

ClimateBuild

May 4, 2026

Ms. Rajinder Sahota
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California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Proposed 15-Day Amendments to the California Cap-and-Invest Regulation

Ms. Sahota:

INTRODUCTION

ClimateBuild California appreciates the opportunity to comment on CARB's 15-Day Amendments to the Cap-and-Invest Regulation released April 14, 2026. The 15-Day package responds substantively to concerns raised across the 45-day comment record. The increased Cap Adjustment Factors for 2027 through 2030, the restructured Manufacturing Decarbonization Incentive, the retention of some Natural Gas Supplier allowances for low-income gas ratepayers, and the increased EDU allocation relative to the January proposal each move the program in a more workable direction. We acknowledge and value the staff work and stakeholder engagement behind that movement.

The 15-Day Amendments are best understood as a starting point, not a complete answer to each program issue. As such, the amendments allow the program time to work through difficult issues. For example, they do not fully deliver the affordability and leakage-protection architecture the statutes require, and the public and economic costs of falling short of that architecture are already being absorbed by Californians and by California facilities in ways that compound between now and 2030. Continued engagement, additional rulemaking, and a willingness to revisit design choices that prove insufficient under real-world conditions will be necessary to avoid further facility closures, manufacturing contractions, and household cost shocks during the period this regulation is in force.

AB 32, SB 32, AB 398, and AB 1207 establish affordability and leakage minimization as binding program design CARB must meet.¹ The most direct expression of those obligations sits in Health and Safety Code § 38562(b). The statute, originating in AB 32, has long instructed CARB to "minimize leakage" (§ 38562(b)(9)) and to "ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities" (§ 38562(b)(2)). AB 1207 sharpens that framework in two specific ways. In § 38562(b)(7), the Legislature directs CARB to "consider the effect of these regulations on affordability, cost effectiveness, minimization of leakage in California, and achieving the requirements of Sections 38562.2 and 38566 and the purposes of this division" elevating affordability

¹Health and Safety Code §§ 38560, 38562(a)–(b), as enacted by AB 32 (Núñez, Chapter 488, Statutes of 2006), and as amended by SB 32 (Pavley, Chapter 249, Statutes of 2016), AB 398 (E. Garcia, Chapter 135, Statutes of 2017), and AB 1207 (Irwin, Chapter 117, Statutes of 2025).

into an explicit, co-equal design factor alongside leakage minimization and cost-effectiveness.² The statutory trajectory is one-directional: each successive amendment has tightened, not loosened, the affordability, leakage, and ratepayer-protection obligations binding on CARB. AB 1207 is the most recent and most explicit articulation of that direction.

Auction revenue is a co-benefit of the program, not a primary statutory objective. We raise this because as allowance budgets tighten on the path to 2030 and 2045 with no feasible technology being implemented today to achieve these targets, the tension between what every allowance is worth at auction and what the program is statutorily required to do with that allowance is becoming visible in design choices. The honest read of where things stand is that the statutes settle that tension in favor of affordability, leakage protection, and equitable distribution of compliance costs. The 15-Day package narrows the gap between the statutory direction and the design. It does not yet close it.

Our concern about long-term signal is tied to that point. Industrial decarbonization, hydrogen and CCUS infrastructure, refinery modernization, and electrification investments at scale operate on planning horizons that routinely extend to 2040 and beyond. The 15-Day Amendments retract post-2030 Cap Adjustment Factor values and do not provide clarity on post-2031 NGS-to-EDU transition percentages, deferring both to a future rulemaking. The practical effect is that compliance entities evaluating capital allocation for potential California projects no longer have a regulatory cost-of-compliance trajectory to model against. AB 1207 extended the program through 2045. Investors are being asked to commit to that horizon against a regulation that is opaque post-2030. The mid-transition risk in which incumbent infrastructure deteriorates faster than replacement infrastructure scales becomes considerably harder to manage when the carbon-pricing signal itself is the variable least visible to the people making capital decisions.^{3 4}

The comments below identify a small number of areas where additional clarity from CARB is needed to meaningfully reduce implementation friction, and queue work that we expect will need to occur in the next rulemaking cycle and through the Scoping Plan update.

EDU ALLOWANCE ALLOCATION

ClimateBuild appreciates the increase in Electric Distribution Utility allowance allocation reflected in Appendix D-1 of the 15-Day Amendments. The revised values for 2027 through 2029 are higher than the January ISOR proposal and reflect a meaningful response to the substantial concerns raised in the 45-day record about the original methodology, including the Joint Utility Group's analysis identifying

² HSC § 38562(b)(1)(B)(i), (b)(2), (b)(7), (b)(9), as amended by AB 1207 (Irwin, Ch. 117, Stats. 2025)

³ Grubert, E., & Hastings-Simon, S. (2022). Designing the mid-transition: A review of medium-term challenges for coordinated decarbonization in the United States. *Wiley Interdisciplinary Reviews: Climate Change*, 13(5), e768. <https://doi.org/10.1002/wcc.768>

⁴ California Air Resources Board. (2022). *2022 Scoping Plan for Achieving Carbon Neutrality*, at Ch. 2 (discussing coordinated decarbonization and the persistence of residual fossil-fuel demand through 2045). <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>

roughly \$4.9 billion in allowance value at risk over 2027 through 2030 under the prior approach.⁵ We support the direction of that change.

The improvement should be understood for what it is. The 15-Day EDU allocation values for 2027 through 2029 remain below the levels of the existing regulation being amended by this proceeding. Electricity ratepayers will, on a comparative basis, see less of the program's carbon-signal cost absorbed by the protective EDU allocation mechanism than they do today. That outcome is occurring in the same period in which retail electricity rates are already among the highest in the nation, in which households are being asked to electrify space heating, water heating, and personal transportation, and in which the gas Climate Credit is being phased down through the NGS-to-EDU transition discussed below. The cost-stack is moving in one direction. That divergence sits in direct tension with § 38562(b)(7), which AB 1207 added precisely to require CARB to consider "the effect of these regulations on affordability" as a co-equal design factor alongside cost-effectiveness and leakage minimization. The protective allocation is moving in the opposite direction, even after the 15-Day improvements.

We want to flag the methodology question that animates much of the difference between the current allocation and the proposed one. The 2017 rulemaking adopted a fixed 10-year EDU allocation schedule for 2021 through 2030 in part because a fixed schedule rewards utilities that decarbonize faster than the forecast assumed. CARB's Final Statement of Reasons from that rulemaking is explicit on the rationale: voluntary reductions reduce compliance costs without changing allocations, creating a net benefit and incentivizing early action.⁶ Recalibrating mid-cycle to match faster-than-forecast emissions reductions inverts that logic. It claws back the very benefit the original design was meant to deliver. A program that revises allocation downward whenever utilities outperform sends a signal that early action is penalized, not rewarded. We recognize that the 15-Day Amendments soften that effect relative to the January proposal. They do not resolve it.

The post-2030 framing in the 15-Day package compounds the concern. Removing the post-2030 EDU allocation values from Appendix A-1 and deferring them to future rulemaking leaves electricity ratepayers without a forward-looking signal of the protective allocation they will receive during the steepest phase of the cap decline. The Standard CAF in the prior 45-day proposal dropped from 0.494 in 2031 to 0.348 in 2032, a single-year reduction of roughly thirty percent.⁷ Even under the more moderate trajectory contemplated in the 15-Day package for 2027 through 2030, the post-2030 cliff is the period in which protective allocation matters most for ratepayer affordability. The forward signal cannot be left blank, particularly given that § 38562(b)(7) binding affordability directive.

⁵Joint Utility Group, Comment Letter on Proposed 2026 Amendments to the Cap-and-Invest Regulation (Mar. 9, 2026), at 1–6 (citing SRIA Appendix C, Table 50, \$60 assumed allowance price; comparing current Table 9-4 to proposed 2027–2030 allocation).

⁶California Air Resources Board. (2017). *Final Statement of Reasons for Rulemaking: California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms*, discussing the rationale for fixed 10-year EDU allocation schedules and the early-action incentive structure.

⁷California Air Resources Board. (2026). *Proposed Regulation Order, Appendix A-1, Table 9-2 (Cap Adjustment Factor schedule, 2027–2035, original 45-day package)*.

We request that CARB commit to the next Cap-and-Invest rulemaking including post-2030 EDU allocation values calibrated to maintain the protective-allocation function during the post-2030 period of accelerated cap decline. The commitment does not require resolving the methodology in this rulemaking. It does require acknowledging that the post-2030 gap is temporary and will be closed before the 2031 budget year.

THE NGS-TO-EDU TRANSITION

The 15-Day Amendments meaningfully improve the NGS-to-EDU transition design over the January proposal by including a carve-out of allowance value to support low-income gas ratepayers during the transition. However, accelerating the transition of allowances by starting in 2028 and reaching 70 percent by 2031 expeditiously increases dual-fuel customer bills. The acceleration sits uneasily against § 38562(b)(1)(B)(i)'s directive to design the transition "to minimize ratepayer impacts" a constraint that necessarily includes the gas-side bill increases produced during the years the transition is occurring, not only the steady-state outcome at 2031. CARB recognizes this issue in stating that the transition of allowances from a smaller pool of NGS customers to a larger pool of EDU customers dilutes the climate credit.⁸

Additionally, the deletion of post-2031 percentages in Table 9-6A pending further analysis creates uncertainty regarding whether CARB intends to continue to support low-income affordability post-2031.⁹ We recognize the revised pace responds directly to Assemblymember Irwin and her co-signatories' concern that the original 2029-to-2037 trajectory was too slow to align with AB 1207's January 1, 2031 design deadline.¹⁰ At the same time, the retained allocation to natural gas suppliers during the transition, paired with the explicit low-income protection, addresses the concerns raised by the Public Sector Coalition letter to include protections for low-income gas customers who rely on natural gas service and do not have the means or ability to electrify on short timeframes.¹¹ To ensure that low-income customers are protected into the future, CARB should include language to Table 9-6A stating "2031 and beyond" to clarify that the 70 percent transfer continues.

Furthermore, we urge CARB to commit, on the record, that the next Cap-and-Invest rulemaking will include a quantitative analysis of net annual bill impact for dual-fuel residential households, disaggregated by income level and tenure type, across the full transition window.¹² That analysis was

⁸ California Air Resources Board. (2026). *Notice of Public Availability of Modified Text and Availability of Additional Documents and Information*, at p. 25

⁹ California Air Resources Board. (2026). *Notice of Public Availability of Modified Text and Availability of Additional Documents and Information*, at Table 9-6A (revised NGS-to-EDU transition percentages, 2028–2031, with post-2031 values deleted pending further rulemaking).

¹⁰ AB 1207 (Irwin, Chapter 117, Statutes of 2025), codified at Health and Safety Code § 38562(b)(1)(B)(i) (directing CARB to design the regulations in a manner that transitions support from gas corporations to electrical distribution utilities to minimize ratepayer impacts by January 1, 2031); see also Letter from Assemblymember Jacqui Irwin et al. to Chair Lauren Sanchez (March 9, 2026).

¹¹ Public Sector Coalition, Letter to Chair Lauren Sanchez Re: Proposed 2026 Amendments to the Cap-and-Invest Regulation (April 8, 2026), at 4–7 (Recommendation 1a; analysis of distributional impacts on dual-fuel households).

¹² Id. (Recommendation 1b).

requested in the 45-day record and has not yet been published. It remains the most direct way for CARB to demonstrate that the transition does not disproportionately impact low-income communities, as AB 1207 expressly requires.¹³

We also seek clarification regarding the treatment of consigned versus retained-for-compliance allowances during the transition period.

Under the existing framework, NGS allocations may follow two distinct pathways: (1) allowances consigned to auction, with proceeds returned to ratepayers through the gas Climate Credit, and (2) allowances retained by NGS to satisfy compliance obligations on behalf of core customers. The retained-for-compliance pathway allows NGS to mitigate the volumetric pass-through of carbon costs to core customers and remains available through 2029.

With respect to the proposed transfer of allowances from NGS to EDU in 2028 and 2029, it is our understanding that these transferred allowances do **not** come from the pool of allowances that NGS may retain for compliance. Rather, the transferred allowances are sourced solely from allowances designated for consignment, i.e., those held in the Limited Use Holding Account and intended for auction.

Accordingly, the proposed transfers do not diminish NGS's ability to retain allowances for compliance on behalf of core customers during the transition window but instead reallocate allowances that would otherwise be consigned to auction.

THE CAP ADJUSTMENT FACTOR

ClimateBuild appreciates the upward revisions to the Cap Adjustment Factors for budget years 2027 through 2030 reflected in revised Table 9-2 of the 15-Day Amendments. The increases improve the protective allocation flowing to emissions-intensive, trade-exposed sectors during the period in which the program's stringency is accelerating most sharply, and they respond to substantial 45-day record evidence that the prior trajectory understated documented leakage risk in petroleum refining, food processing, cement, glass, and steel.¹⁴ We support the direction of the change.

We also want to acknowledge the broader context. California's ratio of industrial free allocation to industrial covered emissions stood at approximately sixty-two percent under the prior structure, the lowest among major comparable carbon programs, well below Washington's roughly one hundred percent, Quebec's ninety-nine percent, the European Union's eighty-four percent, and the United

¹³ Health and Safety Code § 38562(b)(2), as amended by AB 1207 (Chapter 117, Statutes of 2025).

¹⁴California Air Resources Board. (2026). *Notice of Public Availability of Modified Text*, revised Table 9-2 (Cap Adjustment Factor schedule, 2027–2030).

Kingdom's seventy-two percent.¹⁵ The 15-Day revisions narrow that gap. They do not close it. California remains the most stringent allocator among comparable systems, in an economic environment in which the documented evidence of leakage continues to accumulate in real time. The statutory framework treats that gap as a problem CARB is required to address, not merely consider. Section 38562(b)(9) imposes a freestanding "minimize leakage" directive on CARB, and AB 1207's new § 38562(b)(7) elevated leakage minimization to a co-equal design consideration alongside affordability and cost-effectiveness. Phillips 66 permanently ceased conventional crude oil processing at its Wilmington refinery at the end of 2025. Valero announced plans to idle or cease operations at its Benicia refinery by April 2026. The California Energy Commission Vice Chair's June 2025 letter to Governor Newsom warned that gasoline imports could reach twenty-five to thirty-five percent of demand by summer 2026, and up to fifty percent in northern California after the anticipated closures.¹⁶ ¹⁷ These are not future risks. They are present conditions shaping fuel supply, employment, and public revenue across multiple regions of the state.

The substantive concern with the 15-Day Amendments is the deletion of post-2030 CAF values from Appendix A-1. CARB's stated rationale is that additional time is needed to evaluate emissions leakage risk before setting post-2030 trajectories.¹⁸ We understand the analytical caution. We also think the practical effect of the deletion runs counter to AB 1207's extension of the program through 2045, and counter to the leakage-minimization directive that AB 398 and AB 1207 jointly impose on CARB. Capital investment projects like modernization investments, or even continued operation of existing facilities require a forward view of compliance cost exposure that meaningfully exceeds the current regulatory horizon. A regulation that goes dark at 2030, in the middle of a multi-decade transition, does not provide that view.

The deletion also produces a particular kind of policy paradox. The longer the post-2030 trajectory remains undefined, the more weight CAF values for 2027 through 2030 carry as a forward signal. Industrial firms reading the regulation today will reasonably extrapolate the 2027 through 2030 trajectory linearly and they will reach values consistent with the prior Standard CAF schedule or worse. As the 45-day record demonstrated these values are insufficient to prevent leakage in trade-exposed sectors. Either reading produces an investment chill in the period between this rulemaking and the next, which is precisely the period in which capital decisions about hydrogen production, CCUS deployment,

¹⁵California Air Resources Board. (2026). *Staff Report: Initial Statement of Reasons*, Table 6 (Ratio of Industrial Allocation to Covered Emissions in Various Jurisdictions, 2023); see also CARB Cap-and-Invest Program Workshop, Oct. 29, 2025 (slide 38).

¹⁶OPIS. (2025). *As reliance on imported gasoline rises, California adapts to a new world*.

¹⁷California Energy Commission. (2025, June 27). *Letter from Vice Chair Siva Gunda to Governor Gavin Newsom*, at 7, 10. https://www.energy.ca.gov/sites/default/files/2025-07/CEC's_Response_to_Governor_Newsom's_Letter_June-27-2025_ada.pdf

¹⁸California Air Resources Board. (2026). *Notice of Public Availability of Modified Text*, accompanying staff explanation (post-2031 percentages and post-2030 CAF values deleted pending further rulemaking and additional leakage risk analysis).

refinery modernization, and electrified industrial heat will determine whether California’s 2045 carbon-neutrality goal remains achievable.

We offer three recommendations.

First, we ask CARB to articulate that the post-2030 CAF and Assistance Factor values will be addressed in the next Cap-and-Invest rulemaking, that the analysis informing those values will include the formal AB 398 leakage report that Health and Safety Code § 38562(c)(2)(I) required by December 31, 2025, information collected during this rulemaking, and that the post-2030 design will preserve protective allocation at levels consistent with the documented leakage conditions in covered sectors.¹⁹ The commitment does not require resolving the methodology now but is a commitment to preserve well-paying jobs in California that deliver critical energy supplies to people within and outside of California . Second, we ask CARB to consider, in the next rulemaking and through the Scoping Plan update, whether the post-2030 leakage-risk safeguard should be responsive to objective indicators of in-state production decline, rather than as a set function of the allowance budget trajectory. Several letters in the 45-day record, including ours, made the case for that design.²⁰ We continue to believe it is the more durable approach.

Third, we ask CARB to extend leakage protections through at least 2045, rather than 2035, in the rulemaking that follows this one. Capital investment decisions for assets coming online in 2038 or 2040 cannot be evaluated against a regulatory page that ends seven years before the project’s first year of operation. Several legislators and stakeholders have made this point in the current record.²¹ The post-2035 void is a leakage driver in itself, independent of the values eventually placed in those years.

We want to be clear about what we are not asking. We are not asking CARB to revisit the 15-Day CAF values for 2027 through 2030 in this rulemaking. We support those values as a starting point, and we support adoption of the regulation in May. We are asking CARB to use the next rulemaking and the development of the Scoping Plan update to fill in the post-2030 picture before the absence of that picture begins to influence siting decisions in ways the program cannot easily reverse.

THE MANUFACTURING DECARBONIZATION INCENTIVE

The 15-Day Amendments restructure the MDI in ways that materially improve its potential to function as a working capital-investment mechanism. The new 0.8 CAF modifier, the Build Up California Reserve

¹⁹Health and Safety Code § 38562(c)(2)(I), as enacted by AB 398 (Chapter 135, Statutes of 2017).

²⁰ClimateBuild CA, Comments on Proposed 2026 Amendments to the Cap-and-Invest Regulation (March 9, 2026), at 5–8 (CAF as objective leakage-risk safeguard); Public Sector Coalition Letter (April 8, 2026), at 9–13 (recommending 0.858 floor for high-leakage sectors).

²¹Public Sector Coalition Letter (April 8, 2026), at 12–13 (Recommendation 3c: extend CAF and Assistance Factor values through at least 2045).

Account, the broadened eligible project list for industrial sectors, and removed the limitations for projects with refining and industrial gas sections responding to concerns we raised in March.²²

We want to address the broader integrity question because it has been raised in recent commentary on the 15-Day package and the Board will likely hear versions of it at the May hearing. The argument runs that because the MDI Reserve holds allowances totaling roughly the volume removed from the 2027 through 2030 cap relative to the prior regulation, and because those allowances may flow into circulation through approved projects, the cap has been relaxed and emissions will rise one-for-one with MDI utilization, with associated GGRF and California Climate Credit revenue losses estimated at up to \$4 billion if MDI is fully utilized.²³ The framing is mathematically tidy. It is also incomplete in three respects.

First, an allowance and a long-lived capital investment are not equivalent compliance instruments. An allowance authorizes one ton of emissions in one compliance period. A qualifying MDI investment generates recurring emissions reductions over the operating life of the asset, often two to four decades. Treating those as one-for-one substitutes obscures the multiplier effect that justifies the design.²⁴ If a refiner uses MDI to fund CCUS infrastructure capturing one million tons per year over a thirty-year asset life, the relevant comparison is not between MDI allowances issued in one compliance period and the refinery's emissions in that period. It is between the marginal MDI allowance and the integrated abatement the resulting infrastructure produces over time. The carbon market literature on output-based allocation has long recognized this distinction.²⁵

Second, high auction revenue and carbon market integrity are not the same thing, and the public conversation around the 15-Day package has tended to conflate them. Auction revenue funds the GGRF, which supports a portfolio of investments in transit, affordable housing, sustainable agriculture, forest health, low-income energy programs, and related priorities. Those investments deliver substantial public, environmental, and equity benefits the program was designed to capture, and they remain worth preserving on their own terms. The narrower question relevant to the integrity critique is whether retaining a marginal allowance for in-state, long-lived abatement infrastructure delivers less carbon abatement than auctioning that allowance and recycling the proceeds through GGRF programs. The available evidence does not establish that it does. Recent program-level analysis finds GGRF cost-effectiveness ranging from approximately \$9 to over \$2,000 per ton of CO₂-equivalent across the portfolio, with three of ninety programs delivering more than half of total reported emissions reductions

²²California Air Resources Board. (2026). *Notice of Public Availability of Modified Text*, Modified § 95831(b)(10), 95871(k), and 95891(g) (Manufacturing Decarbonization Incentive and Build Up California Reserve Account)

²³See Meng, K., & Wingenroth, J. (2026, April). *Potential lost cap-and-invest revenue under the Manufacturing Decarbonization Incentive*. Environmental Markets Lab, UC Santa Barbara.

https://emlab.ucsb.edu/sites/default/files/documents/2026_capinvest_manufacturing_decarbonization_incentive.pdf; Fowle, M. (2026, April 27). A stress test for California carbon pricing. *Energy Institute Blog*, UC Berkeley. <https://energyathaas.wordpress.com/2026/04/27/a-stress-test-for-california-carbon-pricing/>

²⁴California Chamber of Commerce, Comments on Proposed 15-Day Amendments (Apr. 29, 2026), at 4–6.

²⁵Fischer, C., & Fox, A. K. (2007). Output-based allocation of emissions permits for mitigating tax and trade interactions. *Land Economics*, 83(4), 575–599.

on roughly six percent of implemented funding.²⁶ The Legislative Analyst’s Office has separately noted that GGRF spending targeted at emissions reductions within capped sectors generally does not produce net carbon benefit, because the cap already determines aggregate emissions and subsidized reductions at one capped source free allowances for use by another.²⁷ These observations are not critiques of the GGRF as a public-investment vehicle. They concern the specific relationship between auction revenue and additional carbon abatement, which is the relationship the integrity argument depends on. The marginal MDI allowance, by contrast, is tied to a verifiable, CARB-approved decarbonization investment whose abatement cost is determined by the project’s own engineering economics and verified against the regulation’s permanence and enforceability standards. The “lost revenue” framing presumes the alternative use of that allowance value would deliver equivalent or greater carbon abatement. The data does not support that presumption.

Third, statutory hierarchy matters. Auction revenue supporting the GGRF and the California Climate Credit is an important cobenefit of the program. The statutes do not establish revenue maximization as a design objective. They establish cost-effective emissions reductions, leakage minimization, and avoidance of disproportionate impact on low-income communities as the binding obligations on CARB.²⁸ A design that retains allowance value for verified in-state decarbonization, preserves industrial production and the associated employment and tax base, and reduces leakage to higher-emissions out-of-state and foreign producers is consistent with that hierarchy, not in tension with it.

We share several constructive concerns that have been raised about MDI implementation, including the case for tying allocation more directly to verified emissions reductions, applying additionality screens, introducing competitive scoring for project selection where multiple applicants seek limited Reserve allocation, and instituting standardized cost and performance reporting.²⁹ These are implementation refinements, not structural objections, and we encourage CARB to incorporate them.

We also want to flag two concerns specific to ClimateBuild’s membership that the 15-Day text does not yet fully address.

The first is project scale and multi-agency coordination. The decarbonization investments most likely to deliver durable in-state abatement, including major CCUS infrastructure, hydrogen substitution, large-scale industrial electrification, and process redesign for cement and glass, sit at a scale requiring coordinated approvals across CARB, the CEC, the CPUC, regional air districts, the State Water Board, the

²⁶Net-Zero California. (2025, December). *Data analysis of California’s Greenhouse Gas Reduction Fund*. <https://www.netzerocalifornia.org/blog/data-analysis-of-cap-and-trade-investments>

²⁷California Legislative Analyst’s Office. (2025, April 30). *The Greenhouse Gas Reduction Fund: Current status and choices ahead*, at 4 (“Spending revenues in ‘capped’ sectors generally does not reduce GHGs . . . subsidizing GHG reductions from one capped source will simply free-up allowances for other emitters to use.”). <https://lao.ca.gov/handouts/resources/2025/GGRF-Current-Status-and-Choices-Ahead-043025.pdf>

²⁸Health and Safety Code §§ 38560, 38562(a)–(b), 38562.2.

²⁹Fowle, M. (2026, April 27), *supra* note 24 (recommending additionality screening, performance-based allocation, and standardized reporting).

Department of Conservation’s Geologic Energy Management Division, the State Lands Commission, local land-use authorities, and in many cases federal agencies. The MDI deadline structure under § 95891(g)(5), even as revised, does not yet account for cumulative permitting timelines. An applicant with a financeable project may miss MDI windows because of CEQA litigation, CAISO interconnection-queue position, or air district permitting cycles that operate on calendars CARB does not control.

The second is intra-sector heterogeneity. The category of “petroleum refineries” or “food processors” or “cement producers” describes a regulatory class. It does not describe a uniform population of investable facilities. Within California refining, some facilities have access to suitable subsurface storage and pipeline corridors for CCUS, and some do not. Within food processing, some operations have process loads compatible with industrial heat pumps, and some require high-temperature steam that current technology cannot economically deliver. The MDI mechanism, by design, rewards facilities that can deploy qualifying projects. It cannot deliver protective allocation to facilities whose investable project set is constrained by geology, technology readiness, or capital access. That is the structural reason MDI is properly understood as a complement to, not a substitute for, adequately calibrated free allocation through the CAF. The CAF protects the leakage-exposed facility regardless of its project set. The MDI rewards the facility that can act on its project set. Both mechanisms are needed.

CONCLUSION

The 15-Day Amendments are a substantive improvement over the January package. The increased Cap Adjustment Factors for 2027 through 2030, the restructured Manufacturing Decarbonization Incentive, the accelerated and rebalanced NGS-to-EDU transition, and the increased EDU allocation each respond to the substantial 45-day record. We support the direction of those changes and recognize the value of finalizing the regulation in May to support 2027 budget-year allocations on the timeline AB 1207 contemplates.

We also recognize where California sits in this transition. The state is in the middle phase of a multi-decade structural shift across fuels, electricity, industrial production, and built infrastructure, it is not a linear transition and should not be thought of or designed this way. CARB has discussed this dynamic in successive Scoping Plan updates, and the underlying analytical point has only become more acute since the 2022 Scoping Plan was adopted: incumbent infrastructure can decline faster than replacement infrastructure scales, and the transition costs of that gap fall disproportionately on the households and facilities least able to absorb them.³⁰ The 15-Day Amendments are best understood as a workable platform for the next budget year, not a final answer to the design questions raised by that mid-transition condition. Several of those questions need to be reopened in the next rulemaking cycle and through the Scoping Plan update.

We see four areas where we expect to remain actively engaged.

³⁰California Air Resources Board. (2022). *2022 Scoping Plan for Achieving Carbon Neutrality*, at Ch. 2. <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>

Post-2030 visibility. Closing the post-2030 gap on the Cap Adjustment Factor, the NGS-to-EDU transition percentages, and the EDU allocation methodology is the single most consequential piece of work in front of CARB after this rulemaking concludes. Investment decisions for assets coming online in 2035 and beyond cannot be evaluated against a regulatory page that ends in 2030. We urge CARB to commit, on the record, to addressing post-2030 design choices in the next Cap-and-Invest rulemaking, informed by the AB 398 leakage report, and information CARB has been provided in this current rulemaking, that Health and Safety Code § 38562(c)(2)(I) required by the end of 2025, and to extending CAF and Assistance Factor visibility through at least 2045 so that capital planning can match the program horizon AB 1207 established.

Leakage as a structural design problem. California's industrial allocation ratio remains the most stringent among major comparable carbon programs, in an economic environment where leakage is no longer hypothetical, increasing the number of industrial assistance allowances will directly reduce costs for businesses and consumers. The 15-Day improvements help. They do not resolve the underlying structural asymmetry between in-state production facing a binding compliance cost and imports that do not. The next rulemaking cycle is the right moment to evaluate these issues.

Integration with the Scoping Plan update. The Cap-and-Invest program does not operate in isolation. It interacts with the LCFS, the Renewables Portfolio Standard, the SB 100 trajectory, the AB 1279 carbon-neutrality framework, the SB 905 carbon management program, AB 32 sectoral measures, and a growing portfolio of federal and subnational climate policies whose alignment with California's program varies considerably. The Scoping Plan with adoption anticipated in late 2027, is the analytical vehicle best positioned to evaluate cross-program coherence, residual demand for petroleum and natural gas through 2045, infrastructure deployment timelines for hydrogen, CCUS, and electrification, and the workforce transition implications of the choices the cap-and-invest program makes about industrial allocation. ClimateBuild intends to engage substantively in the Scoping Plan process and to bring back to CARB the implications for subsequent Cap-and-Invest rulemakings.

CCUS compliance recognition. SB 905 implementation remains incomplete, and the 15-Day Amendments preserve the placeholder structure of new § 95852.3 without resolving how qualifying capture, sequestration, and utilization projects will receive compliance recognition. Several legislators have raised this concern in the 45-day record, and we share it.³¹ A workable provisional pathway preserving permanence, verification, and enforceability standards while allowing approved projects to proceed against defined criteria would substantially improve the investment case for the CCUS infrastructure CARB's own Scoping Plan identifies as essential to the 2045 trajectory. We encourage CARB to develop that pathway alongside SB 905 rulemaking rather than sequencing them serially.

³¹See Letter from Assemblywoman Cottie Petrie-Norris to Chair Lauren Sanchez (March 9, 2026), at 3 (urging CARB to ensure the Cap-and-Invest program supports CCUS technologies and noting that SB 905 implementation should not delay inclusion of CCUS in the program); Public Sector Coalition Letter (April 8, 2026), at 14 (recommending a provisional CCUS compliance recognition pathway).

California has built a carbon market on a scale that no other subnational jurisdiction has matched. The durability of that achievement depends on the program continuing to deliver cost-effective emissions reductions while preserving the in-state industrial base, the workforce, and the ratepayer affordability conditions that make the program politically and economically sustainable. The 15-Day Amendments narrow the gap between current design and that statutory mandate. Closing the rest of the gap is going to require continued staff work, additional rulemaking, and a willingness to revisit choices that prove insufficient under real-world conditions. ClimateBuild is prepared to be a constructive resource to CARB on that work, and we appreciate the Board's continued engagement with our membership and with the broader stakeholder community as the program enters this more demanding phase.

Respectfully submitted,

/s/

Mikhael Skvarla