



March 9, 2026

California Air Resources Board  
Clerks' Office, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Delivered electronically: <https://carb.commentinput.com/?id=pNeRj64MA> ;  
<https://ww2.arb.ca.gov/applications/public-comments>

**RE: Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation**

To Whom It May Concern:

The American Biogas Council (ABC) is pleased to submit the following comments to the California Air Resources Board (CARB) regarding the [proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation](#).

As the voice of the U.S. biogas industry, representing over 400 member companies working to recycle organic waste into clean, locally made energy and fertilizer, ABC's mission is to maximize the economic and environmental benefits of biogas while advancing sustainable solutions for energy, agriculture, and waste management. ABC works to create the regulatory, policy, and economic conditions that catalyze development of new biogas systems—creating jobs, generating new revenue for farmers and communities, strengthening energy security, reducing emissions, increasing circularity, and enabling the growth and trade of low-carbon fuels in a global bioeconomy.

Thank you for your consideration of the comments herein. The ABC and its members welcome the opportunity to answer questions or provide clarification where needed.

Sincerely,

A handwritten signature in black ink that reads "Heather Dziedzic".

Heather Dziedzic  
Vice President of Policy  
American Biogas Council

## Overview of feedback:

Thank you for the opportunity to provide comments on the proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation. ABC supports MRR and Cap-and-Invest as important elements of the State's broader climate policy framework and generally supports the proposed amendments. However, ABC's comments seek to highlight areas where minor clarifications will help ensure that biomethane and avoided methane emissions reductions are appropriately recognized under the rules.

CARB's proposed updates to the Mandatory Reporting Regulation (MRR) expand who is considered a "fuel importer." Under book-and-claim accounting systems, this change could unintentionally include RNG developers or marketers even when no physical fuel enters California. This raises the risk that RNG suppliers could be required to report emissions for fuel delivered into California either physically or through book-and-claim transactions associated with the LCFS, potentially triggering Cap-and-Invest compliance obligations even for low-carbon biogenic gas.

In addition, the proposed exemption criteria, including the three-year historical output test, may be difficult to apply to new projects or facilities with natural year-to-year production variability. These provisions also do not clearly account for existing contractual and accounting frameworks used under the LCFS and RFS. While the rule includes an industrial decarbonization incentive allocation, it does not fully address the operational complexities or compliance risks faced by RNG suppliers. Clarifying these provisions will help maintain alignment with existing low-carbon fuel programs and avoid unintended consequences.

## Key Recommendations and Considerations:

The American Biogas Council (ABC) recommends the following adjustments to the proposed amendments:

1. Clarify "Importer of Fuel" Definition under Mandatory Reporting Regulation (MRR)
2. Ensure eligibility for biomethane as an exempt biomass-derived fuel
3. Clarify eligibility of claiming and recognizing full value of biomethane benefits
4. Reduce complexity in eligibility determination and clarify historical use requirement
5. Provide additional clarity and expand the manufacturing decarbonization incentive allocation to all hard-to-abate sectors in the Cap-and-Invest program
6. Support incorporating CCUS and additional utilization and storage protocols
7. Ensure alignment between reporting frameworks and regulations

## Recommendations and Considerations:

### 1. Clarify "Importer of Fuel" Definition under Mandatory Reporting Regulation (MRR)

ABC urges CARB to clarify that the definition of "importer of fuel" under MRR does not apply to transactions involving book-and-claim accounting of biomethane where no physical fuel crosses California's border. As currently written, the definition could be interpreted to apply whenever ownership of fuel transfers to a California end user or market participant located in the state.

Under that interpretation, a book-and-claim biomethane transaction, where environmental attributes associated with biomethane produced outside the state are contractually transferred to a California purchaser while the physical gas remains in the originating pipeline system, could be construed as a fuel import. This outcome would not reflect the physical movement of fuel and would be inconsistent with existing MRR reporting structures.

The physical natural gas associated with these transactions is already reported under the program. Treating the contractual transfer of biomethane attributes as an additional fuel import would therefore risk double counting the same underlying gas volumes under MRR. To avoid double counting, CARB should clarify that the importer definition applies only to physical imports of fuel transported into

California and explicitly exclude book-and-claim accounting where the underlying gas volume is already captured through existing reporting pathways.

## **2. Ensure eligibility for biomethane as an exempt biomass-derived fuel**

Page 31 of Appendix A-1 of the Proposed Amendments states that “Non-exempt Biomass derived CO<sub>2</sub> means CO<sub>2</sub> emissions resulting from the combustion of fuel not listed under section 95852.2(a), or that is not verifiable under section 95131(i) of the MRR.”

ABC urges CARB to ensure that the eligibility criteria for biomethane as an exempt biomass-derived fuel are workable for contract-based RNG transactions. These transactions reflect how biomethane is currently supplied and tracked in existing markets, including book-and-claim accounting systems used under the Renewable Fuel Standard (RFS) and Low Carbon Fuel Standard (LCFS).

Without clear recognition of these established accounting approaches, the proposed rule risks unintentionally treating emissions from biomethane as covered fossil emissions requiring allowance purchases, even though the same fuel is incentivized under the LCFS due to its low carbon intensity.

## **3. Clarify eligibility of claiming and recognizing full value of biomethane benefits**

ABC requests clarification that biogenic CO<sub>2</sub> emissions associated with qualified biomethane remain eligible for exemption under the Cap-and-Invest framework when properly documented through contractual delivery pathways and recognized fuel tracking systems. Clear treatment of biogenic carbon is essential to avoid inconsistent accounting of the same fuel across California climate programs.

Biomethane projects deliver multiple greenhouse gas (GHG) benefits, including CO<sub>2</sub> benefits from displacing fossil natural gas as well as significant methane (CH<sub>4</sub>) reduction benefits from capturing and utilizing waste methane. ABC requests confirmation that the MRR and Cap-and-Invest framework will continue to recognize the full suite of climate benefits associated with biomethane production and use and will not inadvertently limit the ability of projects to participate in other legitimate environmental markets or crediting programs.

ABC notes that the proposed amendments appropriately recognize biomethane’s GHG benefits when the fuel is used in the transportation sector or to generate renewable electricity. However, the framework does not appear to provide equivalent recognition of biomethane’s full climate benefits when the fuel is used in other sectors, such as for industrial decarbonization or to reduce emissions within the natural gas system.

This distinction may create unintended barriers to broader deployment of biomethane across sectors. California has identified expanding the use of biomethane beyond transportation as a priority in the Scoping Plan and in the Initial Statement of Reasons (ISOR) for these proposed amendments. To support that transition, the Cap-and-Invest program should ensure consistent recognition of biomethane’s CO<sub>2</sub> and CH<sub>4</sub> benefits regardless of end use.

ABC therefore supports clarifying amendments to §95852.1 to ensure that emerging crediting approaches for industrial decarbonization, gas system decarbonization, carbon removal, and other applications are treated consistently with existing programs such as the Low Carbon Fuel Standard (LCFS) and the Renewable Portfolio Standard (RPS).

## **4. Reduce complexity in eligibility determination and clarify historical use requirement**

ABC would like to express concern with the proposed eligibility framework detailed in section 95852.2 and 95131(i) of the MRR, with particular attention to the criteria detailed in §95852.1.1. As written, the framework introduces unnecessary complexity and may create unintended barriers to the use of biomass-derived fuels in California. In particular, the provision tying eligibility to the “annual average amount of fuel used in California over the previous three years” raises practical questions for suppliers whose fuel may serve multiple markets over time.

The proposal's reliance on a 36-month historical period for determining eligibility could create uncertainty for projects whose offtake arrangements change over time, including shifts in operational performance and between California transportation markets and other end uses. Biomethane production volumes fluctuate over time due to operational factors that are largely outside a producer's control, including feedstock variability, digester maintenance cycles, pipeline outages, and seasonal production patterns. A three-year historical baseline could therefore under-represent a facility's actual available production in any given year and artificially limit eligible volumes. In addition, by linking eligibility for exempt biomass treatment to historical fuel use within California specifically, the proposed framework may unintentionally disadvantage projects that previously served other markets, or end uses but later contract to deliver fuel into California. In practice, this approach could limit the ability of suppliers to respond to changing market conditions and may discourage participation in California programs if doing so creates additional compliance uncertainty. Finally, ABC notes that the same 36-month historical averaging concept appears in the proposed manufacturing decarbonization incentive allocation provisions, which could create parallel implementation problems across multiple program elements and compound compliance uncertainty.

ABC recommends that CARB clarify the intent of this provision or striking § 95852.1.1 in its entirety and consider whether eligibility for exempt biomass treatment should focus on the characteristics of the fuel and the project producing it, rather than the geographic location or end use of the fuel during a prior historical period. This would simplify implementation and improve consistency with the way biomethane markets function. If nothing else, ABC recommends changes to the 36-month average reporting requirements in § 95852.1.1(a)(2)(C) to allow a facility's eligible share of biomethane to be determined based on the percentage of its total production delivered to California in the prior year, applied to the facility's actual production going forward. Using a prior-year percentage would allow the program to accommodate natural production variability, operational disruptions, and stored or banked gas volumes without locking projects into an outdated baseline.

#### **5. Provide additional clarity and expand the manufacturing decarbonization incentive allocation to all hard-to-abate sectors in the Cap-and-Invest program**

ABC supports the proposed amendments to add a manufacturing decarbonization incentive allocation to the program and specifically supports inclusion of biomethane as an eligible technology. As identified in the ISOR, the cost to decarbonize many industrial facilities remains higher than allowance prices under the program<sup>1</sup>. An additional allocation to support industrial decarbonization will help develop and deploy strategies needed to decarbonize these sectors, including biomethane projects, and help them become economically viable and be deployed more rapidly to support California's environmental goals.

ABC suggests the proposal would benefit from additional clarification and transparency regarding the structure and potential value of the incremental allowance allocation. Greater visibility into how this allocation may support project development would help biomethane and other low-carbon fuel providers better assess the role the program could play in enabling investment.

Additionally, the strategies supported under the program are the same approaches needed to decarbonize other hard-to-abate sectors. ABC therefore encourages CARB to consider expanding the program to include additional covered sectors and facilities. Doing so would help accelerate greenhouse gas reductions across the state while supporting more rapid development and deployment of the technologies needed to meet California's climate goals

#### **6. Support incorporating CCUS and additional utilization and storage protocols**

ABC supports the proposed amendments to incorporate carbon capture, utilization, and storage (CCUS) into the Cap-and-Invest program. CARB has identified CCUS and carbon removal as critical strategies for achieving the state's long-term climate goals and formally integrating these approaches into the framework represents an important step toward scaling deployment of these technologies.

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<sup>1</sup> Page 175 of ISOR.

ABC also supports the proposal to remove references limiting eligibility to geologic sequestration, which would allow a broader range of CCUS strategies to participate in the program and better support California's climate objectives. This work should include ensuring appropriate eligibility and crediting for CCUS systems coupled with biomethane and bioenergy pathways, as well as the timely development of additional utilization and storage protocols needed to accelerate deployment of these technologies.

#### **7. Ensure alignment between reporting frameworks and regulations**

ABC urges CARB to ensure alignment between reporting requirements under the MRR, LCFS, and emerging reporting frameworks under the California Energy Commission to avoid duplicative or inconsistent data collection requirements. Where possible, CARB should leverage LCFS reporting infrastructure and data streams to obtain necessary information from RNG suppliers rather than establishing parallel reporting obligations.

#### **Conclusion:**

The ABC appreciates the opportunity to provide these comments and welcomes continued dialogue. ABC is available to provide any additional information or clarification regarding the comments provided.