

American Forest & Paper Association
Comments on California Cap on Greenhouse Gas Emissions and Market Based
Compliance Mechanisms

August 11, 2011

California Air Resources Board
Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814
<http://www.arb.ca.gov/lispub/comm/bclist.php>

Dear Sir or Madam,

The American Forest & Paper Association appreciates the opportunity to comment on the most recent proposals posted in late July regarding the “Rulemaking to Consider Adoption of a Proposed California Cap on Greenhouse Gas Emissions and Market Based Compliance Mechanisms Regulation, Including Compliance Offset Protocols.” AF&PA is the national trade association of the forest products industry, representing pulp, paper, packaging and wood products manufacturers, and forest landowners. Our companies make products essential for everyday life from renewable and recyclable resources that sustain the environment. The forest products industry accounts for approximately five percent of the total U.S. manufacturing GDP, putting it on par with the automotive and chemical industries. The industry is among the top 10 manufacturing sector employers in 48 states. In California, the forest products industry employs approximately 68,000 people, has over 600 manufacturing facilities

I. Introduction

Several of AF&PA’s previous comments on California’s cap and trade program (incorporated here by reference) focused primarily on two portions of the rulemaking: product-based greenhouse gas (GHG) efficiency benchmarks for manufacturers and offset protocols. Our comments today will focus on those portions as well. Specifically, we are commenting only on Section 95891 of “Article 5: California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms,” “Appendix B: Development of Product Benchmarks for Allowance Allocation,” and the “Compliance Offset Protocol for U.S. Forest Projects.”

We also have commented on other issues, such as the broad definition of eligible biomass combined with a strong commitment to sustainability of the forest resource, as well as the recognition of the competitive pressures our industry faces. We appreciated CARB’s responsiveness to those comments. In contrast to CARB’s responsiveness on

those issues, it unfortunately has not made revisions that reflect the input we have provided on the benchmarking and offset provisions.

II. Product Benchmarks

We understand that despite our previous comments explaining why product-based benchmarks are inappropriate for the forest products industry, CARB has made a policy decision to use such benchmarks to allocate allowances to certain industries, including ours. We are disappointed that CARB has maintained this policy. The current proposal on which we comment below illustrates well the concerns with using these benchmarks.

Product-Based Benchmarks Are Unworkable for the Pulp and Paper Industry

AF&PA supports the use of actual emissions as the basis for allowance allocations. Our concerns with product-based GHG efficiency benchmarks center on the fact that product-based benchmarks are complex and unworkable for our industry; they arbitrarily create winners and losers; and that there is a large variation in products and processes making it likely that dissimilar processes will be in the same category. For example, medium mills manufacture medium; linerboard mills manufacture linerboard and can also manufacture medium as well; and gypsum facing board mills can typically also manufacture linerboard and medium. In California, there are 11 industry mills manufacturing a variety of products: linerboard, medium, tissues, towelettes, tube & core stock, gypsum facing, organic roofing paper, coated board, and coated boxboard.

Perhaps more importantly, the industry's internal analysis of the allowance allocation method included in federal cap and trade legislation showed no correlation between GHG emissions and product type for the examined sectors of our industry. Rather than product type, our analysis shows that fuel type, and degree of integration and steam production, are the overriding factors that determine a facility's GHG emissions. In most cases, these factors are intrinsic to a facility's operations and cannot be changed without changing the basic nature and/or configuration of the facility. We previously mentioned a study by Duke University's Nicholas Institute for Environmental Policy Solutions on the impacts of different allocation methods on the industry. That study is nearing completion and analysis to date confirms these factors to be the key determining factors—not the product type.

Unfortunately, CARB has inappropriately ruled out using at least two of the key factors that would yield the most reliable benchmarks, stating that “staff relied upon the ‘one product, one benchmark’ principle. This means that, in most cases, staff believes it is appropriate to avoid benchmarks differentiated by *technology*, *fuel mix*, size and age of the facility, climatic circumstances, or raw material quality” (emphasis added). Appendix B, page 2. We acknowledge that in California the inability to differentiate by technology may not be as significant an issue given the current configuration of existing mills.

The Benchmarks Penalize Highly Efficient Industry Mills Using Cogeneration Technology

On a national level, the forest products industry is the leader among all manufacturing sectors in the use of highly-efficient cogeneration technology to generate power and steam (also called Combined Heat and Power (CHP) technology). Virtually all AF&PA member facilities that generate electricity on-site do so using this technology. This is true in California as well, as three out of four AF&PA member mills that were included in the analysis to develop pulp and paper industry facility benchmarks and generate electricity use CHP technology and are highly efficient. Instead of rewarding them for this efficiency, they are penalized by receiving very low benchmarks.

Further, because mills with CHP generate electricity on-site, they have relatively higher direct emissions and significantly lower indirect emissions associated with purchased electricity, resulting in lower total emissions. This is because mills with CHP generally do not need to purchase large amounts of electricity, and indeed can sell power to the grid. In fact, in California those same three mills sell power to the grid. Unfortunately, the methodology used to develop the CARB benchmarks does not properly include adjustments to reflect this emissions profile. Specifically, the methodology counts in the benchmark development emissions associated with electricity generated on-site, but not emissions associated with purchased energy. Because, as stated, CHP mills' direct emissions are relatively high and indirect emissions are relatively low, this penalizes mills with CHP even though their total emissions are less than comparable facilities without CHP technology.

The Benchmarks are Based on Data from Too Few Mills to be Meaningful and Only Address a Limited Number of Production Activities within an NAICS Sector

In our earlier comments we highlighted the difficulty CARB would encounter in developing product-based benchmarks for only California mills:

“Under a sector averaging approach, the extremely low number of facilities that would comprise the benchmark in California – three paper manufacturers and two paperboard mills – would make it impossible to develop a reliable statistical measure of GHG performance.”

Unfortunately, this concern remains, as demonstrated by the table below, which shows the number of mills in each category. It makes no sense to develop a “benchmark” based on one facility, or even three facilities, as these are simply insufficient numbers on which to create a valid benchmark. As stated, we recognize that CARB has adopted a policy to develop product-based benchmarks, but it is incumbent on CARB to do so in a scientifically-defensible manner. Basing benchmarks on one or a few facilities does not meet that standard, especially when, as here, the mills have already incurred the expense and taken steps to improve the efficiency of their operations and reduce their GHG emissions. The benchmarks as applied to these mills penalize them for taking those steps.

Sector	NAICS Code	Activity	Number of Mills Above Threshold in 2008
Paper (except Newsprint Mills)	322121	Through-Air-Dried (TAD) Tissue Manufacturing	3
Paperboard	322130	Recycled Boxboard Manufacturing	1
		Recycled Linerboard (Testliner) Manufacturing	1
		Recycled Medium (Fluting) Manufacturing	1

In addition, there are facilities operating in California that fall into the broad sector description and NAICS codes listed in Tables 8-1 and 9-1 of the regulation, but that do not fit into any of the activity categories for which product-based benchmarks are defined. In general, these facilities did not exceed the mandatory reporting threshold of 25,000 metric tons of CO_{2e} in previous years (during the extended economic downturn), and, therefore, were not captured in CARB's analysis. However, any of these facilities could increase production as the economy rebounds or operations are consolidated and exceed the cap-and-trade threshold in the future, making them new market entrants.

It is unclear from the wording of §95891(a) if operations within a listed sector but not defined by a listed activity would receive allocations using the energy-based benchmark allocation methodology of §95891(c) or if they would receive no allocations because their specific activity is not listed in Table 8-1. If the latter, CARB would be severely discouraging expansion of existing operations in the state of California. The vast changes made to Table 8-1 from the December 2010 Proposed Regulation to the July 2011 Discussion Draft creates this ambiguity, and AF&PA requests that CARB specifically address this concern by eliminating the specific activities in Table 8-1 (i.e., reverting back to the December 2010 proposal) or explicitly addressing operations that fall into the NAICS sector definitions and NAICS codes in Table 8-1 but not any of the activities listed in Tables 8-1 or 9-1. For our specific sectors, it is misleading that Table 8-1 currently implies that the entire NAICS classification for "Paper (except Newsprint Mills)" (322121) is defined by the one activity of "Through Air Dried Tissue Manufacturing" or that NAICS code 322130 is defined by only the three activities currently listed in Table 8-1.

The Benchmarking Process is Too Complex for the Results Obtained

There are 18 industry categories in Appendix B. However, five of those categories (not including Paper or Paperboard) are responsible for at least 91% of the 2008 GHG emissions from industrial facilities within the scope of the program.¹ Thus, CARB is proposing to develop GHG efficiency benchmarks for 13 categories contributing 9% of the emissions. Aside from the general concerns with benchmarks and the development of benchmarks based on so few facilities, the administrative burden of developing, implementing, and enforcing benchmarks on facilities representing 9% of the emissions is simply a waste of both CARB's and the facilities' resources.

Conclusion

The proposed product-based benchmarks are not appropriate for the pulp and paper industry. They are not workable, they are determined by product type (which does not correlate with GHG efficiency in the industry), and CARB rejected two of the key factors that determine efficiency for industry mills—technology and fuel mix. Further, they are based on too few facilities to develop credible benchmarks, especially when weighed against the complexity and resources that will be expended to develop and implement the program, and do not account for new market entrants with production activities outside of the narrowly defined categories in Tables 8-1.

We urge CARB to abandon the benchmarks, and instead distribute allowances in proportion to the actual absolute emissions of the mills within the scope of the program. This would be easier to develop and implement, as mills are already reporting GHG data to CARB. Further, the overall decrease in the program cap ensures CARB will achieve the needed reductions from industry facilities, not GHG efficiency benchmarks assigned to individual industry facilities.

III. Offsets

CARB also has adopted offset policies imposing restrictions that will inappropriately limit the availability of offsets for the forest products industry. AF&PA represents both manufacturers of forest products and forest landowners, and we believe it is important that any offset protocol adopted by CARB appropriately recognize the contributions of sustainably managed forests and wood and paper products to sequester and store carbon and reduce GHGs. AF&PA's previous comments detail our concerns with the offset protocols and discuss ways in which they depart from this principle. We again request that CARB revise the protocols to appropriately recognize these contributions.

¹ Appendix B, page 11 states that those five industry categories are responsible for 91% of emissions. However, Table J-4 (page J-28 Appendix J) indicates that oil and gas extraction, petroleum products manufacturing and cement manufacturing make up more than 94% of direct emissions from stationary sources.

Thank you for your consideration of these comments. If you have any questions, please contact Jerry Schwartz at 202-463-2581 or jerry_schwartz@afandpa.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Noe".

Paul Noe
Vice President for Public Policy
AMERICAN FOREST & PAPER ASSOCIATION
1111 19th St NW, Suite 800, Washington, DC 20036
paul_noe@afandpa.org
202.463.2777 w
202.463.2772 f
www.afandpa.org