

September 27, 2011

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

Subject: California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, Second 15-Day Notice, Posted September 12, 2011.

Dear Clerk:

The Industrial Gases Panel of the American Chemistry Council appreciates the opportunity to submit comments on the “Second Notice of Public Availability of Modified Text and Availability of Additional Documents and Information” posted on September 12, 2011. We offer the enclosed comments to inform and enhance the Air Resource Board’s efforts.

The industrial gas manufacturing industry employs 60,000 workers in the U.S. and 3,400 in California. The Industrial Gases Panel represents the six largest global manufacturers in the industry. The industrial gas industry supplies gases to hundreds of thousands of customers in numerous industries in California, including aerospace, agriculture, autos, chemical processing, electronics, energy, food and beverage, and healthcare, among others.

The industrial gases sector operates numerous production facilities and business operations in California and will be particularly impacted by the allowance allocation and benchmarking provisions in the proposed cap-and-trade regulations.

The Industrial Gases Panel applauds ARB for updates made to the benchmarking methodology; as the notice states, “The hydrogen production benchmarks were updated to ensure equity between merchant hydrogen plants and refinery-owned hydrogen production allocated to using the ‘Carbon Dioxide Weighted Tonne’ metric.”

The Industrial Gas Panel continues to urge the California Air Resources Board (ARB) to address the following key issues that were outlined in our August 11 comments:

1. The allocation benchmark for hydrogen produced by industrial gas manufacturers must be equitable
2. The allocation benchmark for hydrogen must be based on a consistent performance challenge with all other product-based benchmarks

3. Liquid hydrogen should receive an independent benchmark and should be categorized as a high leakage risk.
4. ARB should reiterate their policy to consider, on a case-by-case basis, the need for adjustment to allowance allocations for firms operating under long-term contracts.

The Panel also urges ARB to make the following additional modifications to their proposal:

5. Hydrogen production should be subject to the cap adjustment factors for sectors with process emissions greater than 50 percent.
6. Hydrogen produced for use as a transportation fuel should be exempted from a compliance obligation until the second compliance period.

The Industrial Gases Panel believes that these recommendations would provide better equity in the implementation of the state's greenhouse gases reduction program and will help prevent market distortions during program implementation. These are essential to meet the California Global Warming Solutions Act (AB 32) directive that ARB design the cap-and-trade regulations to be "equitable."

The Panel supports responsible environmental policy and California's efforts to develop a fair, effective and economically efficient means for meeting the requirements of AB 32. We also recognize that California's actions will be a model for greenhouse gas programs in other states and internationally. It is therefore important that California adopt cap-and- regulations that minimize market distortions and ensure the fair treatment of all regulated entities.

Should you have any questions or if we can provide any additional information, please contact Robert Simon at 202-249-6700 or at robert_simon@americanchemistry.com.

Sincerely,



Robert Simon
Vice President
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American Chemistry Council

cc: Tim Shestek, Senior Director – ACC Western Region
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