# Agricultural Council of California (Emily Rooney)

Comments attached re: proposed amendments to Cap & Invest

May 4, 2026

California Air Resources Board
1001 I Street
Sacramento, CA 95814

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

*Submitted Electronically Via: https://carb.commentinput.com/?id=pNeRj64MA*

To Whom It May Concern:

Agricultural Council of California (Ag Council) and Dairy Institute of California (Dairy Institute) represent food and dairy processors and other farmer-owned businesses throughout California. Many businesses in our joint memberships conduct processing activities that require them to comply with the California Air Resources Board's (CARB's) Cap & Invest Regulation. We appreciate the opportunity to comment on the proposed amendments dated April 14, 2026 (proposed amendments).

Recognizing the state's goal of a carbon-neutral future, we acknowledge the effects this has had on the ongoing implementation of Cap & Invest. Ag Council and Dairy Institute share core principles: to ensure a Cap & Invest program that is both effective and affordable for California's businesses and consumers.

**Table 6-2: California GHG Allowance Budget through 2045**

CARB presents a draft allowance budget through 2045 in the regulation that mirrors the previous draft regulation. The ending allowance allocation is a fraction of the starting point identified in the chart in 2021.

Our concerns remain the same from the previous draft regulation. We believe this aggressive decline will further drive-up costs for the food and ag sector. Cost and import pressures remain a concern throughout the industry. As an example, even with the ongoing trade wars, imported peaches from China are down 16% from 2023 to 2025, however imports from Chile are up 73% in the same time frame. California's high costs already put California companies at a disadvantage when dealing with global and interstate economies. Costs associated with this GHG allowance budget could further exacerbate these issues.

Furthermore, the food processing sector continues to contract, demonstrated with the recent bankruptcy of Del Monte Foods. Smithfield Foods, Ruiz Foods and other California food processors have closed, reduced their footprint or expanded outside of the state due to increasing cost pressures in California. This year Leprino Foods is closing their Lemoore East mozzarella manufacturing facility due to high operating costs in California and the opening of a new facility in Texas. Cap & Invest should consider initiatives to provide affordable compliance pathways or more robust incentives to support California's food and ag sector.

**Section 95852.1: Compliance Obligations for Biomass Derived Fuels**

Ag Council and Dairy Institute support expanding the eligibility of agricultural wastes and byproducts that can be used as biomass-derived fuels. While we recognize the importance of reporting unintended emissions, reporting requirements should be structured so they do not create barriers for investors seeking to maintain and develop biomass energy projects. Increased use of biomass-derived fuels has the potential to reduce reliance on fossil fuels and contribute to the state's climate goals. In addition, further efforts should be made to promote biomass solutions that support the development of a circular economy within the Cap & Invest program. Expanding these opportunities could provide valuable outlets for agricultural waste during periods of economic stress while helping drive meaningful transformation across the agricultural sector.

**Section 95852.2: Emissions Without a Compliance Obligation**

We recommend adding the term "byproducts," in section (a)(3) to further demonstrate the types of ag waste and residues that can meet the prerequisites of this section.

**Section 95871: Disposition of Allowances from Vintage Year 2021 and Beyond**

Ag Council and Dairy Institute support the overall expansion of Manufacturing Decarbonization Incentive (MDI), given the volatility of the ag incentive programs funded by GGRF. We urge CARB to create and disperse additional allowances for MDI outside of the overall cap and the Allowance Price Containment Reserve (APCR) so that the allowances used for MDI do not further reduce allowances utilized to mitigate cost pressures for those participating in the Cap. Utilizing outside allowances will bolster efforts created by Build Up California.

**Table 8-1: Assistance Factors and Covered Industrial Sectors**

While Ag Council and Dairy Institute appreciate CARB maintaining the 100% assistance factor for all industry activities through 2030, we are concerned that CARB shortened the life of the allowances by five years in these proposed amendments. The previous draft extended 100% free allowances through 2035 and this amended version shortens the timeframe to 2030. This is only four years away -- creating substantial uncertainty within the sector. We are opposed to this change and request the assistance factors be reinstated through 2035, as in the previous draft.

Maintaining the assistance factors is one of the most critical ways to mitigate some of the costs of this regulation. Ag Council and Dairy Institute disagree with CARB's shortening of the length of the timeframe and also the designation of various types of food and beverage processing as "medium," risk factor and we believe the industry belongs in a "high," leakage risk category.

California's food processing sector operates on thin margins while facing volatile input prices. Recent inflationary pressures have increased costs of various inputs including (but not limited to) packaging, transportation, energy and raw products. California also pays some of the highest wages in the country, to the benefit of the workforce, but further eroding any funds that might be utilized to make climate-friendly capital investments.

Simply put, California is at a disadvantage when competing with other states and countries in the business environment. We urge CARB to move all segments of the food processing industry to "high," leakage status. We will work with CARB to provide additional data in the coming months to assist with changing this determination.

**Table 8-3: Allowances Allocated to the APCR through 2045**

Ag Council and Dairy Institute urge CARB to consider a more flexible APCR in its implementation process. Because the proposed cap is drastically decreasing before 2045, CARB may need additional allowances to introduce to the market in an effort to mitigate potential price spikes.

**Section 95891: Allocation for Transition Assistance and Leakage Minimization (Inclusive of the Manufacturing Decarbonization Incentive Allocation)**

Ag Council and Dairy Institute support CARB's efforts to minimize leakage through a robust assistance factor, allowance allocation and various incentive programs. We also support CARB's inclusion of additional allowances for those who can move to electrification and for those who can utilize the Manufacturing Decarbonization Incentive Allocation, however, many in the food processing sector have already achieved as much as possible and any additional projects will have minimal ROI when compared to the upfront investment costs.

Ag Council and Dairy Institute support the overall concept of expansion of MDI as a way for CARB to incentivize covered entities to create additional GHG reductions in a way that ensures long-term adoption of these projects. While the underlying goals of MDI are innovative and creative, clear and predictable implementation will need to be worked through with the business community in order to maximize engagement and success of the program. We support the Chamber's comments regarding the need to provide more clarity regarding implementation, and we look forward to working with CARB to create mutually beneficial outcomes through MDI.

**Section 95973: Requirements for Offset Projects Using ARB Compliance Offset Protocols**

Ag Council and Dairy Institute believe that all incentives should work together to create greater climate friendly projects, reducing GHGs throughout California. With this mindset, we urge CARB to reconsider its draft language preventing the use of both offset credits and LCFS credits in the creation and support of a project. Many projects in this space have intense capital and permit costs and CARB should consider maximizing incentives to ensure the rapid adoption and success of these projects.

**Section 95976: Monitoring, Reporting, and Record Retention Requirements for Offset Projects**

Section (h) highlights the monitoring period for sequestration projects. In this section, CARB states that a "Sequestration Operator must continue to monitor, report and verify information for the full duration of the project life, which includes the 100-year period after the final offset credit issuance."

Ag Council and Dairy Institute understand the need to ensure project viability, however, this provision may deter private sector investment as many companies could be reluctant to commit to any specific type of project over the course of a century. We urge CARB to create ways to incentivize offset projects, not deter them.

**Greenhouse Gas Reduction Fund Incentive Programs**

Ag Council thanks CARB for its previous and current support of ongoing agricultural greenhouse gas reduction programs supported through the Greenhouse Gas Reduction Fund (GGRF). These programs have been vital in assisting the food and ag community in achieving our climate goals and they are just as

imperative now as they were during their inception. Many of these programs are on the top of the list when compared to other GGRF programs as it relates to the climate reductions as well. Our current request includes the following highlights for the 2026-2027 budget:

- $200 million for the FARMER program
- $50 million for the Food Production Investment Program (FPIP)
- $75 million for Sustainable Ag Waste Management
- $75 million for Livestock Waste Reduction Programs

We are hopeful CARB will continue its support and assist us in prioritizing funding for these programs. If you would like a copy of our legislative request letter, please let us know.

**The Future of Cap & Invest and GHG Incentive Projects**

We thank CARB for its support of our ag-related GGRF Incentive programs and its creativity in creation of the MDI. We understand that CARB is attempting to expand the MDI in an effort to create additional incentives in an environment where the expenditure of GGRF dollars has become political and therefore massive opportunities for investments have been lost due to political whims.

While we support the overall use and expansion of MDI, there are inherent implementation concerns with the program. If this is coupled with the fact that the overall cap is significantly declining over the next generation of Cap & Invest, we urge CARB to put together a working group on the future of incentive programs in an effort to identify opportunities for GHG reductions in the landscape and right size the regulatory process to maximize those opportunities. Ag Council and Dairy Institute look forward to leading this effort to ensure ag has a seat at the table. We can work with CDFA, much like the inception of the FPIP program, to create the analysis and related programs that are both meaningful to agriculture and to CARB.

Given the aggressive decline in the cap, time is of the essence to find ways to ensure Cap & Invest works for the businesses and residents of California. In this regard, we also support the Chamber's comments regarding needing more certainty past 2030. CARB can work with the business community to ensure we are on the same page, while creating a workable Cap & Invest program for all. We urge CARB to get started on this effort right away.

Thank you for your consideration of our comments. Should you have any comments or questions about our letter, feel free to contact Emily Rooney at (916) 952-9151 or emily@agcouncil.org. We look forward to working with CARB's team as we embark on the next generation of Cap & Invest.

Sincerely,

Emily Rooney
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