



To: Mary Nichols, Chair
California Air Resources Board

Fr: California League of Food Processors

Date: January 20, 2017

Re: California Air Resources Board's Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

The California League of Food Processors (CLFP) appreciates the opportunity to provide comments on Board's proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation.

CLFP represents 47 industrial food processors in California. Food and beverage processing in California accounts directly for \$25.2 billion in value added and 198,000 direct full- and part-time jobs. Food processing reverberates through local and regional economies. On average for every \$1 of value added in food and beverage generated results in \$3.25 dollars in additional economic activity. Each job in food and beverage processing generates 3.84 jobs in total.

CLFP hopes these comments will aid the ARB Board and staff in forming fair, policy-oriented, and data-supported regulations regarding future GHG allowance allocations, recognizing that avoiding the potential harm to the California food processing industry, and the economy in general, beginning in 2021 will require straight-forward analysis and a thorough vetting of studies. Consequently, the decisions that the ARB makes regarding post-2020 implementation of the state's goals embodied in Senate Bill 32 (Pavley), requiring the ARB to ensure that the statewide GHG emissions are reduced to at least 40 percent below 1990 levels by 2030, are guaranteed to have a significant impact on the ability of firms in this state to remain competitive in the future.

With that, CLFP submits the following comments:

Peer Review Called for on Domestic and International Leakage Studies

CLFP continues to question ARB staff's reliance on the domestic and international leakage studies (Gray et al. 2016; Fowlie et al. 2016) absent legitimate peer review. Affected industries will be harmed by significant new costs when industry assistance levels are scheduled to decline in the fourth compliance period of the cap-and-trade program. This treatment of vulnerable California industries will impede continued economic recovery and

limit mid-level job creation and undermine the important goal in SB 32 to minimize leakage of emissions and jobs out of state.

Lacking solid and reliable evidence to the contrary, it is not only reasonable, but highly likely, that higher costs on industries engendered in the proposed assistance factors will promote leakage among California industries.

Affected stakeholders have provided comments raising concerns regarding the conclusions in the domestic and international leakage studies regarding data limitations and methodological choices which may contribute to the underestimation of emissions leakage risk. If true, the evidence generated by Gray et al. 2016 and Fowlie et al. 2016 may be too uncertain to distinguish among industry leakage risks at standard levels of economic certainty.

Without further review, it is arbitrary for ARB to assign high assistance factors to some industries and low AFs to others. In so doing, ARB staff has created a situation, that may result in undeserved losses to some industries and generate relative windfall gains to others.

This uncertainty is further compounded by ARB staff's admission to manipulation of the results of the studies. By manipulating these results, ARB effectively exposes all its estimates of industry-specific leakage to similar errors.

Without question, industry-specific analyses would generate more credible, data-supported estimates of leakage risks by accounting for differences in market characteristics across industries and should be employed at every opportunity in order to avoid worsening leakage and damage to the state's economy.

High Leakage Risk for 3rd Compliance Period

ARB staff's position is that any changes to 3rd compliance period assistance factors (extending 100% allowance allocation in the 3rd compliance period) is beyond the scope of this rulemaking.

While adherence to procedure may bar changes to this regulation in the present proceeding, it is not a bar to such adjustment. Moreover, it does not dismiss the fact that facilities have been pressing ARB on this issue since before it was determined that the state would likely meet the goal of AB 32 and reduce emission to 1990 levels, and possibly below.

ARB has ignored stakeholders' repeated requests to revisit the third compliance period allocation factors. Furthermore, these actions do not reconcile with AB 32's requirement that:

(h) The state board shall update its plan for achieving the maximum technologically feasible and *cost-effective* reductions of greenhouse gas emissions at least once every five years. (Assembly Bill 32, Chap. 488, Stats. 2006) *emphasis added*.

Reductions to 1990 levels was the goal and that goal is expected to be achieved. Barring any unforeseen increases in emissions from industrial sources, adherence to systematic reductions in industry assistance provides no additional benefit in the form of either necessary reductions or leakage prevention.

ARB should, at the earliest possible opportunity, commence a rulemaking that will seriously consider the extension of 100% allocation allowance in the 3rd compliance period.

Extension of Cap-and-Trade in Fourth Compliance Period

In general, CLFP supports the current program and designed methodology for allocating allowances to the industrial sectors and would like to see it continue post-2020 in something resembling its current form.

Over the past two compliance periods food processors, as well as other industrials, have gained a measure of confidence in the operations of the cap-and-trade market in its current form. However, the proposed assistance factors based on the two ARB-commissioned leakage studies (Fowlie et al. 2016, Gray et al. 2016) have reintroduced the uncertainty that has plagued business and industry since the beginning of this program.

Additionally, neither of the proposed alternatives (Option 1 and Option 2) offers any significant improvement over the current market mechanism.

Food Processor Leakage Study (Hamilton et al. 2016)

The question remains on how CARB intends to use the agency-funded Cal Poly study (Hamilton et al. 2016) for determining allowance allocations to the food processing industry.

In Attachment B, ARB staff states that the ARB-commissioned food processor study (Hamilton et al. 2016) was not used in the development of the assistance factors due to the need for continued analysis of the best means by which to integrate its findings.

While CLFP encourages ARB staff to utilize the Hamilton et al. 2016 study in the development of post-2020 assistance factors, this was not the original intention behind CARB commissioning the food processing industry study.

The impetus behind the agency's approval of the Hamilton et al. 2016 was the lack of accurate and relevant industry data to support CARB's initial assignment of a medium leakage risk designation for the food processing industries. This agency-funded sector study was designed to provide accurate industry data for use in determining the leakage risk for the sector (NAICS §311 and §312) under AB 32 and the current Cap-and-Trade regulation, not post-2020.

For the food processing industry, Hamilton et al. 2016 provides clear direction for CARB. As it makes a strong and unrefuted argument, supported by facility-level data, for continuing 100% transition assistance for food processors beginning 2018.

CLFP looks forward to continued engagement on these vital topics.

cc: California Air Resources Board Members
Dr. Steve Cliff, Senior Advisor to the Chair
Richard Corey, Executive Officer
Edie Chang, Deputy Executive Officer