



February 15, 2008

Mr. Chuck Shulock
Chief
Office of Climate Change
California Air Resources Board
1001 I Street, Sacramento, CA 95812

RE: Draft ARB Policy Statement on Voluntary Early Action to Reduce Greenhouse Gas Emissions

Dear Mr. Shulock:

The California League of Food Processors (CLFP) is a voluntary non-profit trade association that represents fruit and vegetable processing companies with operations in California. Several CLFP members will be among the group of firms that will be required to begin reporting their greenhouse gas emissions in 2009. These firms and the rest of the food processing industry will have a significant economic stake in how the Air Resources Board (ARB) structures the AB 32 Scoping Plan, especially with respect to if, and how, entities will receive credit for voluntary actions that they have taken to reduce their greenhouse gas emissions.

The California Health and Safety Code directs ARB to “Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.” The Draft Policy Statement indicates that ARB intends to develop specific provisions in the Scoping Plan to encourage and reward voluntary early reductions and ensure that companies are not disadvantaged because they have taken early action. CLFP strongly supports these objectives as they will be necessary to achieve rapid and significant reductions in greenhouse gas emissions and to ensure a level playing field for the entire business community. The specific details of how this plan will be implemented are critical, and CLFP would like to recommend that the following points be considered in the development of the final Policy Statement and Scoping Plan:

1. ARB Should Credit both “Prior Action” and “Early Action”

In addition to credit for “early action” (measures undertaken between 2007 and 2012), it is very important that ARB allow firms to obtain direct credit for all of the “prior actions” taken to reduce their greenhouse gas emissions from 1990 to

2007. Since the target for the entire AB 32 effort is to reduce emissions back to 1990 levels, it would seem entirely consistent with the legislative intent to allow firms the option to use 1990 as the starting point for their accounting and proceed forward until the Scoping Plan regulations are enacted in 2012.

In response to rising and uncertain energy prices, and to maintain competitiveness in the marketplace, many food processors have been very aggressive over the last decade in their efforts to become more energy efficient. These firms have made major reductions in greenhouse gas emissions and are concerned that they will effectively be penalized relative to other firms that have taken little or no action. The option to document and obtain tangible credit for past actions should be available to all regulated entities. Failure to reward prior actions will result in an uneven playing field once the regulatory program commences in 2012.

2. Accounting for Prior Actions Will Not Place an Unreasonable Administrative Burden on ARB if Simple Energy Intensity Measures are Employed

ARB staff has expressed reservations about accounting for historical emissions reductions due to a perceived issue with collecting and auditing records and the level of administrative oversight necessary. CLFP contends that, properly structured, accounting for prior actions will not place an undue burden on the agency. CLFP suggests that a relatively simple energy intensity metric could be employed. For example, firms seeking credits could report the amount of Btu's of natural gas used to produce a pound of product in 1990 or some prior year compared to the amount used in 2007. In this case, firms could report their natural gas consumption (the same way that some will be required to starting in 2009) along with production volume figures. Simple division would provide the final energy intensity measure, which can be translated into a CO2 equivalent. CLFP believes that a fair, accurate, and consistent metric can be used that will require little oversight by ARB.

3. ARB Should Act Soon to Provide Regulatory Certainty

To provide industry with sufficient regulatory certainty ARB must decide soon if, and how, firms will receive credit for prior or early action. CLFP has been working with the California Energy Commission and several utilities to aggressively promote energy efficiency programs in the food processing sector. However, some firms may choose to delay undertaking major improvements until they are sure that they will benefit, or at least not be disadvantaged, if they take aggressive early action.

4. Consistent and Simple Standards Will Be Necessary

ARB must establish clear and consistent standards to be used by industry to document early reductions. Further, if simple energy intensity performance metrics are employed CLFP believes that claims for early action reductions can be accurately and completely reported without the use of third party verifiers.

Conclusion

ARB is currently engaged in the overwhelming and unenviable task of developing a comprehensive, fair, and effective Scoping Plan in a very short time frame. A number of critical decisions will have to be made soon regarding when and how regulations, incentives, and market mechanisms will be used to obtain the necessary emissions reductions. Some environmental groups seem to be advocating a strict regulatory approach to reducing greenhouse gas emissions, but that strategy will likely drive a number of businesses out of California and reduce the economic base available to fund future environmental initiatives. CLFP urges ARB to send a clear signal to industry that the implementation of AB 32 will not spell economic disaster for the business community and that fair and complete credit will be given for *all* of the actions taken by firms to improve the state's carbon footprint.

CLFP appreciates the opportunity to provide its views on this important topic and looks forward to further discussion with ARB staff regarding the development of the Scoping Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Neenan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rob Neenan
Director of Regulatory Affairs