

## DOCKETED

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### **Comments on FPIP Draft Guidelines (March 29, 2018 Workshop)**

Attached are comments from the League of Food Producers on the Proposed Guidelines for the Food Production Investment Program (FPIP) in response to the March 29, 2018 Workshop. Submitted 04/06/18.

*Additional submitted attachment is included below.*

April 6, 2018

California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 18-MISC-01  
1516 Ninth Street  
Sacramento, CA 95814-5512

**RE: Proposed CEC Food Production Investment Program**

The California League of Food Producers (CLFP) appreciates the opportunity to provide comments regarding the California Energy Commission's (CEC) proposed Food Production Investment Program (FPIP). These comments focus specifically at topics raised in the CEC staff presentation made at the March 29, 2018 workshop. The CLFP and its members look forward to proposing meaningful projects and working with you and the California Air Resources Board in developing a meaningful, long-term program that helps achieve California greenhouse gas (GHG) emission reduction goals and allows the food producers to remain competitive in California.

**Program Goals**

The FPIP is a solution to a difficult hurdle. Food processors are energy intensive entities that provide goods critical to society. The AB 32 program, and the SB 32 program scheduled to commence 2020, jeopardizes the ability of food producers to provide shelf stable food and the ability to stay competitive on both a national and an international basis. The purpose of this program as envisioned in AB 109 was to create a program to help Cap and Trade covered entities meet GHG reduction goals while preventing leakage of emissions and business to non-Cap and Trade covered areas of the country and world. We implore the California Energy Commission to resist the urge to expand the scope of this program. The current scope includes thirty-seven Cap and Trade covered entities in the 311 & 312 NAICS codes. Expanding beyond this group imperils the purpose of the bill and reduces the leakage protection offered.

CLFP does not support the expansion of the NAICS categories for either Tier I or Tier II award groups at this time and asks that the CEC maintain the current NAICS categories for both Tier I and II award groups in the FPIP Guidelines.

**General Comments**

Quantification Methodology

Until CARB develops a quantification methodology, the method to estimate GHG reductions defaults to the method stated in the Measurement and Verification (M&V) Section, with the CARB methodology to be used to calculate GHG emission reductions on all awarded projects.

In the event that, following project award, the GHG emission reductions based on the CARB methodology is significantly different than the M&V section, what is the CEC response if the calculated GHG emission reductions using the M&V method are met, but the GHG emission reductions using the CARB methodology are not met?

#### Measurement and Verification (M&V)

The Draft Guidelines indicate that staff is considering self-certification as an accepted means for M&V. Has CEC staff established any criteria/guidelines for self-certification?

#### Eligibility Requirements

The Draft Guidelines indicate that the proposed project must be designed to achieve “significant” GHG emission reductions. There is some confusion as requirements for Tier II projects (page 6) references “significant” GHG reductions as only being applicable to Tier II, not Tier I projects – this needs additional clarification.

#### Funding, Tier I & II

In the Draft Guidelines, under both Tier I and Tier II, utility funds (e.g., rebates/incentives) can be used to satisfy all or a part of the match requirements. If an applicant is leveraging or pursuing funding from multiple sources of the GGRF, a letter of commitment will be required from any source providing the matching funds.

CLFP supports allowing applicants to leverage funds from any source, believing it a key factor that will contribute to the success of the program and will facilitate increased emissions reductions in support of the goals of the programs. However, CLFP believes there is a difference between utility funds and GGRF funds that needs to be clarified.

Currently, PUC Code section 748.5 governs the use of allowance allocations distributed to the utilities. Subsection (c) allows the CPUC to allocate 15% of those funds for utilities to invest in clean energy and energy efficiency projects. If the applicant is leveraging or intends to leverage utility funds through participation in or application for a qualified utility incentive program, will the applicant be required to obtain a letter of commitment from the utility or will such a letter of commitment require CPUC approval?

Can an applicant leverage incentive funds that utilize ratepayer dollars or will the applicant be limited to only programs funded with GHG allowance allocations to the utilities?

In referencing GGRF funds, is the CEC referring to funds associated with, for instance, only GFOs or other incentive programs administered by the CEC? Will the applicant be required to obtain a letter of commitment from the Energy Commission itself through Board approval or some other mechanism?

CLFP’s understanding from the Governor’s Task Force advisory was that the ability to leverage funds for successful applicants should be as painless as humanly possible and that a letter of commitment from the applicant evidencing the applicant’s intention of using other incentive

funding toward the match should be sufficient. This is in keeping with the general agreement that an applicant's ability to leverage any and all incentive funds/programs was the intention of both the legislative effort and the GHG reduction goal. Otherwise, there is a likelihood of considerable delay due to incompatible agency processes in obtaining such letters of commitment.

#### Funding, Tier II

A "significant" GHG emission reduction is characterized as >5% facility-wide GHG emission reductions. Since funding for Tier II projects is open to all food processors, CLFP believes a 5% determination as "significant" should not be used as a condition for applicability. As an example, a food processor with facility-wide GHG emissions of 5,000 MT would need to reduce GHG emissions by 250 MT, whereas a food processor with GHG emissions of 7,500 MT would need to reduce GHG emissions by 375 MT. However, if this food processor proposes to reduce GHG emissions by less than 375 MT, but greater than 250 MT, the project would not qualify for award. This would appear to be an unintended consequence that should be remedied.

#### Eligible Projects

CLFP suggests that the list of eligible projects be as expansive as possible. We are proposing some revisions for clarification purposes (bold denotes suggested revision):

- Compressor controls and system optimization
- Machine drive controls and upgrades
- Mechanical dewatering
- Advanced motor and controls
- Refrigeration optimization
- Drying equipment
- Process equipment insulation
- Boilers, economizers
- Steam traps, condensate return, heat recovery
- Evaporators
- Alternatives to natural gas
- Solar, thermal
- Internal metering and software to manage and control electricity and natural gas use if part of a larger project that reduces energy usage and/or GHG emissions

#### Eligible Projects

Renewable Natural Gas and Biogas Projects as Tier I. CLFP supports categorizing projects utilizing biogas or renewable natural gas, especially when used as a substitute for natural gas in boilers or other thermal processes, as an eligible project under Tier I.

CLFP noted there was a lot of discussion during the workshop about projects that could potentially "cross the line" between being considered a Tier I or Tier II project. One example is

the use of biogas as a substitute fuel for natural gas in boilers. CEC's position was that this constitutes a Tier II project.

CLFP disagrees and believes such technologies, due to their current extensive commercial availability, be considered a Tier I projects.

#### Prevailing Wage

It is unclear in the Guidelines how prevailing wage should be applied. The CEC recommends only that a recipient of an award, if they do not believe the project is a public works project, should obtain a legally binding determination from the Department of Industrial Relations, before work commences, that the proposed project is not a public work.

CLFP recommends that labor supplied by the manufacturer of the technology to be installed, or the vendor, as part of the project should be included as cost of equipment under Tier I and Tier II projects. Additionally, labor supplied by current employees of the applicant's facility should be considered exempt for purposes of prevailing wage.

CLFP is currently reviewing decisions issues by the Industrial Relations Board and will be providing additional comments upon completion of its investigation.

#### Confidentiality

As the Commission Staff has noted, confidentiality is of concern to food processors and CLFP appreciates the CEC's attention to this issue. CLFP supports utilization of CARB confidentiality provisions that govern cap-and-trade facilities. CLFP furthers recommends that the CEC should draw a distinction between project related documents and information that clearly addresses process in determining how confidentiality will be applied.

Grant recipients should be given an opportunity to request confidentiality on all project related information as allowed under Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

In addition, all information referencing a recipient's process or processes, or is deemed proprietary information by the recipient, should be automatically considered confidential.

#### Solicitation Procedures

In the Draft Guidelines, CEC Staff envision two rounds of application submission/grant award. It is clarified later in the Guidelines that there would be no need for a second round if the total grant award amount was consumed in the first round. CLFP suggest that the Guidelines reflect this potential.

### Project Selection Criteria

The Draft Guidelines indicate that application evaluations will be conducted by an “Evaluation Committee consisting of Energy Commission staff possessing expertise in food processing energy efficiency”.

Has staff determined what criteria will be used by the Energy Commission to determine if an individual possesses “expertise in food processing energy efficiency”?

### Corrections to Acknowledgement Page

1. Pacific Coast Producers  
Erick Watkins
2. JG Boswell  
Dennis Tristao