



To: Mary Nichols, Chair
California Air Resources Board

Fr: California League of Food Processors

Date: December 16, 2016

Re: California Air Resources Board's Discussion Draft 2030 Target Scoping Plan Update
(December 2, 2016)

The California League of Food Processors (CLFP) appreciates the opportunity to provide comments on the California Air Resources Board's Discussion Draft 2030 Target Scoping Plan Update (Draft SPU) released December 2, 2016.

CLFP comments will focus on those items pertinent to the food processing industry. However, CLFP and its members wish to inform staff and ARB Board members that these comments are not exhaustive due to the need for further examination arising from the numerous issues, both presented in the draft and those promised to be released in 2017. Additionally, CLFP urges CARB to seriously consider the results and implications of the national elections and the potential impacts on the implementation of the state's environmental policies.

CLFP continues to review this latest draft of the Draft SPU and hopes these comments will aid the CARB Board and staff in forming fair, policy-oriented, economically viable and data-supported regulations regarding the future of California's Climate Change programs. A concomitant goal must be avoidance of potential harm to the California economy in the development of a post-2020 program designed to meet the emission reduction goals.

As CLFP has noted in previous comments, the emissions of the food processing industry represent only 0.4 percent of the total emissions in California. California's food processors operate in the most economically challenged areas in this state, areas in which a food processing facility may represent the largest, and sometimes, the sole major employer in the area. Given the legislature's questionable action to increase in the state's goal in emissions reductions, having passed without the benefit of investigation or study as to the impacts on the state's economy, this update to the scoping plan will have profound effects on facilities and companies subject to the Cap-and-Trade including impacts on jobs, local economies, and market competitiveness for the food processing industry.

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. CLFP points out that, overall, the concepts and proposals in this Draft SPU represent a significant interruption of an ongoing program, as they veer dramatically from the program implemented under AB 32. In this Scoping Plan Update, CARB should strive to ensure a smooth transition and avoid, to the degree possible, the reigniting of the uncertainty that has plagued business and industry since the beginning of this program.

In general, CLFP gives qualified support for continuing the current program and methodologies for allocating allowances to the industrial sectors. CLFP continues to strenuously object to the proposed post-2020 assistance factors, the elimination of the transition assistance, and the curtailing or reduction of offset percentages.

With that, CLFP submits the following comments:

Cost Effective and Technologically Feasible Must be the Guiding Principles in the Development of the 2030 Target Scoping Plan

Section 38561 (a) of the California Global Warming Solutions Act of 2006 (AB 32) requires that the State Air Resources Board to prepare and approve a scoping plan ... for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions.... (emphasis added)

In adding Section 38566 the Legislature, again emphasized this requirement:

“In adopting rules and regulations to achieve *the maximum technologically feasible and cost-effective greenhouse gas emissions reductions* authorized by this division, the state board shall ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31,” (emphasis added)

If CARB chooses to ignore or downplay this requirement it not only places the program at risk, but just as likely, the whole of the California economy. The new goals have already resulted in proposals that are unprecedented in scale and cost. Over the past few weeks energy, business, and housing experts have raised this specter. All the more distressing is that there is still no detailed economic studies of how these new goals will affect California’s economy.

Just as environmental scientists insist that the climate has a tipping point, California’s industrial climate has a tipping point as well. It may be economic, but it is nonetheless real. At some point, regulatory costs of the program may exceed the ability of companies to operate profitably, signaling companies and industrial facilities that it is time to seek less regulated, more cost-effective locales.

It is imperative that the state do all in its power to ensure that industry/economic tipping point is not reached and that California is doing all it can to remain business friendly. Ensuring that technologically feasible and cost-effective are given top priority in the development of all potential new climate change measures is the absolute first step in the development of the 2030 Target Scoping Plan.

Achieving the 2030 Target

As stated previously, CLFP supports the program and methodology employed in the Cap-and-Trade regulation in its current form and urges staff to reconsider its recent recommended proposals for achieving the state's 2030 goal. The legislation supporting these new goals was passed and approved without any supporting data or analysis, economic or otherwise, that these goals are even obtainable without resulting in significant harm to California's economy.

Key Sectors: Industry

It is heartening that CARB recognizes the significant role industry plays in the well-being of the state's economy. While this sector accounts for nearly 21% of the GHG emissions, one of the oft overlooked co-benefits of this sector is a robust economy.

Without a doubt, the Cap-and-Trade program provides the most cost-effective way for industry to meet the compliance obligations imposed by AB 32 without a major disruption to an industry's competitive strength or significant impact to its markets. As CARB notes: Jobs and taxes are needed to support California residents, especially those that live in vulnerable communities.

A significant number of CLFP member companies operate in the disadvantaged communities as identified in the CalEnviroScreen, representing good, steady, paying jobs and benefits for the residents of these communities, as well as contributing to the local economy. Stepping away or reducing the effectiveness of the current program would risk jobs and many local tax bases.

Support for the Reinstatement of the Economic & Technology Advancement Advisory Committee (ETAAC).

State support for industry, especially the food processing industry, would be well-placed through investment in and advancement of new technologies to aid companies in reducing emissions and meeting compliance obligations. However, there are few, if any cost-effective new technologies available to the food processing industry. It's one thing to suggest that a natural gas boiler can be replaced with an electric model in a commercial small operation (< 10MMBtu/hr). However, it is another when the facility employs an industrial boiler larger than 150 MMBtu/hr.

The state must place more emphasis on identifying, encouraging, and supporting development and deployment of new technologies for industrial processes. ETAAC could provide the focal point for such investment by identifying and recommending investment of GGRF dollars in technology or R&D opportunities designed for obligated facilities.

Environmental Justice Advisory Committee Recommendations (EJAC)

A significant percentage of industrial food processing occurs in areas designated as Disadvantaged Communities (DAC) by the CalEnviroScreen. The potential economic harm to low-income communities and families requires additional analysis as the proposed changes will increase the financial burden on food processing facilities to meet their compliance obligation and are likely to impact those DACs.

However, in attempting to meet the dictates of AB 197, the 2030 Scoping Plan should not let the perfect become the enemy of the good. First, food processors are not the problem in the Valley areas where they operate. Transportation (PM2.5) and naturally occurring Ozone are the primary pollutants, not food processors operating only 90 days each year. An emphasis on facility level reductions carries risks, including job loss, leakage, and other economic consequences, if implemented before being thoroughly understood. CARB staff notes this, though EJAC seems unconcerned given their recommendations.

CARB staff should require that any such recommendations, if intended to be taken seriously, must be supported by rigorous scientific and economic analysis before implementation.

CLFP Recommendations

The main message from CLFP is that much more study is needed before CARB moves forward with the current recommended proposals as a basis for post-2020 regulations.

As to the proposed Sector Measures CLFP provides the following comments:

1. Adopt a Post-2020 Cap-and-Trade Program

CLFP's support remains qualified due to the onerous assistance factor recommendations, the loss of transition assistance, and the reduction or elimination of offsets. Until the details of a post-2020 program become evident CLFP will continue to work with CARB staff on these issues.

2. Continue and strategically expand research and development efforts to identify, evaluate, and help deploy innovative strategies that reduce GHG emissions in the industrial sector.

CLFP supports this measure if "innovative strategies" included within the definition the significantly increasing investment in Researching and Developing new process-directed technologies for food processors. Currently, there are few cost-effective technologies capable of significantly reducing process emissions for industrial operations. (See comments on ETAAC)

3. Promote procurement policies that value low-carbon production to delivery options, including at the State and local government levels.

Industrial rates in California exceed surrounding western states by 4 cent/kWh up to 10 cent/kWh. It is unclear how new procurement policies will impact these rates other than to increase this differential and further hinder California competitiveness. CLFP looks forward to the release of CARB proposals.

4. Identify and remove barriers to existing grant funding for onsite clean technology or efficiency upgrades.

While CLFP encourages expanding grant funding, expending time and resources on modifying the existing programs would be a waste. Many, if not most, of the existing grant programs were implemented long before AB 32 and the adoption of the cap-and-trade program, with different goals in mind. Better to put energy into developing new grant programs specifically geared toward the current regulations that will support the current state emission reduction goals.

5. Evaluate and implement prescriptive regulations to reduce GHG, criteria, and toxic air contaminant emissions in a cost-effective manner, focusing on the largest GHG emission sources, including power plants.

As CARB staff noted in the November 7th workshop, AB 197 requires CARB to consider the social costs of GHG reductions, to follow existing AB 32 requirements—including considering cost-effectiveness and minimizing leakage—and to prioritize measures resulting in direct emission reductions.

From the onset, AB 32 never contemplated prescriptive regulations. 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, in attempting to meet the dictates of AB 197, recommendations proposing prescriptive measures have reintroduced the uncertainty that has plagued business and industry since the beginning of this program.

Section 5 of AB 197 states:

When adopting rules and regulations pursuant to this division to achieve emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state's most impacted and disadvantaged communities, the state board shall follow the requirements in subdivision (b) of Section 38562, consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

(a) Emission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.

(b) Emission reduction rules and regulations that result in direct emission reductions from sources other than those specified in subdivision (a).

Under this definition, prioritize does not mean implement and CARB is under no legislative requirement to order prescriptive regulations should current regulations prove sufficient. There are a multitude of comprehensive regulations already in place regulating criteria pollutants and air toxics. Before considering regulations that would undermine the current program, CARB must conduct a thorough study of the current regulations to determine whether current federal and local regulations are adequate. In no case, should CARB consider implementing regulations ordering direct emission reductions without data to support such action.

Without question, substantially more study is necessary before this Board should consider approving any of staff's proposed recommendations for inclusion in the Targeted Scoping Plan. Both SB 32 and AB 197 were approved without any meaningful economic study or scientific support. Absent a thorough and exhaustive analysis that these state goals are attainable and will not substantially damage California's economy or industries, CARB should proceed cautiously.

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