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*Full-Service Trade Association Representing Dairy Processors, Manufacturers and Distributors Since 1928*

To: Chair Doreen Harris, Chair Basil Seggos, and Distinguished Members of the Climate Action Council

From: Paul M. Harvey, Director of Regulatory Affairs

Date: June 27, 2022

Subj: Comments on the 2022 Draft Scoping Plan

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To the Members of the Climate Action Council,

We appreciate the opportunity to share our thoughts and perspectives regarding the proposed Draft Scoping Plan. As an industry as a whole, we aim to be as environmentally-conscious as possible starting from the milking on dairy farms to the transportation of the final product to consumers. Many of our concerns relating to the goals of the Climate Leadership and Community Protection Act (CLCPA) contained in the Draft Scoping Plan stem from the ambiguity of exactly when these standards and regulations will be enacted, how these updated regulations and standards will be paid for, and who will ultimately pay for them.

We also would like to ensure that the public has ample opportunity to understand how new environmental standards would affect all New Yorkers before such regulations or standards are enacted. Below we will highlight some of the challenges that we, as the dairy agriculture industry, anticipate in complying with the goals of the CLCPA moving forward.

**Transportation**

As an industry, we anticipate challenges sourcing and securing medium-duty vehicles (MDV) and heavy-duty vehicles (HDV) that meet emissions standards on the proposed timeline. At present, these challenges also include the unknown cost of new, low-emission vehicles (LEV), when such vehicles will be commercially available in quantities needed for the industry, and whether these vehicles are efficient and sustainable for long term use. The answer to these questions relies not only on industry development and market availability, but also on the skill and labor market that will be needed to train new and existing drivers and mechanics. Most importantly, however, what will, if any, penalties be for companies that continue to use diesel powered vehicles that no longer pass adopted emission standards, if such vehicles are not readily available in the proposed timetable. Diesel trucks have the ability to operate for several decades if properly maintained and many within the dairy trucking industry make significant capital outlays and investments in their vehicle fleets several years in advance in order to ensure a quality product. Finally, many in the dairy agriculture industry are unsure whether these new trucks are going to be powerful enough to carry the necessary payload weights and to meet the travel the distances required without frequent stopping.

We also express concern on the placement, timing, and quantity of charging stations for MDVs and HDVs on interstate and intrastate routes not only in New York State, but also throughout the United States. We encourage the Council and the Legislature to ensure that electric charging and alternative refueling stations are equitably located in interstate and major state routes, especially in rural areas where many dairy agriculture operations are located.

Many of our member organizations are located and conduct business outside of New York State and may experience difficulties transporting their products to their final destinations because of the lack of available charging stations capable of powering newer MDVs and HDVs outside of New York State. Through the implementation of LEV standards, consumers will also face higher prices and delays as low-emission MDVs and HDVs may have to make multiple stops along a route to refuel or take longer, more indirect routes to compensate for insufficient or inaccessible refueling and recharging options. These factors will, thus, significantly inhibit competitive access for New York State dairy agriculture product both locally and nationally.

## **Power Generation**

While most of Upstate New York State's electricity already comes from renewable and zero-emission sources, we do have serious concerns about how New York State and relative operating agencies will handle the transition of the grid to 100 percent renewable and zero-emission sources. Specifically, many of our members receive power from nuclear power plants within New York State. However, Nine Mile Island Reactor 1 in Scriba, New York, the oldest reactor in the state and the nation, will reach its sixtieth year in operation by the year 2029. R.E. Ginna in Ontario, New York will reach its sixtieth operating year in the year 2030 and the James FitzPatrick Power Generating Station in 2035, just as the CLCPA expects to lower overall emission standards. These aging plants, in addition to volatile energy markets, poses a significant problem for industrial and commercial electric consumers already facing record energy costs while power-generating plants receive hefty government subsidies. If these three plants do close, the economic impact would be devastating to electric consumers and the Upstate New York economy as a whole. Renewables, such as solar, wind, and hydroelectric, are not always dependable, especially in extremely harsh and unpredictable weather conditions that can occur in Upstate New York. There is also concern that these renewable and zero-emission sources will be inadequate to meet all of New York's power generating needs without back-up generation or storage.

## **Industry-Specific Concerns**

Similarly, we express concerns over attempts to limit the use of fossil-fueled farm and manufacturing equipment once emissions standards are in place. Farm-equipment, such as tractors and automated milkers, and manufacturing equipment, such as evaporators and boilers, have the potential to last decades as long as they are properly maintained. Many of our association members have made sizable investments in their business processes that may not necessarily place them within future emission goals. Understanding the essential role that New York State dairy agriculture plays in our local economies is critical to ensuring that New Yorkers continue to have quality local jobs and affordable, nutritional dairy food products.

We also request greater funding of programs and assistance that will assist dairy farming operations in meeting methane digestion requirements, from the proposing of the toll-free hotline number through Cornell Cooperative Extension to securing grants, matching funding, and regulatory assistance for on-site digesters. This will allow small, family owned and operated dairy producers to stay in New York State and continue to support local economies and generate local jobs.

We encourage the Climate Action Council to pursue flexible emissions options in the Draft Scoping Plan that will allow small dairy operations within the state to grow without financial harm or penalty, while

simultaneously rewarding larger, more established operations that continue to pursue energy efficiency and conservation with respect to their carbon emissions. The standards for both emissions and the electric conversion of both new and existing buildings will be crucial to the survival as all businesses in New York State transition to cleaner, more efficient power technologies. A scale-based approach to carbon emission standards would greatly benefit dairy agriculture operations of all sizes so each business can logistically and financially exercise the best option for their organization, while accounting for current size and future growth. Initiating this program in New York State sooner rather than later will allow dairy agriculture business within New York State to account for future carbon credit purchases at the end of current emission credit contracts in other states. We support New York State as it seeks to transition to a net-zero energy electric grid but ask to do so in a way that allows commercial operations to use existing technologies and methods until their useful life has ended.

Regarding the use of hydrofluorocarbons in refrigeration, we strongly believe that the transition to more environmentally-sound cooling methods not containing hydrofluorocarbons must be done in a manner that allows businesses to find suitable and efficient alternatives in order to truly meet the goals of the CLCPA. This process would allow businesses to use existing cooling systems and instruments until the end of their useful life and then replacing them with the more efficient, environmentally-friendly cooling systems and instruments. This process would also allow for the continued research and development of efficient and cost-effective cooling solutions required for dairy agriculture food manufacturing, storage, and transportation.

When crafting this plan, we know that there are many different approaches to solving the monumental task of preventing more lasting damage to the global climate. In New York State, we also have the monumental task of balancing vastly different ecological needs by having an economically diverse state. We ask each member of the Climate Action Council to consider New York State's dairy agriculture and those who are dependent on it as a way of life when issuing recommendations to the state legislature and relative departmental agencies. Protecting sensitive economic, climate-dependent interests is a difficult task, but it is possible when government and business partner together for the common good of making New York State worthy of its motto: Excelsior- Ever Upward.

Respectfully,



Paul M. Harvey

Director of Regulatory Affairs