

Senators Catherine Blakespear (SD 38) and Eloise Gomez Reyes (SD 29) (Heather Walters)

Please see attached letter and supplemental questions from the Chairs of the Senate Environmental Quality Committee and the Senate Budget & Fiscal Review Subcommittee No. 2 on Resources, Environmental Protection and Energy.

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.

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

Re: Appearance Before the Legislature to Discuss Amendments to Cap & Invest

Chair Sanchez,

We write to you—as representatives of one coequal branch of government to another—with concern for the state of the proposed amendments to the Cap-and-Invest program. While we appreciate the gesture of extending the 15-day comment period by 5 days on the latest revisions, this was not sufficient to ease our concerns. Given these concerns, we look forward to discussing the proposed amendments in more detail at our joint hearing on Wednesday, May 6th, outside of the comment period and as a part of our critical oversight role.

Specifically, this letter and Wednesday’s hearing are necessary because, unfortunately, the regulations CARB is proposing to implement AB 1207 and SB 840 are, in our view, inconsistent with direction provided by the Legislature.

When the Legislature renamed Cap-and-Trade to Cap-and-Invest, we stated, “It is the intent that it be a *“cost-effective, market-based approach to reduce emissions of greenhouse gases”* and that the *“direct and indirect investments the mechanism has demonstrated, and should continue to demonstrate,”* will result *“in cost-effective emission reduction measures.”* We require further clarification regarding how the amendments CARB intends to vote on later this month achieve these aims.

Along with this letter we are including several detailed questions based on several core concerns. Our expectation is that we can have a thorough conversation regarding these at the May 6th hearing given the program's importance as well as the delicate rulemaking timelines expressed by the board. Our foremost concerns and most pressing questions are:

- **The Legislature's clear intent and direction are not consistently and faithfully executed.** We directed CARB to prioritize cost-effectiveness. Did CARB consider the relative cost-effectiveness of additional industry incentives against the entire suite of California Climate Investments supported by GGRF that will lose funds as a result? How are the cost
- **The proposed amendments confound our ability to achieve our climate goals and preserve the integrity of the cap.** What evidence, oversight, and recourse will CARB use to ensure that one Manufacturing Decarbonization Incentive allowance will represent one bona fide ton of emission reductions?
- **The proposed amendments make significant changes to the investments funded by the program without any legislative direction.** AB 1207 requires CARB and other agencies using GGRF money to, upon request by the Legislature, 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? Were they consulted before this proposal was released?

Many of our concerns relate to the Manufacturing Decarbonization Incentive (MDI), and for good reason. **MDI was in no way proposed or intended by the Legislature in passing or reauthorizing Cap-and-Invest.** The impact of this incentive is drastic, jeopardizing our efforts to aggressively address climate change.

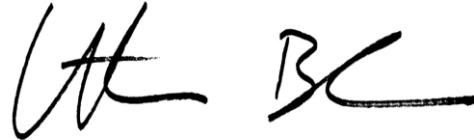
The Legislature has demonstrated its commitment to addressing the high cost-of-living Californians face today while building the clean energy future of tomorrow. Through the annual budget process of the funds raised by Cap-and-Invest auctions, the Legislature has committed ongoing investments in transit, sustainable housing development, wildfire mitigation, clean water, and clean air in the state's most burdened communities. The creation of the MDI disrupts those commitments and defunds those priorities in order to ply industry with further incentives to do more of what they do today, pollute. We remain skeptical that more allowances to industry will help Californians weather the historic fuel prices being caused by the United States current conflict with Iran. The best way to address affordability is by making strategic investments to protect public health and transition California off fossil fuels; these proposed amendments run counter to that vision.

Our policies and our rulemaking must reflect the intent of the Legislature. We welcome CARB's continued engagement as these regulations approach their final vote, and we hope this week's hearing will help provide clarity where it is sorely lacking today.

Sincerely,

A handwritten signature in black ink, appearing to be 'Eloise Gómez Reyes', written in a cursive style.

Senator Eloise Gómez Reyes
29th Senate District

A handwritten signature in black ink, appearing to be 'Catherine Blakespear', written in a cursive style.

Senator Catherine Blakespear
38th Senate District