



March 9, 2026

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

Re: Proposed Amendments to Cap-and-Invest Program

Dear Air Board:

The Bioenergy Association of California (BAC) submits these comments on the Proposed Amendments to the Cap-and-Invest Program, issued January 23, 2026. BAC and its individual members strongly support the Cap-and-Invest Program as an essential part of the state's strategy to reduce greenhouse gas and short-lived climate pollutant emissions. BAC is generally supportive of the proposed amendments, in particular the recognition of the need for new biomethane markets. At the same time, BAC urges CARB to revise the language in section 95852.1 to ensure that projects capable of generating carbon negative emissions are able to access full value for any emission reductions not required by law, thereby reducing the hurdle to attract investments.

BAC's specific comments on the proposed amendments are below.

1. The Bioenergy Association of California (BAC)

BAC represents about 85 members that are converting organic waste to energy to meet the state's clean energy, climate change, wildfire reduction, landfill reduction, and circular economy goals. BAC's public sector members include cities and counties, Tribes, air quality and environmental agencies, waste and wastewater agencies, public research institutions, environmental and community groups, and a publicly owned utility. BAC's private sector members include energy and technology companies, waste haulers, agriculture and food processing companies, investors and consulting firms, and an investor-owned utility.

2. Allowance Allocation for Manufacturing Decarbonization

BAC supports the Manufacturing Decarbonization Incentive Allocation designed to reduce emissions from the manufacturing and industrial sectors and to prevent emissions leakage. BAC agrees with the explanation in the ISOR that “Decarbonizing manufacturers depends on displacing fossil fuel use with a mix of electrification, solar thermal heat, biomethane, low- or zero-carbon hydrogen, and other low-carbon fuels to provide energy for heat and reduce combustion emissions and reduction of process emissions through alternative materials and sequestration.”¹ BAC supports the use of allowances and other incentives to decarbonize manufacturing and other hard-to-electrify sectors while minimizing leakage. BAC also agrees with the ISOR that this is consistent with the Board’s 2023 Resolution that recognized the need for multiple, long term markets for biomethane, including for use in hard-to-electrify sectors.² As that Resolution stated:

“the Board recognizes that the successful implementation of the food waste diversion requirements and methane emissions reductions mandated by SB 1383 are critical to the State’s climate goals. The Board further recognizes that multiple reliable uses for non-fossil biomethane will be needed for successful implementation.”³

BAC urges CARB to prioritize the issuance of allowances for manufacturing sectors that use bioenergy to decarbonize. That includes biogas (including the biogas from biomass gasification), biomethane, bio-oil, and biogenic hydrogen generated from organic waste. These should be the highest priority since they are the only decarbonization options that reduce Short-Lived Climate Pollutant emissions as required by SB 1383. As CARB has stated many times, SLCP reductions are among the most urgent measures because they benefit the climate right away and buy time while other measures begin to take effect. According to CARB’s annual reports to the Legislature, the state’s investments in bioenergy programs are also the most cost-effective of all the state’s climate investments.⁴

SLCP reductions also benefit public health by reducing methane and black carbon emissions, two harmful air pollutants.⁵ The United Nations Environment Program has underscored these benefits, stating that “Cutting methane is the strongest lever we have to slow climate change over the next 25 years and complements necessary efforts to

¹ ISOR at page 70.

² CARB Board Resolution 23-13, issued April 27, 2023, at pages 37-38.

³ Id. at page 37.

⁴ California Air Resources Board, *California Climate Investments 2022 Mid-Year Data Update*, September 2022, showing that investments in dairy digesters and diverted organic waste cut carbon emissions for \$9 and \$10 per ton, respectively. ARB’s 2021 Annual Report to the Legislature on California’s Climate Investments also showed that investments in organic waste to energy were the most cost-effective of all the state’s climate investments. See Table 2, pages 17-18.

⁵ *Short-Lived Climate Pollutant Reduction Strategy*, adopted by the California Air Resources Board, March 2017, at page 22.

reduce carbon dioxide. The benefits to society, economies, and the environment are numerous and far outweigh the cost.”⁶

For all these reasons, BAC supports the issuance of allowances to decarbonize manufacturing and industrial sectors and urges CARB to prioritize allowances for facilities that use bioenergy from organic waste to decarbonize. Doing so will provide the greatest climate and public health benefits.

3. Need to Revise Section 95852.1 to Clarify Treatment of Carbon Negative Emissions from Biomass-Derived Fuels.

BAC appreciates the need to revise section 95852.1 for clarity, but the proposed amendments will only increase confusion and will slow the development of projects that can generate carbon negative emissions. The proposed changes to section 95852.1 are intended to clarify the ownership and transferability of emissions reductions and exemptions generally, with the exception of biomass-derived fuels procured pursuant to the Renewables Portfolio Standard and the Low Carbon fuel Standard.

BAC has two separate concerns about the amendments to section 95852.1 and proposes recommendations to address each of these concerns:

a. Section 95852.1 Should Clarify the Treatment of Carbon Negative Emissions.

BAC appreciates the attempt to clarify ownership and contractual rights for exempt biomass-derived fuels, but the proposed amendments to section 95852.1 add significant confusion. The second sentence of this section now states that:

“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.”⁷

This language is quite confusing and seems to indicate that an entity claiming use of an exempt biomass-derived fuel must own or transfer all emissions reductions together. This does not make sense when biomass-derived fuels have a very wide range of carbon intensities, co-products and other benefits. It is especially concerning for biomass-derived fuels that are carbon negative on a lifecycle basis. With the exception of the LCFS, most carbon negative fuels sell carbon offset credits or obtain other incentives for the generation of emissions below zero. The amended version of section

⁶ <https://www.unep.org/news-and-stories/press-release/global-assessment-urgent-steps-must-be-taken-reduce-methane>

⁷ Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, Appendix A-1, section 95852.1, at page 125.

95852.1 seems to indicate that a seller of biomass-derived fuels would have to give up the rights to all emissions reductions, rather than being able to stack incentives in proportion to the amount of emissions reductions.

The amendments seem to recognize the value and the need to allow credit stacking by exempting biomass-derived fuels under the RPS and LCFS (last sentence of section 95852.1), but do not allow this for biomass-derived fuels used onsite or sold into other procurement programs and for other purposes.

BAC urges CARB to clarify this section by making the following change to the amended version of section 95852.1:

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 **for which the entity is claiming credit under this regulation.** ~~such that n~~**No** other entity may claim an emissions exemption to reduce a compliance obligation or otherwise claim a reduction in emissions associated with the **emissions reduction claimed under this regulation from the** use of the biomass-derived fuel. **An entity may treat carbon negative emissions separately from the emissions associated with the displacement of fossil fuel use, including by sale or transfer of the emissions reductions below zero carbon and the carbon reduction or sequestration values of associated co-products.**

Bifurcating the treatment of emissions reductions makes sense since most procurement programs, including the RPS, do not place a value on carbon negative emissions. BAC's proposed changes are consistent with how the CPUC has handled carbon negative emissions under the BioMAT (small-scale bioenergy) program required by Public Utilities Code section 399.20(f)(2). In the CPUC's decision establishing the rules for the BioMAT program, the CPUC clarified that all emissions reductions and other environmental benefits – except for carbon negative emissions – transfer with the purchase of the biopower since those benefits are associated with the displacement of fossil fuel based generation, which is the value captured by Renewable Energy Credits (RECs).⁸ The CPUC decision recognized that RECs under the RPS are intended to represent the benefits of displacing fossil fuels and do not account for the upstream emissions reductions that bioenergy from organic waste can provide and that can lead to carbon negative emissions.

BAC urges CARB to make the same clarification in section 95852.1 to continue to encourage the generation of carbon negative emissions and other benefits associated with biomass-derived fuels.

⁸ CPUC's Decision 15-09-004, issued September 17, 2015 in Rulemaking 15-02-020.

b. Section 95852.1 Should Exempt Any Biomass-Derived Fuels that are Procured Pursuant to Statutory or Regulatory Procurement Requirements.

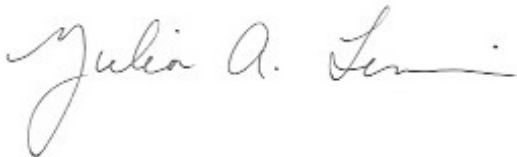
The last sentence of section 95852.1 provides that “Exempt biomass-derived fuels may be associated with the generation of Renewable Energy Credits or Low Carbon Fuel Standard Credits.” BAC urges CARB to expand this statement to include other statutory or regulatory procurement programs, including the pipeline biomethane procurement program established pursuant to SB 1440 (Hueso, 2018) and adopted in CPUC Decision 22-02-025,⁹ as well as future procurement programs that may target other sectors, such as hard-to-electrify sectors. Allowing exempt biomass-derived fuels to participate in any and all procurement programs will help to accelerate progress in meeting the SLCP reduction requirements of SB 1383 and will help to decarbonize industrial, manufacturing and other hard-to-abate sectors.

BAC recommends amending the last sentence of section 95852.1 as follows:

Exempt biomass-derived fuels may be associated with the generation of Renewable Energy Credits, ~~or~~ Low Carbon Fuel Standard Credits, **compliance with the biomethane procurement program established pursuant to Public Utilities Code section 651, or any other procurement obligations required by state law or regulation for which biomass-derived fuels are eligible.**

Thank you for your consideration of these comments. We would be happy to provide any additional information that would be helpful.

Sincerely,



Julia A. Levin
Executive Director

⁹ CPUC Decision 22-02-025, issued February 24, 2022 in Rulemaking 13-02-008.