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

Re: Proposed Amendments to the Regulation for the Mandatory Reporting of
Greenhouse Gas Emissions

Dear California Air Resources Board Members:

The California Manufacturers & Technology Association (CMTA) appreciates the opportunity to comment on the California Air Resources Board's (CARB) 15-day modifications to the AB32, Mandatory Reporting Regulation of Greenhouse Gas Emissions ("MRR").

CMTA is a trade association representing over 700 manufacturers in California, including such diverse industries as glass, fuels, chemicals, steel, cement, aerospace, consumer products, food and drink processors and more. Many members will be directly subject to the proposed mandatory reporting regulation.

CMTA has identified the following areas of concern in the MRR 15-day modifications:

1. Penalty Provisions – Section 95107 (b) & (c)

CMTA requests ARB to further clarify and improve the penalty enforcement provisions to make them more fair and balanced.

Subsection (b) & (c) in Section 95107, as written, provides ARB the authority to assess penalties for any GHG ton or data measure or collection failure, as a separate penalty, despite the fact that such a failure is within the acceptable range of accuracy for verification purposes (plus or minus 5% accuracy level). It does not make sense that ARB should be able to assess penalties for "any" ton of GHG emissions that were found to not be reported when the amount of GHG tons are well within and below the level of accuracy required by the MRR and verification process.

CMTA requests ARB revise Subparts (b) & (c) to reflect that the penalties would be imposed if it was determined that the amount of emissions facility under-reported exceeded the $\pm 5\%$ accuracy level and only for the amount above 5%.

If ARB is concerned that reporters may intentionally under-report their GHG emissions, they should include specific language in the penalty section that would address that concern, and not have an open ended condition (Subsections (b) & (c)), that can be used to penalize those who are working in good faith to comply with all aspects of the AB32 reporting and verification program.

CMTA recommends ARB revise Sections 95107 (b) & (c), to reflect that if the facility under reported emissions, but those emissions were below the 5% verification accuracy level, no penalty would apply, unless the Executive Officer determined that the facility engaged in falsifying, concealing or covering up information that resulted in a under reporting of emissions. Including these revisions will make Section 95107 consistent with ARB's Cap & Trade penalty provisions, specifically Section 96014 (c) (1-3), entitled "Violations" which describe it is a violation if it is determined the facility falsified, concealed or covered up by any trick, scheme or device, made any false, fictitious or fraudulent statements or made or used any false writing or document knowing it contained false, fictitious or fraudulent statements.

Additionally, CMTA objects to penalties being imposed on a "per ton" basis given the huge amount of GHG emissions involved in the AB32 program. Even a modest mistake could result in a massive fine completely out of proportion to the nature of the "violation", especially if such mistakes are within the 5% verification accuracy level. Instead, the penalty should be based on a specific incident violation, and not on a per ton basis, similar to how other air pollution penalty programs are structured. At an absolute minimum, ARB should modify the "per ton" penalty to a more appropriate value such as a "10,000 ton" penalty metric, simply because of the huge number of GHG emissions associated with the AB32 program.

CMTA also requests that ARB clarify during the period when the facility is working with their verifier on their report, any corrections, edits, clarifications, etc., would not be subject to any penalties or violations during this period. Any penalties that could be applicable should be after the verification deadline date.

2. Reporting and Verification Deadlines, Section 95103

CMTA objects to ARB compressing the Reporting and Verification time deadlines to April 1 and September 1 and recommends ARB restore these deadline dates back to the original dates of June 1 and December 1.

Given ARB is proposing more stringent meter calibration requirements, recordkeeping and data collection procedures that in many cases go far beyond what is required under the Federal MRR reporting program, facilities will be faced with having to devote additional time, resources and energy in developing their AB32 report submittal, all of which will require additional time necessary to ensure accurate reports are compiled, including time necessary that is critical to work with their verifiers to obtain required positive verifications.

We do not agree with ARB that the deadline date adjustment is needed to meet the needs of the Cap & Trade program, and in that regard, compressing the deadline periods, is simply unacceptable given the above mentioned concerns, and request ARB restore the dates back to the original June 1 and December 1 deadline dates.

3. Monitoring and Reporting Requirements Above Federal EPA 40 CFR Program

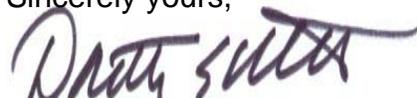
The ARB MRR requirements exceed federal EPA reporting requirements in many respects, including monitoring, record keeping, data collection procedures, and more stringent meter calibration requirements. CMTA is concerned that ARB has not done a thorough and transparent cost-benefit impact analysis for those additional requirements. We believe such an analysis could show excessively high costs for very little additional accuracy or benefit from the more rigorous requirements. Wherever possible we should avoid California regulations that diverge from federal standards and put burdens on California businesses that make them less competitive and more at risk.

4. Dispute Resolution Process

The proposed rule gives the Executive Officer authority to impose penalties with no avenue for appeal short of the California court system. CMTA urges ARB to develop a dispute resolution process that will provide parties an opportunity to resolve disagreements that involve regulatory interpretation and requirements, including enforcement actions, in lieu of engaging in expensive and time consuming litigation.

Thank you for considering our comments. If you have any questions, feel free to contact me at 916-498-3319.

Sincerely yours,



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California Manufacturers & Technology Association