

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814



May 4, 2026

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

Re: Appearance Before the Legislature to Discuss Amendments to Cap & Invest – Supplemental questions for May 6, 2026 hearing

Chair Sanchez,

In the interest of having a fruitful and productive conversation at the joint hearing of the Senate Environmental Quality Committee and the Senate Budget and Fiscal Review Subcommittee No. 2 on Resources, Environmental Protection and Energy, we attach the questions below. These complement the issues raised in the attached letter. Please be prepared to discuss the following concerns and questions in our hearing this Wednesday:

- **Concern one: The Legislature’s clear intent and direction are not consistently and faithfully executed.**
 - Q1: The Legislature and CARB alike have emphasized a focus on affordability, and although CARB has claimed these amendments do so, the connections are unclear. Specifically:
 - What evidence did CARB rely on to determine that providing subsidies to industry would result in lower consumer costs?
 - Is there any evidence that refineries will pass along the savings for reduced compliance costs to consumers?
 - Is the Cap & Invest regulation in any way related to the current fuel price spike that Californians are experiencing?

- Did CARB consider the impacts for affordability and for GHG emissions of eliminating the only continuous state funding source for affordable housing? Of eliminating TIRCP? LCTOP? SAFER? Wildfire prevention? AB 617? Or the impact of eliminating the possibility of supporting ZEV incentives, natural and working lands investments, agricultural emissions reductions?
- Q2: What impacts do the proposed amendments have on maintaining C&I as a “cost-effective, market-based approach” when market signals are disrupted by millions of allowances being awarded outside of the traditional auction or allocation routes?
- Q3: Did CARB consider the cost effectiveness of MDI allowances compared to the Legislative priorities established in SB 840 that it defunded? Did CARB consider the relative cost effectiveness of the MDI against the entire suite of California Climate Investments supported by GGRF?
- Q4: How is CARB executing the Legislature’s direction that “Commencing January 1, 2031, the state board shall distribute industrial sector allowances in a manner that minimizes emissions leakage risk to cost-effectively achieve [our climate goals]”, particularly when proposing no action on post-2030 industrial allowances?
- Q5: The 2017 reauthorization directed CARB to “Report to the Legislature, by December 31, 2025, on the progress toward meeting [our climate goals] and the leakage risk posed by the regulation. The state board shall include recommendations to the Legislature on necessary statutory changes to the program to reduce leakage, including the potential for a border carbon adjustment, while maintaining the state’s ability to reach its targets.” Where is the required report, and why is the current rulemaking proceeding and making changes to leakage provisions without it?
- Q6: What evidence does CARB have that the proposed amendments to the regulation will prevent leakage? How were alternative approaches considered?
- Q7: How do the accommodations for independent merchant refiners prevent leakage, and not just defer it by two years with a balloon payment at the end? How is that mechanism reflective of legislative intent?

- Q8: What does CARB interpret the Legislature’s intent in AB 1207 to “Design the regulations... in a manner that transitions support from gas corporations to electrical distribution utilities... on or before January 1, 2031”?
- **Concern two: The proposed amendments confound our ability to achieve our climate goals and preserve the integrity of the cap.**
 - Q1: Do the proposed amendments put us on track to achieve the requirements of SB 32 & AB 1279? How does 11% annual reduction in GHG emissions compare to historic program performance?
 - Q2: The ISOR recognized that more stringent allowance budgets were needed 2027-2030 to reflect recent updates to the GHG Emission Inventory, and it proposed removing approximately 118 million allowances accordingly. Do the 15-day amendments remove enough allowances from circulation to achieve our 2030 GHG target?
 - Q3: Since the spending deadline for the value of MDI allowances is at least six years (i.e. two full compliance periods) after the allowances are granted, how will CARB account for those emissions in the period between when allowances are given and when projects are delivered?
 - Q4: What evidence, oversight, and recourse will CARB use to ensure that one MDI allowance will represent one bona fide ton of emission reductions?
- **Concern three: The proposed amendments make significant changes to the investments funded by the program without any legislative direction.**
 - Q1: Will the implementation of MDI as proposed mean fewer allowances are available for auction? Is MDI anticipated to reduce demand from covered entities for auctioned allowances to cover their compliance obligations?
 - Q2: CARB was directed by AB 1207 to “evaluate the cost impact of [cap-and-invest] on California consumers when it revises regulations implementing [cap-and-invest]”. What is the result of that evaluation? Does CARB consider the cost impact on consumers of billions fewer dollars in GGRF investments? How will providing millions of additional allowances to industry lower consumer cost impacts?

- Q3: AB 1207 requires CARB and other agencies using GGRF money, upon request by the Legislature, to report annually on the expenditures of GGRF. How are the 20-plus agencies implementing programs funded by GGRF planning to adjust their programs based on reductions to anticipated reductions in GGRF revenues?
- Q4: Did CARB consult with agencies administering those programs about the impact of eliminating their only viable funding sources?
- Q5: What projects are eligible to receive MDI allowances? What other state incentives do those technologies receive? Are GHG emissions reductions already attributed to those other state incentives?
- Q6: Chapter 4.1 of Division 26 of the Health and Safety Code ensures GGRF expenditures support legislative priorities in numerous ways, including directing funds to disadvantaged communities; requiring various economic, labor, and public health co-benefits; and stating the Legislature's express intent to fund clean transportation, housing and community investment, clean air and water, wildfire prevention and resilience, agriculture, clean energy, and climate-focused innovation. What, if any, additional requirements apply to MDI investments to ensure they support legislative priorities?
- Q7: As proposed, does Legislature have any say whatsoever in determining how the MDI program is implemented or how MDI funds are being appropriated?

We hope that CARB can address these concerns, whether that's through providing information where adequate or changes to these regulations where necessary. California's state government is best able to serve its people when its constituent parts work together harmoniously.