



March 9, 2026

Lauren Sanchez
Chair, California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Cap & Invest Amendments

Dear Chair Sanchez:

On behalf of the Agricultural Energy Consumers Association (AECA) and Dairy Cares, representing agricultural, dairy and food production companies in California, we appreciate the opportunity to comment on CARB's January 2026 Proposed Amendments to the Cap & Invest Regulation.

AECA and Dairy Cares members include a number of covered entities that are directly regulated under the program. Both organizations also represent thousands of food producers who provide dairy and other agricultural products to these companies and are invested in their continued operation in the state. As is well documented, the food production sector operates in highly competitive national and international markets, and are facing increasing cost pressures from energy, labor, logistics and regulatory compliance. We offer the following specific comments, as well as our significant ongoing concern with the high and increasing costs of doing business in California. California is a difficult place to do business, especially for the farming and food production sectors. Increased ambition results in increased compliance costs for all Californians.

Cap Reduction Pace

AECA and Dairy Cares members are greatly concerned with the proposed amendments to the pace of cap reductions. The proposed significant reduction will significantly increase compliance costs and leakage risk as the cap declines. The downward adjustment coupled with tightening allowance budgets would sharply increase costs of California operations already struggling to compete against out-of-state and international firms that face little or no comparable carbon regulation or costs. Leakage is a very real and under-accounted for problem that if not addressed renders California's leadership claims meaningless. Minimizing leakage cannot be achieved by tightening allowance budgets as proposed. Leakage not only undermines California's climate objectives, it also undermines the state's already struggling economic base.

Decarbonization Incentive

AECA and Dairy Cares support the concept of the Manufacturing Decarbonization Incentive. However, the current list of eligible activities is too narrow. Food production facilities can achieve processing emission reductions through electrification of operations or fuel

switching, however these opportunities are highly limited due to the high cost of electricity and alternative fuels in the state. For example, converting to biomethane or other fuels is not cost-competitive and therefore unlikely to happen in the highly competitive global food production sector. As a result, the inclusion of the other innovations, inputs or production design should be considered fully eligible for incentive allocation. Food production and other manufacturers should also be able to petition for new technologies as they emerge. Additionally, any prior investments that have been made and remain within their active depreciation schedule should be eligible. A reasonable “look-back” approach will better align incentives with company-specific capital planning cycles.

Affordability Implications

The proposed regulations threaten to dramatically increase affordability concerns for covered and now-covered entities. Increased ambition and decreased allocations will dramatically increase costs for all businesses in California, especially resulting from the increased cost of energy, transportation fuel and other inputs. California is already a high-cost state to produce food in, and the proposed regulations will add directly to the already high regulatory cost burdens of food production in the state. These costs are not only detrimental to these companies and their ability to compete in highly competitive national and global markets, but they also increase food costs for all California residents to the degree costs can be passed down to consumers. Rising food costs are a very real concern for Californians, especially for low-income families. Already, more than 1 in 5 Californians is food insecure and 27% of households with children struggle to put food on their tables.

Affordability implications are not specific to capped entities. Compliance costs imposed upstream are passed through to some degree through supply chains, affecting transportation, goods movement, farming and other essential food production activities.

Biomass-derived fuels

The 45-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 require that the entity using the biomass derived fuel have:

“sole ownership or contract rights to the biomass-derived fuel and any associated emissions exemption or emissions reductions attributed 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.”

CARB should clarify in the final statement of reasons that this language is not intended to limit the gas utilities’ use of Section 95852.1 when gas utilities have purchased renewable natural gas (“RNG”) under the SB 1440 procurement program that is being implemented in CPUC Rulemaking, R.13-02-008. The CPUC is currently evaluating updates to the requirements for environmental attributes in recognition of the fact that different types of RNG have widely varying carbon negative attributes. Despite these differences, utility and non-core customer procurement does not value the negative carbon attributes. For example, dairy RNG has a much

more significant negative carbon intensity score than other short lived climate pollutant reduction projects, but for utility procurement programs, the utility cannot monetize the negative carbon attributes.

In order for the utilities to cost effectively procure renewable natural gas, the utility should not be required to procure all of the negative carbon attributes. Rather, the utility should only be required to have “sole ownership” of the emission reductions associated with the fuel use. So long as the use of the fuel displaces fossil natural gas, another entity should be able to claim the negative carbon attributes associated with the feedstock. Natural gas displacement can be demonstrated when Cap & Invest obligated entity has a contract for biogas that was generated from one of the feedstocks listed in the Cap & Invest regulation.

This flexibility would help enable digester financing because a portion of the emission reductions associated with methane destruction (e.g., on a dairy farm) could be monetized through voluntary carbon reductions (e.g., Scope 3 emissions of milk providers purchasing milk from dairies that capture and destroy methane). Providing this flexibility will facilitate a broader market for RNG because there will be more robust competition in the utilities’ SB 1440 procurement programs and other RNG procurement efforts by Cap & Invest obligated entities.

Conclusion

While California’s Cap & Invest program is the least-cost alternative when compared to more direct command-and-control regulation, it is still costly. As the cap tightens and the program enters a significantly more stringent phase, compliance cost will increase substantially. As stated previously, higher ambition results in higher costs and increased emissions leakage. CARB must fully consider the impact of the proposed regulation on the food production sector and the ramifications for already struggling rural economies. As energy and fuel costs continue to rise dramatically, these impacts will only exacerbate the fallout for food production companies already struggling with the high cost-of-doing-business and residents already struggling with the high cost-of-living in the state.

Sincerely,

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