



**TO: The Honorable Mary Nichols, Chair
California Air Resources Board**

FR: California League of Food Processors

DATE: March 11, 2016

**RE: California League of Food Processors Comments -- California Air Resources 2016
Amendments to the Mandatory Reporting and Cap-and-Trade Regulations for
Alignment with U.S. EPA Clean Power Plan**

The California League of Food Processors (CLFP) is a non-profit trade association based in Sacramento that represents food processing companies with operations in California.

Proposed Changes to Mandatory Reporting and Cap-and-Trade Regulations

California has taken great strides in implementing a variety of programs to address climate change. However, the Air Resources Board must remain focused on its lynch pin program, the cap-and-trade scheme. The success to date of California's GHG reduction regulatory scheme has been largely predicated on the ARB's willingness to adjust the regulation to meet the realities of implementing the economy-wide program to prevent harm to California's industries – for instance, delaying the start of the cap-and-trade; authorizing the allocation of 100% of allowances in the second compliance period. As we move into the third compliance period and ARB and the Legislature consider extending the current regulations beyond the 2020 deadline, it becomes even more imperative that the ARB remains focused on the present.

With that in mind, CLFP submits our initial comments surrounding the amendments to mandatory reporting and cap-and-trade regulations and for potential alignment with the federal Clean Power Plan.

Inconsistent Verifications

Under the current guidance tomato processing facilities subject to current Cap-and-Trade and Mandatory Reporting regulations are not being treated consistently. Inconsistencies in the application of the benchmark based on the verifiers' interpretation of the guidance have resulted in the loss of allowances for some food processing facilities due to the disqualification of products.

Additionally, current MRR regulations do not require annual full verifications. However, due to inconsistency guidance, verifications have essentially become full for food processors as verifiers struggle with guidance application. These verifications increase the cost of compliance for food processors.

RECOMMENDATION

CLFP recommends updating the guidance that will clarify the verification requirement for the food processing industry allowing for a full verification only when necessary.

CLFP has been working with staff to correct this situation and looks forward to finalizing the proposed regulation changes that will bring consistency, clarity, and fairness to the product measurement and the allowance allocation process for the food processing industry.

Changes to Reporting Deadlines

The ARB has proposed changing the deadlines for verification of product data for facilities subject to the product-based benchmark from September 1 to August 1. Such a move will present additional difficulties for the portion of the food processing industry that is subject to seasonality.

Many California processors are subject to summer harvest cycles which can run from late-June through mid-October. The average season for food processing runs between 70 to 90 days. Once the harvest commences, facilities will operate non-stop, 24-hours a day, processing fruits and vegetables as they are

Under the current regulation, food processors are required to report product-based data in April. The verification of the reported data then commences. As a result, verification of a seasonal facility's reported data occurs during the height of the processing season.

Even with the current September 1 deadline, many food processors must undergo time consuming verification process, hosting verifiers and onsite facility verifications, during the most intensive period for food processing facilities. Many of these facilities struggle to meet the current deadlines due to the inability to assign vital staff or resources at the height of the processing season. Moving the deadline for verification a month sooner will only further increase the difficulties for food processors.

An unintentional consequence of moving the deadlines may result in increased costs for facilities subject to the MRR. Verifiers would have less time in which to verify the facility data. Additionally, the new deadlines may limit the number of clients a verifier can accommodate under the new deadline. This is likely increase the costs of verification as verifiers attempt to make up for the loss in clientele.

CLFP can fully sympathize with staff's position given the seasonal food processing situation noted above. ARB staff central issue was that reporters were waiting until the September 1 deadline to file verifications. However, moving the deadline, giving staff more time, does nothing to ease the pressure on facilities subject to such a deadline and, in fact, may make meeting the deadline even more difficult.

RECOMMENDATION

CLFP believes incentivizing facilities to meet or beat the August 1 deadline constitutes a better answer. CLFP recommends that the ARB reward facilities who complete the data and verification process by August 1 through early deposits of allowances into those facilities' CITSS accounts. Additionally, all facilities failing to meet the August 1 incentive deadline will only have their CITSS account funded on a date specified for all post-August 1 submissions.

Focus should be on Cap-and-Trade's 3rd Compliance Period

The third compliance period promises to be the stress point that may result in the success or failure of the cap-and-trade program going forward. Under the current scheme, the food processing industry, as do all facilities with emissions under 100,000 tons annually, remains vulnerable due to

the Air Resources Board's medium leakage designation. Beginning 2017, food processors will lose 25% of their allotted industry assistance.

Besides the increased costs and pressure due to the declining cap and ever-tightening requirements, ARB has yet to take into account the number of enormous energy and operational cost increases reporting facilities will face in the next few years which are unrelated to GHG reductions policy.

- Unprecedented increases in natural gas transportation costs
- Increasing freight and fuel costs
- Increased water costs due to new regulations

Coupled with the significant lack of new technologies available to offset such increases, it is imperative that the ARB puts first things first. Finalizing the requirements for the third compliance period must be the primary focus of the ARB's efforts which, by necessity, must dictate 100% allowance allocations for all obligated facilities.

Alignment of California's cap-and-trade program with the EPA's CPP is not a priority.

Currently, California continues to exceed Federal requirements in both energy and climate change policies aimed at reducing GHGs largely due California's 50% Renewable Portfolio Standard and more than \$1 billion in energy efficiency upgrades. Taken together, these two programs alone would be sufficient to meet CPP requirements. Thus, the inclusion of California's cap-and-trade program is not a priority, but may be completely unnecessary.

While CLFP agrees that harmonization will eventually need to occur between the ARB and EPA's final rule, the recent stay of the CPP issued by the Supreme Court of the CPP affords California legislators and regulatory agencies time to deliberate on how best to align the programs that will protect California's industries.

California's continued role should be to stay the course of our already rigorous standards and regulations without placing additional undue burdens on consumers and businesses of the state. Trying to overreach in Federal compliance efforts or ceding our legal authority with regard to current California programs that already support compliance may create unintended negative consequences for California's elected officials, regulators, businesses and consumers.

CPP Backstop

Even though CARB believes the CPP backstop will not be triggered, removing 10 million allowances out of the market is still going to negatively affect the cap-and-trade market making the program more expensive for every sector and ultimately California consumers.

Should you have any questions or need additional information, please feel free to contact John Larrea, Government Affairs Director: (916) 640-8150