KERN ENERGY
We Fuel the Future

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VIA ELECTRONIC POSTING
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May 4, 2026

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Sir or Madam:

Kern Energy (Kern) is providing comments on the California Air Resources Board's (CARB) April 14, 2026, additional modifications (15-Day Amendments) to the Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (Cap-and-Invest Regulation). We acknowledge CARB's effort to balance climate ambition with affordability and reliability for Californians by again considering the spirit of program protections intended by Assembly Bill 1207. Kern is specifically commenting on the following aspects of the 15-Day Amendments: (1) Delayed Compliance Option Provides Critical Support for Independent Merchant Refiners; (2) Amended Cap Adjustment Factors for 2027-2030 Protect Against Near-term Emissions Leakage; (3) Amendments to Manufacturing Decarbonization Incentive Help Fill Funding Gap and Can Still Benefit from Additional Flexibility; (4) Assistance Factors Must Accurately Reflect Industry Leakage Risk; and (5) Additional Change to Refinery Sector LHF Allocation Methodology.

Kern operates a 27,000 barrel per day refinery in California's San Joaquin Valley that has been in continuous operation for more than 90 years. A family-owned and operated company employing approximately 200 people, Kern plays a vital role in stabilizing the supply and price of transportation fuels in the region by supplying critical transportation fuels to agricultural operations, major transportation corridors, local industry, and the public. Kern is now the last small refinery producing California's unique reformulated gasoline and diesel, and the only refinery located between the major complexes in Los Angeles and the Bay Area, which underscores the significant challenge of operating a small refinery in the state.

1. **Delayed Compliance Option Provides Critical Support for Independent Merchant Refiners**

Kern provides broad support for the inclusion of new paragraph 95856(f)(3)(A), which provides an Independent Merchant Refinery the option to delay its full compliance period obligation. This new provision is a critical recognition by Staff of the unique market positions these refineries hold, the immense financial pressures associated with global crude oil and gasoline markets, and the need for flexibility in simultaneously navigating operations, compliance costs, and investments. Kern has assessed the potential short-term relief offered by this provision and recommends that Staff incorporate additional considerations to fully and more effectively achieve the intended flexibility and protections for in-state gasoline production.

Kern proposes that Staff extend the option to delay annual compliance beyond a single compliance period obligation, allowing an Independent Merchant Refinery to exercise a delay for future compliance obligation periods beyond 2027. Creating this option as a permanent feature would provide CARB flexibility in addressing unpredictable market volatility or disruptions without the need for future rulemakings. Kern urges CARB to also incorporate an option whereby the Executive Officer may grant optional hardship relief for an Independent Merchant Refinery that has utilized the delay and demonstrates disproportionate economic hardship. This inclusion further provides flexibility currently absent from the program and gives discretion to the Executive Officer to act in situations threatening California's critical transportation fuel infrastructure and supply.

2. **Amended Cap Adjustment Factors for 2027-2030 Protect Against Near-Term Emissions Leakage**

Kern supports Staff's proposed increase to the cap adjustment factors as presented in Table 9-2 of the 15-day Amendments. This change reflects Staff's recognition of the challenges that industries face in maintaining consistent production while working to achieve decarbonization and meet the State's climate goals. As a small refiner, Kern is acutely aware of the pressures facing the refining sector as the demand for transportation fuels remains greater than in-state refining capacity and global geopolitics impact the delicate balance of statewide inventories. Kern is cautiously optimistic about the abbreviated timeframe for cap adjustment factors, with Staff truncating the decline at 2030 at this time. We appreciate Staff's recognition that additional time is needed to thoroughly evaluate leakage risk and develop complementary protection mechanisms, and encourage them to provide adequate runway for business certainty and investment as they undertake this next phase to develop cap adjustment factors for 2031 and beyond.

3. **Amendments to Manufacturing Decarbonization Incentive Help Fill Funding Gap and Can Still Benefit from Additional Flexibility**

Kern appreciated Staff's modifications to the Manufacturing Decarbonization Incentive (MDI) provisions, expanding eligibility to the refining sector, which was previously excluded under the initial 45-day package. Recognizing the support needed for ongoing investment in the refining sector is a critical step forward in maintaining consistent fuel supply for our state and a meaningful way to leverage existing talent and infrastructure to meet climate goals. The opportunity to apply for the incentive prospectively provides needed support for overcoming barriers to these significant financial investments.

Further, Kern appreciated Staff's inclusion of additional costs associated with engineering, design, and permitting necessary to deploy capital projects at industrial facilities, in recognition of the full suite of actions and expenditures involved in these initiatives.

Kern also recognizes the efforts to widen the breadth of allowable project types; however, Kern has is providing the following recommendations to avoid favoring specific technologies and further remove unnecessary limitations that constrain industry's ability to fully leverage the incentive. These limitations stifle innovation and ignore other pathways of achieving industrial decarbonization. Kern specifically recommends:

a. Clarify the Value of the Cap Adjustment Factor Modifier

Modifications to the MDI proposal amend the cap adjustment factor modifier, forgoing a sliding time-based scale in favor of a single modifier across the duration of the program. Kern urges Staff to clarify the value of this new modifier, noting that proposed regulatory text for Section 95891(g) reads "…receive a cap adjustment factor modifier of up to 0.8…" indicating the value of the modifier granted to an eligible application is discretionary and may be less than 0.8. However, in Staff's Summary of Proposed Modifications that accompanied notice of the 15-day Amendments, the updated proposal indicates "…using a flat CAF Modifier of 0.8 which replaces Table 9-2a…" Kern supports the assignment of a flat modifier valued at 0.8 and requests Staff remove the phrase "up to" from the regulatory text.

b. Electrified Equipment

Kern understands that by incentivizing electrification of equipment, Staff is seeking to (1) replace existing equipment with electrified equipment to reduce or avoid fossil fuel combustion, and (2) allow MDI allowances to cover the cost of electricity powering this replacement equipment. The inclusion of "new" and "newly installed" in the amended Section 95891(g)(2)(B) obscures Staff's intent that this provision applies to replacement equipment. Kern recommends, for clarity of intent, Staff consider revising this section to read "…costs of replacement equipment powered by electricity…provided that the replacement equipment results in a reduction or avoidance of onsite fossil fuel combustion."

c. <u>Renewable Electricity Generation or Storage</u>

Kern urges Staff to reassess the limitations imposed by the narrow specificity in Section 95891(g)(2)(D) that electricity generation or storage must be renewable in order to be eligible for these MDI allowances. In Staff's Summary of Proposed Modifications, emphasis is on emissions reductions associated with reduced or avoided fossil fuel combustion. The specificity of "renewable" narrows opportunities to achieve this foundational goal by assuming renewable electricity is the only means to realize these reductions. Project applications must provide demonstrable emissions reductions relative to baseline, which should ultimately be the deciding factor of project merits. This opportunity for decarbonization and full use of MDI allowances is better served by removing the "renewable" qualifier on the generated or stored electricity in favor of technology-neutral language such as "non-combustion-based."

4. <u>Assistance Factors Must Accurately Reflect Industry Leakage Risk</u>

Kern was encouraged by Staff's initial 45-day rulemaking proposal to extend the 100% Assistance Factor for the petroleum refining sector. Maintaining this maximum assistance is an important and appropriate recognition of the leakage risk facing California refiners. Kern again requests that CARB revisit the refining sector's underlying leakage risk classification as "medium" in Table 8-1 in favor of a "high-risk" classification. Changing this classification in Table 8-1 aligns with the 100% Assistance Factor and will eliminate any room for ambiguity or mixed signals about the state of the refining industry. While Kern understands the need to routinely analyze emissions leakage risk, it is unrealistic that market realities or the increased competitive pressures the sector faces from imported fuels will have substantially improved in three years. This clarity is essential to assure refiners will not be at risk of a lower assistance factor when the program is next amended beyond 2030.

5. <u>Additional Change to Refinery Sector LHF Allocation Methodology</u>

In its March 2026 comment letter, Kern provided broad support for Staff's proposal to establish new product-based benchmarks for the refining sector industrial allocation, specifically the Liquid Hydrocarbon Fuels (LHF) methodology. Based on refinery product production volumes, the LHF approach better aligns allocations on the basis of emissions per unit of output. Kern is once again encouraging Staff to include residual oils in the list of refinery products included in the definition of LHF to account for the structural disadvantages of lower complexity refineries.

Kern's refinery is "low complexity," meaning it cannot convert crude oil as effectively as more complex refineries that can maximize conversion to gasoline and diesel. This structural difference necessarily results in a different slate of refinery products for Kern as compared to the complex refineries in the state. Every refinery in the state has a nuanced configuration and associated outputs. The explicit exclusion of residual oils from Staff's proposed refinery products list comprising the LHF remains unnecessarily restrictive and punitive to low complexity refineries that do not employ energy intensive processing units to achieve full conversion of this product. These unique disadvantages have been repeatedly revealed every time CARB has approached benchmarking over the life of the Cap and Invest program. This rulemaking is the opportunity to fully align benchmarking methodologies and eliminate this defect that results in lower allowance allocations for small refiners. Kern urges Staff to expand the proposed definition of "Liquid Hydrocarbon Fuel" or "LHF" in Section 95802 to specifically include residual oils (EIA code 511) in recognition of this key difference.

California's refining sector has always contained a diverse set of facilities with unique configurations, capabilities, and product slates. Modifying the LHF proposal to include residual oil can help close that gap—appropriately recognizing the value of this product within the refining sector, validating the unique attributes of California's smallest refineries, and appropriately providing emissions leakage protection where most needed.

Kern is grateful for Staff's notable adjustments to the proposed regulation in thoughtful consideration of the very real challenges facing California's refining and industrial manufacturing sectors. We respectfully urge CARB to further consider the breadth of comments presented here and incorporate additional safeguards critical to our small refinery.

As always, Kern is committed to working with Staff throughout this regulatory process. Please do not hesitate to reach out to me at (661) 845-0761 with any questions.

Sincerely,

Melinda Palmer
VP – Regulatory & Public Affairs
Kern Energy