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3950 K St.
Tulare, CA 93292
559-667-9560

March 9, 2026

Ms. Rajinder Sahota
Deputy Executive Officer - Climate Change & Research
California Air Resources Board
1001 I Street
Sacramento, California 95814

Re: California Bioenergy's Comments on CARB's 2026 Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

Dear Ms. Sahota,

Thank you for the opportunity to provide these comments to California Air Resources Board (CARB) relating to the Proposed Amendments released on January 20, 2026. California Bioenergy LLC (CalBio) is appreciative of CARB's efforts over the past several years to develop the Cap and Invest program into becoming one of the most impactful policies to support the reduction of statewide greenhouse gas emissions in line with statutory climate targets.

Founded in 2006, CalBio partners with California dairy farm families, dairy co-ops, CARB, the California Department of Food and Agriculture (CDFA), the California Public Utility Commission (CPUC), the California Energy Commission (CEC), and the U.S. Environmental Protection Agency (EPA). We exist to reduce methane emissions and are committed to enhancing environmental sustainability for all Californians. CalBio's digester projects produce renewable natural gas and electricity which support California's AB 32 and SB 1383 climate goals, displace fossil fuels, improve local air quality, and create jobs and investment in disadvantaged and dairy communities.

California's Cap and Invest program has been effective in creating a market-based price signal to drive cost-effective decarbonization by establishing a declining, economy-wide emissions cap and CalBio believes this is the most effective way to support statewide greenhouse gas emissions.

CalBio strongly supports California's climate goals and the Cap-and-Invest Program as an important element of the State's overarching climate change framework, particularly as specified in the 2022 Scoping Plan which prioritizes the use of RNG to decarbonize the hard-to-electrify sectors. We write these comments from the perspective that the climate emergency demands CARB strengthen the program to support achievement of California's legislatively-mandated greenhouse gas (GHG) reduction targets.

1. **Allow Offset Project Operators to participate in both the compliance offset program while simultaneously selling RNG under SB1440**

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Section 95852.1 of the Proposed Amendments includes modified text which would prohibit a company like CalBio from separately selling RNG to utilities while also being eligible to participate in the compliance offset program. The modified text states:

> *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 or otherwise claim a reduction in emissions associated with the use of the biomass-derived fuel. Exempt biomass-derived fuels may be associated with the generation of Renewable Energy Credits or Low Carbon Fuel Standard Credits.*

This language creates a significant barrier to in-state livestock offset projects from being able to sell RNG in California's SB1440 utility biomethane procurement law[1]. Under that statute, the CPUC, in consultation with CARB, is required to consider adopting specific biomethane procurement targets for each gas corporation or utility (IOU) operating in California. The CPUC has since set a short- and medium-term target for procuring biomethane in Decision 22-02-025[2]:

- The short-term 2025 biomethane procurement target is 17.6 billion cubic feet of biomethane, which corresponds to 8 million tons of organic waste diverted annually from landfills. Each utility will be responsible for procuring a percentage of the total in accordance with its proportionate share of natural gas deliveries.
- The medium-term 2030 target for biomethane procurement is 72.8 billion cubic feet per year. This higher amount will help the state achieve its goal to reduce methane emissions 40 percent by 2030. It reflects approximately 12 percent of current residential and small business (known as "core gas customers") gas usage in 2020

SB 1440 establishes clear legislative intent for California gas utilities to procure biomethane as a tool to reduce methane emissions and displace fossil gas, while the Cap-and-Invest program is designed to create durable, financeable incentives for verified emissions reductions, including livestock methane destruction. Prohibiting utilities from procuring RNG that also generates offset credits creates a structural conflict between two state climate policies that otherwise should be aligned. Allowing RNG procurement to coexist with offset generation would harmonize these frameworks, expand the pool of cost-effective methane reductions, and improve project economics for dairy digesters that require stacked revenue streams (gas sales plus environmental attributes) to make financial sense.

Importantly, this would not represent a novel or untested policy construct. California already recognizes an analogous structure under the CPUC's BioMAT program, where an offset project can generate carbon-

[1] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1440
[2] https://www.cpuc.ca.gov/news-and-updates/all-news/cpuc-sets-biomethane-targets-for-utilities

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neutral Renewable Energy Certificates (RECs) that utilities may use toward their Renewable Portfolio Standard (RPS) compliance, while the underlying project may also generate offset credits under Cap-and-Invest. In other words, the state has already accepted that properly defined environmental attributes can serve distinct regulatory purposes without constituting double counting. Extending that same conceptual framework to RNG procurement under SB 1440 would promote policy coherence, reduce regulatory friction, and accelerate achievement of California's short-lived climate pollutant and broader decarbonization goals.

This approach is also fully consistent with CARB's long-term climate strategy. The 2022 Scoping Plan[3] explicitly emphasizes the need to decarbonize the industrial sector and to transition biomethane away from transportation uses toward sectors that are hard-to-electrify. In fact, one of the strategies for achieving success listed in the Scoping Plan recommends implementing "biomethane procurement targets for investor-owned utilities as specified in SB 1440 (Hueso, Chapter 739, Statutes of 2018) to reduce GHG emissions in remaining pipeline gas and reduce methane emissions from organic waste." Additionally, enabling utilities to procure RNG while preserving offset eligibility directly supports the goals of SB1383[4] which requires CARB to reduce emissions of short-lived climate pollutants including methane from dairies and in doing so "adopt policies and incentives to significantly increase the sustainable production and use of renewable gas" including through the use of market-based compliance mechanisms.

To address this in this rulemaking process, CalBio proposes the following modifications to the language in Section 95852.1 which would allow for offsets to be generated and contracted separately from the physical RNG:

> *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 <u>for purposes of compliance with this subarticle</u>, such that no other entity may claim an emissions exemption to reduce a compliance obligation ~~or otherwise claim a reduction in emissions associated with the use of the biomass-derived fuel~~. Exempt biomass-derived fuels may be associated with the generation of <u>ARB Offset Credits, recognition in Renewable Gas Standard biomethane procurement, Renewable Identification Numbers,</u> Renewable Energy Credits or Low Carbon Fuel Standard Credits.*

Notably, the regulatory text as-written already allows for an exemption for biomass-derived fuels such as RNG to be claimed in the Low Carbon Fuel Standard (LCFS) program so such an exemption should also be granted for RNG which is produced under the Cap and Invest program. CARB must recognize that while emissions exemptions should be allowed by the utilities, RNG produced from dairy projects create additional reductions, including carbon negative environmental attributes beyond that which are

[3] https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf
[4] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383

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achieved by replacing fossil fuel with renewable fuel. In a pure replacement of fossil fuel with RNG, a "netting out" of the compliance obligation is realized by the utility. However, RNG derived from dairies are also responsible for achieving additional reductions due to the avoidance of methane which has 25x the global warming potential as CO2. These projects should be eligible to generate offset credits which would not otherwise be recognized by the utilities or any other party if the RNG is only allowed to be sold under SB1440 and the Cap & Invest regulatory language remains as written.

The CPUC released a decision on March 6, 2026[5], in which they recognized the importance of splitting environmental attributes into Renewable Thermal Certificates (RTCs) from those attributes of RNG which result in additional avoided methane benefits. The CPUC states:

> *Recognition of the value of environmental attributes of biomethane, such as for avoided methane emissions, for another voluntary or mandatory program is allowed and does not necessarily prevent the Cap-and-Invest Regulation from exempting biomethane combustion CO2 emissions due to their biogenic nature. For example, a livestock manure management project that produces biomethane may be credited in another program based on preventing methane emissions to the atmosphere, and the CO2 emissions from combusting the biomethane produced by the livestock manure management project could also be recognized as exempt from a Cap-and-Invest Regulation compliance obligation if the biomethane is used by a facility covered by the Cap-and-Invest Regulation.*

CalBio is recommending CARB make it explicit that the Cap & Invest program will similarly allow the biogenic CO2 combustion emissions to be exempt while also recognizing the avoided methane benefits within the same regulation. It is important for CARB and the CPUC to establish a dialogue on this topic to ensure that California-based dairy digester projects are not inadvertently excluded from being able to sell RNG into the hard-to-electrify sectors, including utilities, while also be recognized for the emission reductions achieved within the state. Aligning Cap-and-Invest with SB 1440 procurement authority would therefore reinforce CARB's overall policy direction which is to leverage biomethane to reduce methane at the source while strategically deploying it where it provides the greatest long-term decarbonization value for California.

2. **Include language detailing how dual-enrolled projects can transition between Cap and Invest and LCFS**

Section 95973(f) of the Proposed Amendments specifies that a project may enroll in both LCFS and Cap and Invest, so long as it maintains compliance in both programs and does not claim credits from both programs within the same reporting period. CalBio agrees with this, however, the language used within the Proposed Amendments appears to unintentionally imply that a project may only transition from Cap

[5] https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M601/K846/601846485.PDF

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and Invest *to* LCFS rather than between the programs: "An offset project that transitions to a Low Carbon Fuel Standard pathway must maintain its continuous reporting obligation…" (pg. 317). CalBio requests that CARB expand the language in the amendments to clearly state that a project may transition *between* programs. Furthermore, CalBio recommends outlining the process through adding text that explains how a project transitions between programs, who should be notified and in what format, and how an OPD or APD would demonstrate that they have not received credits in both programs within the same time period.

3. **Consider any project with a COD after 2020 that has applied and participated in LCFS eligible to participate in Cap and Invest**

Under current regulations, for a project to be eligible to participate in the Cap and Invest Program, listing information must be submitted no later than one year after the offset project commencement date, per Section 95975(g). CalBio acknowledges that this policy is in place to demonstrate additionality, supporting the concept that the project would not have been built in the absence of an incentive program.

However, the Cap and Invest regulation, as currently written, would prohibit a project which was originally developed with the intention of participating in the LCFS regulation from being eligible to participate in the compliance offset program. Therefore, CalBio highly recommends that the regulation be updated such that any project with a commencement date on or after January 1, 2020 and has generated credits in the LCFS program is eligible to be listed in and transition to the Cap and Invest program. This is particularly important as many dairy RNG projects developed for LCFS purposes are struggling to find offtake in the CNG market as demand for RNG has become saturated.[6] The California LCFS and Cap and Invest represent two of the most significant crediting programs in the world. Ultimately, this proposed update would not just maintain the effectiveness of market-based mechanisms designed to combat climate change, but further the aims of both programs by increasing flexibility while simultaneously reducing risk to project development.

4. **Clarify CARB's future goals and timeline for releasing an updated Compliance Offset Protocol for Livestock Projects**

Language throughout the proposed amendments references the Compliance Offset Protocol Livestock Projects, October 20, 2011, and the Compliance Offset Protocol Livestock Projects, November 14, 2014.

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6 https://static1.squarespace.com/static/53a09c47e4b050b5ad5bf4f5/t/69402f2534cfa82887307413/1765814054283/RNG+Near-Term+Demand+Study+FINAL+Report+251124.pdf

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CalBio is seeking CARB's clarification on any plans and timelines around drafting and releasing an updated Compliance Offset Protocol for Livestock Projects.

As technology continues to rapidly develop in the energy sector, it is crucial that the Cap and Invest program remains current to ensure that all intended eligible sources of greenhouse gas emissions reductions reflect the latest science and technology. For example, the Compliance Offset Protocol Livestock Projects, November 14, 2014, states that "the actual source test results for the measured methane destruction efficiency must be used in place of the default methane destruction efficiency. Otherwise, the Offset Project Operator or Authorized Project Designee must use the default methane destruction efficiencies provided…".[7] Default methane destruction efficiencies are only provided for open flares, enclosed flares, lean-burn internal combustion engines, rich-burn internal combustion engines, boilers, microturbines or large gas turbines, upgrade and use of gas as CNG/LNG fuel, upgrade and injection into natural gas transmissions and distribution pipelines, and direct pipelines to end-users; however, since the release of the protocol, there has been an increased use of new destruction devices, specifically fuel cells and linear generators. As these projects are not recognized in the Compliance Offset Protocol Livestock Projects, November 14, 2014, the burden is placed on the OPD or APD to conduct a source test to calculate a custom biogas destruction efficiency (BDE) to participate in the Cap and Invest program. This requirement may be more stringent than those imposed by the local Air District. The omission of fuel cells and linear generators in the Compliance Offset Protocol Livestock Projects indicates an opportunity to update, especially given that default BDEs for these devices can be found elsewhere in CARB's Emission Factor Database. [8]

CalBio urges the release of a new Compliance Offset Protocol Livestock Projects in parallel with the 2026 Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to best align the regulation and the protocol.

5. Include language detailing how to extend the final Reporting Period in the first Crediting Period

CalBio appreciates the expansion of Section 95975 (j) in the Proposed Amendments, which clearly outlines the process for applying for a Renewed Crediting Period. As the deadline for applying for a Renewed Crediting Period is contingent upon the end date of the current crediting period, CalBio advises detailing the process for lengthening a final reporting period. As it stands, "offset projects that submitted a first reporting period in the initial crediting period that was less than 24 consecutive months may include any months not included in the first reporting period in the final reporting period of the initial crediting period, such that the combined duration of the initial and final reporting periods in the initial crediting period do not exceed 36 months total," (pg. 43). However, there is no further language on

[7] https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2014/capandtrade14/ctlivestockprotocol.pdf
[8] cci_emissionfactordatabase_2024-09-13.xlsx

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extending a final reporting period. Because the OPO or APD must submit information for a Renewed Crediting Period no later than 3 months before the conclusion of the current crediting period, clarifying the procedure for extending a final reporting period would not only streamline the process, but it would also ensure that the deadline for a Renewed Crediting Period is clear and understood by all parties. CalBio recommends that notice to lengthen the final reporting period must be submitted to an Offset Project Registry no later than 8 months after the close of the penultimate reporting period. The notice should include the following:

(1) Offset project name and both its CARB project identification number and Offset Project Registry project identification number;
(2) Name of the OPO and, if applicable, APD;
(3) Start date and end date for the current final reporting period;
(4) Start date and end date for the lengthened final reporting period;
(5) Start date of the crediting period;
(6) Signature of a primary or alternative account representative of the Offset Project Operator, along with their printed name, title, and date signed.

Should the project with the lengthened final reporting period remain in compliance with the Regulation, CARB should issue written confirmation of the lengthened final reporting period.

CalBio thanks CARB for the opportunity to provide these comments. We look forward to engaging with you on these topics throughout the rulemaking process. Please do not hesitate to reach out if you have any questions.

Sincerely,

Andrew Craig
Vice President, Greenhouse Gas Programs
California Bioenergy LLC