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VIA E-MAIL

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments of Guardian Industries Corp. on the Proposed Modifications to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Dear Chairman Nichols and Members of the Board:

On behalf of Guardian Industries Corp. ("Guardian"), I submit the following comments on the California Air Resources Board's ("ARB's") Proposed Modifications to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (the "Cap-and-Trade Rule").

Guardian is a diversified global manufacturer of float glass, fabricated glass products, fiberglass insulation, and other building materials that operates a float glass manufacturing plant in Kingsburg, California. Guardian is at the forefront of innovation, including development of high-performance glass coatings and other advanced products that promote energy efficiency and play an important role in advancing the larger objectives of AB 32.

Guardian invested $150 million in its Kingsburg plant between 2003 and 2008. This investment included the installation of a state-of-the-art glass coater, which enables the plant to produce highly energy-efficient glass for residential and commercial buildings, as well as the upgrading and expansion of the furnace. The new furnace established an energy-efficiency standard for the flat glass industry, reducing GHG emissions at the plant by 44% on a per ton basis. In addition, the new furnace included a state-of-the-art emission control system using a dry scrubber and selective catalytic reduction ("SCR") unit. This is the only SCR unit installed at a glass manufacturing plant in the United States. We believe the Kingsburg plant now has the lowest criteria air pollutant emissions of any flat glass plant in North America. In fact, Guardian has taken virtually every step that is commercially viable at this time to maximize the energy efficiency of the Kingsburg plant and to reduce its overall emissions.

As an environmentally conscious company that strives to manufacture high-quality goods in an energy-efficient and sustainable manner, Guardian supports ARB's efforts to develop an economy-wide cap-and-trade program. But Guardian has several concerns as to how the currently proposed modifications to the Cap-and-Trade Rule will impact the flat glass industry. Guardian therefore appreciates this opportunity to comment on ARB's proposed modifications to the Cap-and-Trade Rule. Guardian's comments focus on ARB's free allocation methodology for the flat glass industry, as set forth in Section 95891 of the Cap-and-Trade Rule, and are intended to improve and refine the Cap-and-Trade Rule as it applies to the flat glass industry.

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Guardian's Comments on the Proposed Modifications to the Cap-and-Trade Rule

The flat glass market is driven primarily by price, with energy remaining the single highest cost in our manufacturing process. Therefore, foreign and out-of-state competitors will inevitably gain market share in California absent a system for balancing costs associated with the regulation of emissions. Loss of market share for California manufacturers would result in the closure of additional glass facilities in the state and would undermine a central goal of the Cap-and-Trade Rule by stimulating an increase in the production of glass products in markets that lack controls on emissions.

For these reasons, Guardian supports ARB's proposal to offer free allocations to flat glass manufacturers in California in order to help prevent leakage from this energy-intensive, trade-exposed industry. We also support ARB's decision to adjust the start date for compliance to 2013. This delay is needed to allow industries sufficient time to comply and for ARB to make final changes to the program to ensure it will not have an unnecessarily negative impact on economic development and jobs in California.

We understand that ARB has decided not to accept a national average for flat glass manufacturing plants as the basis for establishing the emissions benchmark for the industry. Should this continue to be the case, we strongly urge ARB, at a minimum, to make the below changes to the Cap-and-Trade Rule that will be critical to preserving a competitive flat glass industry in the state.

I. Product-Output-Based Allocation Calculation Under Section 95891(b).

ARB has established a product output based allocation calculation that is based on a single year of production data (specifically, two years prior to the budget year for which the calculation is being performed). *See* Cap-and-Trade Rule § 95891(b). We understand this allocation will subsequently be subject to a "true-up" four years into the program (starting in 2017).

We ask that ARB confirm that float glass manufacturers will not be penalized because the product-output-based allocation methodology for the "true-up" is based on a single year of production. Specifically, all flat glass furnaces must periodically undergo "hot" repairs during which time the furnace remains operational at a high temperature but there is no glass production. As currently drafted, it appears that the Cap-and-Trade Rule would preclude flat glass plants from receiving any allowances during these periods because of the lack of any actual glass production.

For this reason, Guardian urges ARB to add a factor to the product-output-based "true-up" specific to the flat glass industry in order to account for the emissions from the fuel combustion during the time period in which the furnace is idled but not shut down. Such a factor could be based on the fuel benchmark used for the fuel portion of the thermal energy-based allocation methodology multiplied by the actual amount of fuel burned during the hot hold period.

II. Cap Adjustment Factor Table 9-2 in Section 95891.

We understand that ARB staff has suggested that the flat glass industry review the provisions made in the Cap-and-Trade Rule for the cement industry with regard to calculating allocations because process emissions contribute significantly to the total emissions of both industries. *See* Cap-and-Trade Rule § 95891, Table 9-2.

Roughly 25% of the CO_2 (eq) emissions associated with flat glass production stem from three primary glassmaking raw materials: soda ash, limestone and dolomite. Our ability to reduce these process emissions is extremely limited. The raw batch material feed into the furnace is supplemented by combining it with cullet (*i.e.*, broken glass from the downstream trimming and cutting operations of the furnace line). The ability to reduce the process emissions generated from the reactions of carbon-containing raw materials in the glass production process is limited by availability and suitability of cullet for use in flat glass furnaces to meet strict product specifications, and the lack of any substitutes for the basic carbon-containing raw materials. For this reason, the Cap-and-Trade Rule is highly unlikely to yield any additional improvement in this regard in the near future. Therefore, Guardian supports the recommendation from the Glass Association of North America ("GANA") that ARB establish a cap adjustment factor for the flat glass industry that applies the yearly reduction only to the fuel portion of the flat glass emissions as in the following Table 1.

Table 1 – Cap Adjustment Factors (Existing and Proposed Flat Glass Industry)

Budget Year	Cap Adjustment Factor (c) for All Other Direct Allocation	Cap Adjustment Factor (c) for Cement Manufacturing (NAICS 327310)	Cap Adjustment Factor (c) for Flat Glass Manufacturing (NAICS 327211)
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	0.898

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Thank you for your review and consideration of these comments. Again, Guardian applauds ARB for its continued work to implement the mandate of AB 32 to reduce greenhouse gas emissions in California. If you have any questions on these comments, please contact me at 415-262-4008 or nvanaelstyn@bdlaw.com, or my colleague, Amy Lincoln, at 415-262-4029 and alincoln@bdlaw.com.

Sincerely,

Nicholas W. van Aelstyn

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NWV: aml

cc: James N. Goldstene, ARB Executive Officer (*via email*) (jgoldste@arb.ca.gov)
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