for food, beverages, beer, spirits, and wine.

Verallia operates a glass container facility in Madera, California that will be subject to CARB’s Cap and Trade Program for GHGs, and therefore is directly affected by this rulemaking. Verallia previously operated two other glass container facilities in California, one at Maywood (closed 2004) and the other at El Monte (closed 2006).

In fact, stating that Verallia’s Madera facility is “directly affected by this rulemaking” understates the potential significance of CARB’s proposed Cap and Trade Program because the program as set forth in the proposed regulations potentially threatens the plant’s long-term ability to compete, particularly with the substantial capital investments which will be required at the plant between now and 2020. As explained in greater detail below, Verallia’s container glass facility at Madera is already (1) well-controlled from an emissions standpoint (due to ongoing ozone and PM_{2.5} nonattainment in the San Joaquin Valley) and (2) efficient from a raw materials standpoint (due to the higher availability and use of recycled glass (“cullet”) as a substitute for raw materials), which together leave far fewer options for further reducing GHG emissions. Fur-

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ther, as CARB Staff documented, the container glass sector as a whole has a “high risk” of leakage due to its high energy intensity and trade exposure. For a number of reasons, including the cost-sensitivity of the business and the already high cost of manufacturing in California, the “protections” in the proposed Cap and Trade Program intended to mitigate this “high risk” for container glass manufacturing currently fall well short of providing the necessary relief. Thus, despite the fact that shutting down bottle manufacturers in California will simply force the state’s wine industry to import significant quantities of non-California-produced domestic bottles by truck, rail or other mobile GHG sources, (or further increase the wine industry’s growing reliance on imports of glass bottles from China and other locations that are today much less environmentally conscientious with respect to emissions such as GHG), the currently proposed Cap and Trade Program threatens the continuing existence of the container glass sector in California, especially for already efficient operations like Madera.

Recognition of early reduction efforts by the container glass manufacturing sector

Verallia respectfully refers CARB to the following provision of the California Global Warming Solutions Act of 2006 that speaks directly to CARB’s mandate for adopting implementing regulations. At Cal. H&S Code § 38562(b) (1), CARB was instructed to adopt regulations that encourage and reward “early action to reduce greenhouse gas emissions.” To the extent that a business sector or particular facility within that sector already took steps to minimize GHG emissions, that source’s earlier efforts should mitigate the level of additional efficiency improvements required by the regulation. Otherwise, if additional emission reductions are imposed on all facilities without regard to their previous efforts, the more efficient sources operated by the earlier actors will be systematically eliminated because they have fewer prospective reductions to offer. Verallia’s Madera facility employs a state-of-the-art combustion technology and utilizes high levels of cullet which combined result in one of the lowest GHG emission rates per ton of glass produced of any container glass manufacturing facility in the country. The container glass industry in California has been using post-consumer cullet for many years pursuant to the 35% recycled content requirement set forth in the California Beverage Container Recycling and Litter Reduction Act, §14549(b). Our industry should not be punished by limiting or reducing free allocation allowances, but should instead be rewarded through full allocation of free allowances for these early reduction actions.

As discussed with CARB staff, the most effective way for CARB to recognize the early reductions achieved by our industry sector is to utilize the emissions data provided to CARB staff for the years 2005-2007 as submitted to CARB in response to its 2009 Glass Container Manufacturers Survey (see CARB Staff Report of October 2010, copy attached). That Survey includes emissions data prior to industry efforts to further reduce GHG emissions, instead of that data, CARB staff calculated the Benchmark for our industry sector using 2009 emissions data which it collected in a second informal survey. The data initially submitted to CARB in the 2005 - 2007 comprehensive survey supports an Energy Efficiency Benchmark of 0.31 mTCO₂E/ton of glass produced, reflecting GHG emission rates prior to early reduction efforts by our industry sector. **We therefore urge that in approving the final rule, CARB amend Table 9-1 of the proposed**

rule, by replacing the Benchmark value of 0.264 with the value 0.31 in order to properly credit our industry for its early reduction efforts.

Necessary measures to minimize leakage

Verallia respectfully refers CARB to the following additional provision of the California Global Warming Solutions Act of 2006 that speaks directly to CARB's mandate for adopting implementing regulations. At Cal. H&S Code § 38562(b)(8), CARB was instructed to "minimize leakage." Verallia submits that before CARB can properly minimize leakage, it must first understand the risk of leakage posed by the regulation, something that may not become evident until several years after implementation of the Cap and Trade Program. While CARB could attempt to remedy insufficient efforts to minimize leakage *after* the initial three-year compliance period, pursuant to its obligation to perform program monitoring, the damage at that point will likely be irreversible if companies have already shut down their California facilities and surrendered their various air permits with the objective of reducing California GHG being accomplished (i.e., entirely eliminated) but with the inevitable result that the GHG emissions are merely moved / increased elsewhere ... a true lose-lose result.. Thus, to properly protect against leakage, it is imperative that CARB move forward in a way that does not have the unintended consequences of closing California manufacturing plants, eliminating thousands of California jobs, and reducing California's income and property tax bases, while at the same time causing a shift / increase in GHG emissions because production has been moved to another jurisdiction (domestic or global) with less stringent requirements.

One of the measures we had proposed to prevent leakage was to recognize that a significant portion of the GHG emissions from glass manufacture are due to process emissions, not fuel consumption. Similar to the cement industry, these emissions are unavoidable. In response to similar comments from other industry sectors with a high proportion of process emissions, CARB staff amended Table 9-2 to include other processes which have process related emission of 50% or greater. While our process-related emissions are not at the 50% level, they are nonetheless significant. **In order to reduce the potential for leakage as the cap adjustment factor reduces available allowances for our sector, we thus propose that Table 9-2 be amended to recognize the following cap adjustment factor for glass manufacturing in recognition of the fact that approximately 25% of our GHG emissions are process-related. See attached chart for proposed amendment to Table 9-2.**

Additional concerns regarding the rulemaking process and inadequate consideration of stakeholder concerns by CARB staff

Verallia obviously appreciates the magnitude of the proposed Cap and Trade rulemaking, but it was disappointed in the lack of meaningful response from CARB staff to numerous suggestions and comments expressed by Verallia and other container glass manufacturers over the past many months. In moving forward with any GHG regulatory program it is essential that California create a fair and viable program that will not needlessly adversely impact / destroy entire sectors of

the California economy. We discussed the following concerns with CARB staff, and made several written proposals for addressing the leakage and early reduction concerns expressly reference above, all of which were, in our view, inadequately considered by CARB staff in preparing a revised rulemaking proposal for consideration by the Board.

For a number of reasons, the container glass facilities located in California are already among the most efficient container glass manufacturing sources in the United States when it comes to minimizing the generation of GHG emissions. This is especially true for stationary sources like Verallia's container glass facility in Madera, which is located in the San Joaquin Valley and therefore situated in a nonattainment area for ozone and PM_{2.5}. For example, Verallia's Madera facility already minimizes combustion and combustion-related emissions to limit the generation of NO_x, an ozone and PM_{2.5} precursor. Further, the container glass sector in California is more advanced from a process emissions standpoint than similar facilities in other states due to the additional cullet available. Such availability is a critical factor in GHG reduction, since there is currently no bolt-on technology to control GHG emissions. Cullet, or recycled glass, requires less heat to melt (resulting in lower combustion-related GHG emissions) and creates fewer process emissions when it is incorporated as a feed stock for glassmaking compared to using carbonate-containing raw materials such as limestone or soda ash. The greater supply of cullet in California is primarily due to the state's container deposit legislation, currently, one of only ten such programs in the United States. As a result, Verallia's Madera facility uses more cullet than every other company facility in the United States except one, which is also located in a state with container deposit legislation. Thus, with California container glass facilities like Madera already controlling emissions in response to nonattainment designations and maximizing their cullet usage, there again are fewer options for the container glass sector to further reduce the combustion- and process-related GHG emissions compared to other industrial sectors.

Ironically, should the Cap and Trade Program force container glass facilities such as Verallia's Madera facility to shut down, the need for bottles by California's wine industry would likely result in importing those bottles by truck from neighboring states or from overseas. Under this scenario, the bottles necessary to support California's wine industry would cost more (given the additional costs of transportation) and generate additional GHG emissions (given the additional trucking distances). At the same point, GHG emissions would be increased at the out-of-state / out of country (e.g., Chinese) manufacturing facility; resulting in a net global increase in GHG emissions should our Madera facility be forced to close due to CARB's rulemaking. These environmental detriments would come in addition to the very real costs associated with eliminating hundreds of existing jobs and loss of local tax revenues associated with a plant closure. Thus, in addition to the high risk of leakage documented by CARB Staff for container glass facilities, there are additional negative consequences associated with the leakage given the fundamental need for bottles by the California wine industry.

On behalf of Verallia, thank you for the opportunity to comment on this rulemaking activity.

Thank you,

A handwritten signature in dark ink, appearing to read 'SBS', with a long horizontal flourish extending to the right.

Steven B. Smith
V.P. Environmental and Regulatory Affairs

cc: Bruce Tuter, CARB
Ty Sibbitt
Stephen A. Segebarth

Table 9-2: Cap Adjustment Factors for Allowance Allocation

Budget Year	Cap Adjustment Factor (c) for All Other <u>Direct Allocation</u>	Cap Adjustment Factor (c) for Sectors <u>with Process Emissions Greater Than 50%</u>			Cap Adjustment Factor (c) for Sectors with Process Emissions Greater Than 20% but less than 50%
		<u>Sector</u>	<u>NAICS</u>	<u>Activity</u>	
		<u>Nitrogenous Fertilizer Manufacturing</u>	<u>325311</u>	<u>Nitric Acid Production</u> <u>Calcium Ammonium</u> <u>Nitrate Solution Production</u>	Container Glass Manufacturing NAICS 327211
		<u>Cement Manufacturing</u>	<u>327311</u>	<u>Cement Manufacturing</u>	
		<u>Lime Manufacturing</u>	<u>327410</u>	<u>Dolime Manufacturing</u>	
2013	0.981		0.991		0.986
2014	0.963		0.981		0.972
2015	0.944		0.972		0.958
2016	0.925		0.963		0.944
2017	0.907		0.953		0.930
2018	0.888		0.944		0.916
2019	0.869		0.935		0.902
2020	0.851		0.925		0.888