1755 CREEKSIDE OAKS DRIVE, SUITE 250 SACRAMENTO, CA 95833 TEL (916) 640-8150 FAX (916) 640-8156 www.clfp.com

The Voice and Advocate for the California Food Processing Industry since 1905

October 23, 2013

Via web and email: http://www.arb.ca.gov/lispub/comm/bclist.php

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

Subject: **California League of Food Processors Comments on Proposed Amendments to the Regulation for Mandatory Reporting of Greenhouse Gas Emissions (45-day draft comment)**

Dear Sir or Madam:

The California League of Food Processors (CLFP) welcomes this opportunity to provide comments to the proposed changes to the Mandatory Reporting Regulation (MRR). Over the year, CLFP and its members have worked diligently with the California Air Resources Board (ARB) and staff to develop acceptable definitions, procedures and methods that reflect existing practices in the food processing industry aimed at the development of accurate and reliable reporting of Greenhouse Gas (GHG) emissions.

Pursuant to the release of the Proposed Amendments to the MRR, CLFP submits the following comments:

§ 95104. Emissions Data Report Contents and Mechanism

Section 95104(e)

ARB is proposing several revisions in the MRR. Of significance is the change to § 95104(e). Emissions Data Report Contents and Mechanism**,** requiring facilities to include criteria or Toxic Air Contaminants (TAC) emissions in their MRR GHG report. Specifically, the proposed MRR amendment would require facilities to evaluate and report any changes in facility operations or status that may have potentially resulted in an increase in emissions of criteria pollutants or toxic air contaminants in relation to the previous data year and specify the reasons for such increases including any production changes or any regulatory changes or any efficiency changes. Such tracking will significantly increase the burden on food processing operations, requiring additional time, effort, and resources for information that is already managed by the local Air Districts.

Currently, even if increases in criteria emissions occur, such increases are already subject to local regulatory monitoring and would have been compliance with the local Air District permitting program; i.e. all such emissions would be legally permitted.

Adding to this concern, ARB staff states "This information will be used to support the Adaptive Management Plan for the Cap-and-Trade regulation." Food processors, as well as other industry folk, are concerned as to how ARB will use this information.

Overall, CLFP believes this approach to the collection of criteria and TAC emissions data will unnecessarily complicate the current reporting requirements for food processors as well as create a duplicative burden on facility operators given such information is readily available to ARB via the local Air District.

CLFP recommends the Board delete Section 95104(e) for the reasons stated above. Additionally, it is far easier and less burdensome on obligated facilities if ARB requires reporters, pursuant to valid Adaptive Management regulations, to work with the Air District's to get the information they may need for purposes of this program. Therefore, CLFP recommends the ARB work with the regulated community toward identifying a process where information already managed and maintained by Air Districts can be used for ARB Adaptive Management planning purposes.

§ 95104. Definitions

Section 95104(b)…

CLFP agrees with the proposed definitions regarding food processing categories under section 95104(b) as specified:

(6) "Aseptic" is the process by which a sterile (aseptic) product (typically food or pharmaceutical) is packaged in a sterile container in a way that maintains sterility.

(7) "Aseptic tomato paste" means tomato paste packaged using aseptic preparation. Aseptic paste is normalized to 31 percent tomato soluble solids (TSS). Aseptic Paste Normalized to 31% TSS =(%TSS - 5.28)/(31 - 5.28)

(8) "Aseptic whole/diced tomato" means the sum of whole and diced tomatoes packaged using aseptic preparation. Sum of Whole and Diced = Whole Tomatoes + (Diced Tomatoes x 1.05))

(12) "Canned non-tomato additive" means a canned food product produced at a tomato processing facility that is not aseptic tomato paste, aseptic whole/diced, non-aseptic tomato paste, non-aseptic whole/diced, non-aseptic tomato juice, or canned non-tomato additive.

(15) "Cheese" means a food product derived from milk that is produced in a wide range of flavors, textures, and forms by coagulation of the milk protein casein.

(54) "Non-Aseptic tomato juice" means tomato juice packaged using methods other than aseptic preparation.

(55) "Non-Aseptic tomato paste" means tomato paste packaged using methods other than aseptic preparation. Non-Aseptic paste is normalized to 24 percent tomato soluble solids (TSS). Non-Aseptic Paste Normalized to 24% TSS = (%TSS - 5.28)/(24 - 5.28).

(56) "Non-Aseptic whole/diced tomato" means the sum of whole and diced tomatoes packaged using methods other than aseptic preparation. Sum of Non-Aseptic Whole and Diced = Whole Tomatoes + (Diced Tomatoes x 1.05).

(82) "Tomato Juice" is the liquid obtained from mature tomatoes conforming to the characteristics of the fruit Lycopersicum esculentum P. Mill, of red or reddish varieties. Tomato juice may contain salt, lemon juice, sodium bicarbonate, water, spices and/or flavoring.

(83) "Tomato Paste" is the food prepared from mature tomatoes conforming to the characteristics of the fruit Lycopersicum esculentum P. Mill, of red or reddish varieties. Tomato paste is prepared by concentrating tomato ingredients until the food contains not less than 24.0 percent tomato soluble solids.

(84) "Tomato soluble solids" means the sucrose value as determined by the method prescribed in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.014 to 32.016 and 52.012. For instances where no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in the definition of salt. Subtract the percentage sodium chloride from the percentage of total soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of "tomato soluble solids."

(90) "Whole Peeled Tomatoes" is the food prepared from mature tomatoes conforming to the characteristics of the fruit Lycopersicum esculentum P. Mill, of red or reddish varieties. The tomatoes are peeled but kept whole, and shall have had the stems and calicies removed and shall have been cored, except where the internal core is insignificant to texture and appearance.

CLFP will continue to work with ARB Staff to amend those definitions that do not accurately identify or define the products, materials, produce, or raw product that constitute the basis for the food processing industry.

1755 CREEKSIDE OAKS DRIVE, SUITE 250 SACRAMENTO, CA 95833 TEL (916) 640-8150 FAX (916) 640-8156 www.clfp.com

The Voice and Advocate for the California Food Processing Industry since 1905

Section 95131(b)(9) – Emissions Data Report Modifications

ARB proposes revisions to Section 95131(b) (9) that will require reporting entities to fix all correctable errors that affect covered emissions, non-covered emissions or covered product data. CLFP members make every effort to ensure the accuracy of their compliance reporting per the requirements of the regulation. However, it is unreasonable to require all errors be corrected especially if the differences are of such small magnitude that they are insignificant and/or below the + 5% accuracy level specified in the regulation.

CLFP recommends that ARB revise the regulation to allow reporting facilities the flexibility to work with the verification team in determining what correctable errors actually need to be corrected and that correctable errors that are within + 5% should not be considered a non-conformance.

CLFP also urges ARB to adopt the following revisions to Section 95131(b) (9):

<u>The verification team shall use professional judgment in the determination of correctable errors as defined in section 95102(a), including whether differences are not errors but result from truncation of rounding or averaging, or errors that are of such small magnitude they are determined to be insignificant.</u>

Thank you for your consideration of CLFP comments and recommendations. Please contact me with any questions or comments.

Sincerely,

JOHN LARREA

Cc: Edie Chang, ARB
Steve Cliff, ARB
David Allgood, ARB