

Cap-and-Trade Regulation Amendment Request

NOTE: Please use this form to highlight a request to amend a specific section (or related sections) of the Cap-and-Trade Regulation. Submission of this form aids staff in tracking requests and **does not mean** staff will ultimately propose an amendment in the version of the amendments noticed pursuant to the Administrative Procedure Act. This form is intended only as an additional tool ARB will use to evaluate requested changes to the regulation. Amendment requests may be for reasons of policy, clarity, or errors, etc. Staff may contact you if we need more information. Additionally, submission of this form will be a public record, and will be included in the ultimate rulemaking file related to these amendments, but may not be specifically answered in the Final Statement of Reasons. (Government Code section 11346.9(a)(3).) Please complete this form (with as much detail as possible, though it need not be formal regulatory language) and mail or email (preferred) to:

David Allgood (dallgood@arb.ca.gov)
Stationary Source Division
P.O. Box 2815
Sacramento, CA 95812

General Information

Date:

Submitted by: Affiliation:

Contact Phone: E-mail:

Section

Primary section(s):

Related section(s):

Amendment Request

Type of amendment: ☒ Policy ☒ Error ☒ Clarity

Reason for amendment:



August 1, 2013

Steven Cliff
Climate Change Program Evaluation Branch
California Air Resources Board
1001 I Street
Sacramento CA 95814

RE: Discussion Draft of Modifications to Subchapter 10 Climate Change, Article 5: California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms

Dear Mr. Cliff:

Agricultural Council of California (Ag Council) appreciates the opportunity to comment on the Discussion Draft of Modifications to Subchapter 10 Climate Change, Article 5: California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms (Draft Regulation). Ag Council represents over 15,000 farmers across the state of California, ranging from small, farmer-owned businesses, to some of the world's best known brands. A number of our member companies participate in the cap and trade program as a result of AB 32.

Industry Assistance Factor

Ag Council is working with the California Air Resources Board (CARB) and its private contractors to conduct a leakage analysis on the food manufacturing industry, and we continue to work through the product-based emissions efficiency benchmarking process. This process has not moved as quickly as originally anticipated. As such, we appreciate CARB's extension of 100% free allowances through the second compliance period. This will give our industry time to complete our work ahead of significant changes in the regulation.

New Natural Gas Program

Additionally, Ag Council is pleased that CARB included a section pertaining to natural gas suppliers, which provides free allowances for suppliers to sell on the market. The proceeds of these sales are to be passed-through to ratepayers in an effort to provide relief from increases in natural gas prices that could result from the program.

This new natural gas program is similar to the program provided for the utilities, which has some benefits and some drawbacks. Like the utilities program, the natural gas program will be regulated by the California Public Utilities Commission (CPUC). In the utilities program, only those businesses participating in the cap and deemed "Energy Intensive Trade Exposed" (EITE) benefited from the pass-through of profits from the sale of allowances on the market. This determination by the CPUC will help offset the cost for many food processors, but not for farmers, ranchers, dairymen or processors that are not participating in the cap. We expect utility rates to skyrocket for those small-to-medium sized businesses.

Just because emissions from these companies are lower, it does not mean they are any less trade exposed, or are in a stronger position to absorb costs from this regulation. As an example, the dairy industry is undergoing significant challenges at this time. California has lost almost 400 dairy farms since 2007. While the issues impacting dairymen many not be due to trade impacts specifically, many of the remaining dairies cannot afford substantial rate increases, which are already underway through this determination by the CPUC.

Ag Council understands that the CPUC has an extensive process in making its determinations. However, as the leakage analysis for the food industry unfolds, CARB should consider providing some sort of relief, such as utilizing funds raised from the auction to assist in offsetting the utility and natural gas rate increases to the smaller, or lower-emitting, farms and businesses. This would be consistent with the intent of EITE and the leakage study, as both are meant to minimize impacts to trade-exposed industries or businesses that cannot pass-through the costs of AB 32.

Product-Based Emissions Efficiency Benchmarks

Table 9-1 in the Draft Regulation lists product-based emissions efficiency benchmarks for various industries. Ag Council is seeking clarification as to the need to publish these benchmarks in the regulation. Publishing these benchmarks could raise confidentiality concerns for certain industry sectors. There are at least two sectors within "Food Manufacturing" that have single operators that will be setting the benchmarks for their respective processing sectors. Should the benchmarks be published, their competitors would have access to this information. Ag Council urges CARB to protect confidentiality concerns for these companies by not publishing these benchmarks.

Additionally in Table 9-1, under "Food Manufacturing," CARB lists "Dairies (TBD)" as one of the sectors offering a product-based benchmark. A more accurate way to describe this sector would be to name it "Dairy Processing (TBD)." By utilizing the word "dairies," many would assume CARB is attempting to regulate dairy farms, not the processors. This minor change in verbiage would clarify the appropriate sector.

Ag Council appreciates the improvements CARB has made with this regulation. We look forward to continuing our efforts to find workable solutions for food processing. Should you have any questions or concerns, please do not hesitate to contact me at (916) 443-4887.

Sincerely,



Emily Rooney
President

