



# BUILDING OUR CLEAN ENERGY FUTURE

Third Way • 1025 Connecticut Ave NW, Suite 400 • Washington, D.C. 20036 • 202.384.1700 • 202.775.0430 fax

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*Submitted via public comment process*

California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Dear Chair Sanchez and Members of the Board:

On behalf of Third Way, I appreciate the opportunity to comment on the California Air Resources Board's (CARB) proposed amendments to the Cap-and-Invest Regulation (2026 Rulemaking).<sup>1</sup>

Third Way is a national think tank committed to advancing modern, center-left policy solutions that expand economic opportunity and tackle urgent challenges like climate change. While we support robust climate action, we believe that emissions reduction efforts must be advanced alongside other critical national priorities if we want durable climate progress.

California has demonstrated that, with thoughtful and nuanced policy, emissions goals and other key objectives can be achieved simultaneously. For instance, the State's Cap-and-Invest program has shown that emissions can decline even as the economy notches impressive growth year after year.<sup>2</sup> The proposed amendments to the program aim to extend this symbiotic trend, allowing California to continue reducing greenhouse gases (GHGs) without exacerbating affordability concerns or shifting its emissions to other sources outside the State (commonly referred to as carbon leakage).

Trying to balance these various priorities is more than just a good idea—the Legislature actually directed CARB to do it. The statutes governing California's climate program mandate that CARB reduce emissions in a way that maintains affordability for the State's consumers and minimizes emissions leakage.<sup>3</sup> Whether Cap-and-Invest can achieve these multiple objectives hinges on a few key challenges, most notably the need to slash GHGs without driving emissions-intensive, trade-exposed industries like refining and cement production out of the State.

Third Way supports the proposed amendments because they successfully balance environmental and economic goals in a way that will make Cap and Invest more politically durable. Specifically, the rule under consideration: 1) avoids unintended economic damage; 2) mitigates emissions leakage; and 3) encourages private sector investment in innovative, low-carbon manufacturing.

## Avoiding Unintended Economic Damage

A tightening cap is necessary to achieve California's emissions targets, but it can also create cost pressures that affect both consumers and the broader economy. We appreciate CARB's



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recognition that this pressure risks driving key industries out of the State, that such industrial relocation would cause serious financial harm to Californians', and that Cap-and-Invest can and should include the careful use of free allowances and other tools to preempt this damage.

California's oil refineries are already facing economic headwinds, with 17% of the State's refining capacity expected to shut down by the end of 2026. This is, of course, devastating for the thousands of people whose economic livelihoods are dependent on these facilities. But the damage will reach much further across the State. As a result of these refinery closures, California will increase its reliance on fuel imports, likely making it more vulnerable to supply disruptions and price spikes. Further loss of refining capacity could exacerbate these risks for consumers in a state already dealing with high prices at the pump.

It is also important to note the impact that a sizeable loss of California's emissions-intensive, trade-exposed (EITE) industries could have on consumer savings programs. Despite receiving free allowances, refineries and steel, chemical, and cement manufacturers still have to purchase the remaining allowances needed to cover their emissions. Were this industry demand for allowances to shrink, so too would revenues used for a wide variety of energy and environment-focused investments. This would also affect the revenues that California utilities could secure by auctioning off the free allowances CARB provides them with—revenues that utilities are required to pass along to customers in the form of bill reductions.<sup>4</sup>

### Mitigating Emissions Leakage

In addition to avoiding economic damages, CARB's attempt to prevent the relocation of California's manufacturing facilities would maintain the integrity of the State's primary objective for its Cap-and-Invest program: fighting climate change.

The proposed amendments acknowledge that, to achieve California's climate goals, emissions reductions must be real and not simply offset by increases elsewhere. Given the rigorous environmental standards in the US (and in California in particular), there is a high likelihood that displacement of industrial activity from California to most likely destinations would result in an *increase* in global GHGs and other pollutants, not simply a one to one trade.<sup>5</sup> Therefore, pairing a tightening emissions cap with provisions to avoid emissions leakage advances both the letter and spirit of the State's climate mandate.

### Encouraging Private Sector Investment in Innovative, Low-Carbon Manufacturing

The Manufacturing Decarbonization Incentive (MDI) put forward in the proposed rule acknowledges that price signals alone may not be sufficient to drive investment in deep decarbonization of hard-to-abate sectors like heavy industry. Whereas the free allowances provided to industry may enable facilities to remain in the State, the MDI offers a pathway for them to continue operating with *reduced emissions*.

Industries such as cement, refining, and steel face structural challenges like high capital costs as well as long asset lifetimes that can deter major investments to modernize facilities. The MDI addresses these barriers by offering targeted compliance instruments contingent on verified decarbonization investments in solutions like fuel switching, electrification, efficiency, carbon capture, and more. While the MDI may affect quantity and disbursement of program revenues, it should be viewed as a strategic investment in the program's ultimate goals. By directing program and private sector resources toward industrial transformation, the MDI will enable long-term emissions reductions and statewide economic resilience.

Effective and durable climate results will not be achieved solely with policies that penalize emissions—especially in hard to abate sectors. Truly effective policy needs to catalyze investment, innovation, and results that can be replicated in multiple jurisdictions. The approach taken through the MDI does just that, and reinforces California’s role as a leader in ambitious and innovative climate policy.

### Conclusion

By protecting affordability, avoiding emissions leakage, and promoting innovative investment in decarbonization, the proposed rule follows the Legislature’s direction to achieve outcomes beyond emissions reduction, while strengthening the long-term effectiveness of the program.

With the amendments proposed to its Cap-and-Invest program, California has an opportunity to demonstrate for the rest of the world how environmental progress and economic growth can reinforce one another through thoughtful policy design. As such, Third Way respectfully urges CARB to adopt the proposed rule.

Sincerely,

**Ryan Fitzpatrick**

Vice President for Climate and Energy • Third Way

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<sup>1</sup> California Air Resources Board, “2026 Cap-and-Invest Regulation Amendments Rulemaking,” <https://ww2.arb.ca.gov/rulemaking/2026/cap-and-invest2026>. Accessed May 4, 2026.

<sup>2</sup> Office of Governor Gavin Newsom, “World-leading economy and climate solutions: California’s emissions drop in 2023, driven by clean transportation,” <https://www.gov.ca.gov/2025/11/06/world-leading-economy-and-climate-solutions-californias-emissions-drop-in-2023-driven-by-clean-transportation/>. Accessed May 4, 2026.

<sup>3</sup> California Global Warming Solutions Act of 2006 (AB 32), Cal. Health & Safety Code §38562(b)(1); see also AB 1207 (2025), directing CARB to consider affordability and minimize emissions leakage in program design.

<sup>4</sup> California Public Utilities Commission, “California Climate Credit,” <https://www.cpuc.ca.gov/climatecredit>. Accessed May 4, 2026.

<sup>5</sup> NPR, “The impact of California’s environmental regulations ripples across the U.S.,” September 9, 2022, <https://www.npr.org/2022/09/09/1121952184/the-impact-of-californias-environmental-regulations-ripples-across-the-u-s>. Accessed May 4, 2026.