



Dairy Cares Comments
Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market Based Compliance Mechanisms Regulation
(“Cap-and-Invest Regulation” 15-Day Language)

May 4, 2026

Dairy Cares¹ appreciates the opportunity to provide these comments on the 15-Day language for the proposed amendments to the Cap-and-Invest Regulation. Dairy Cares represents the California dairy sector, including dairy producer organizations, leading cooperatives, and major dairy processors.

Dairy Cares remains concerned about the aggressive timeline for reducing greenhouse gas (“GHG”) allowances under the program. The increasing impacts associated with the stringent decline will add significantly to compliance costs for dairy processing operations. These increased compliance costs come at a particularly difficult period as dairy production and processing is starting to shrink in California, leading to potentially significant emissions leakage in the future. Fewer than 1,000 dairies produce milk in California today, down from nearly 20,000 seventy years ago. Processing capacity in California is also starting to shrink with the recent closure of one of Leprino’s dairy processing plants in Kings County in late 2025. Leprino cited increasing costs as the primary driver of the closure. In addition to increasing compliance costs associated with the Cap-and-Invest Program, the industry is seeing far higher energy, transportation, and labor costs.

Dairy production is not only being constrained by the costs mentioned above, but also by rising water costs and increasing water scarcity that will clearly further limit dairy production moving forward. More stringent forthcoming water quality requirements expected from the

¹ For more information about Dairy Cares, please visit www.dairycares.com.

State Water Resources Control Board will further limit production, exacerbating ongoing water supply challenges as the Sustainable Groundwater Management Act is fully implemented. As milk production declines, processing capacity reductions will follow.

Dairy Cares generally supports the proposed Manufacturing Decarbonization Incentive. While the intent is clearly positive, actual implementation details will determine its effectiveness in decarbonizing dairy and other food processing and production facilities in the state. Dairy Cares looks forward to working with California Air Resources Board (“CARB”) staff on implementation details.

The 15-Day language would modify the requirements for “biomass-derived” fuels to be claimed as an emission without a compliance obligation (i.e., as set forth in proposed amendments to Section 95852.1). The revised language would state that:

“An entity has a compliance obligation for every metric ton of CO₂e emissions from biomass-derived fuels as set forth in this subarticle, except for CO₂ emissions from exempt biomass and exempt biomass-derived fuels. An entity claiming use of an exempt biomass-derived fuel must have sole ownership or contract rights to the biomass-derived fuel and any associated emissions exemption or emissions reductions attributed to the use of the fuel such that no other entity may claim an emissions exemption to reduce a compliance obligation in the Cap-and-Invest Program or in a linked external GHG emissions trading system.”

Dairy Cares appreciates these revisions that clarify and simplify this provision in the regulation. We understand that the intent of this language is to ensure that only one entity is able to claim an exemption for the use of biomass-derived fuels under the Cap-and-Invest regulation. We also understand that this language does not preclude the producer of the fuel from seeking offset credits under a compliance offset protocol for emission reductions attributable to the feedstock. For example, it is our understanding that a dairy can develop an offset project for methane destruction derived from manure capture at the dairy and also sell the upgraded biogas to a covered entity which is ultimately used to claim an exemption from the Cap-and-Invest regulation. We would appreciate CARB’s confirmation of this understanding in the Final Statement of Reasons.