



California Carbon Forum

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Office of Regulations

California Air Resources Board

1001 I Street, Sacramento, CA 95814

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**Re: Comment Letter on the 15-Day Amendments to the Proposed Cap-and-Invest Amendments
— Released April 14, 2026**

Dear Members of the California Air Resources Board:

The California Carbon Forum appreciates the opportunity to comment on the 15-day amendments and again commends staff for the substantial analytical work behind this rulemaking. We continue to support timely finalization at the May 28 hearing, consistent with our March 9 letter.

We want to be clear at the outset about the lens we bring to this comment. CCF is a cross-section of market participants — investors and market experts — whose work depends on this program functioning as designed. Our concerns about the 15-day package are not about pushing for higher prices or fewer allowances, and we do not want that framing to obscure our feedback. Our focus is whether the proposed changes preserve two things this program depends on: the integrity of the cap and its alignment with both the state's statutory 2030 and 2045 emissions targets. As we read the 15-day package, both are weakened. Allowances would flow into the market from outside the established annual budgets, and the cap would no longer reliably tie program supply to the emissions trajectory mandated by the Legislature. That damages program integrity in a way the market can read. Weak auction performance, GGRF revenue, and investor confidence can be observed in recent months, all of which could continue to deteriorate due to the proposed changes. Markets respond to structure, not intent — and small design choices in this package will have outsized effects on whether the program continues to function as designed.

One additional piece of context informs this assessment. Even before the 15-day amendments, the program was carrying a material inventory of unused allowances which has continued to increase, as evidenced by the February 2026 current auction clearing at the reserve price, and the advance vintage auction not selling out. Against that backdrop, expanding allowance issuance through Manufacturing Decarbonization Incentives (MDI) outside of the established budgets is difficult to reconcile with the market's structural conditions today, regardless of the underlying decarbonization benefits.

Through that lens, two design features of the expanded MDI warrant attention before the rule is finalized.

1. The Package Should Place an Annual Limit on MDI Allocations

The MDI rules create a clear incentive for early drawdown, which risks flooding the market with allowances. Under the proposed structure, compliance entities would submit proposals for a fixed dollar amount of investment in exchange for an equivalent dollar amount of allowances valued at the time of the proposal. With CCA prices currently at or near the auction floor and expected to rise over the compliance periods, this design creates a clear economic incentive to lock in commitments as early as possible — securing the maximum number of allowances while they are near the floor, knowing that they are likely to appreciate in value over time.

A second dynamic reinforces the same outcome. Because the Reserve is finite and allocated on a first-come basis, compliance entities face a use-it-or-lose-it incentive: any volume they do not secure early may be claimed by competitors. That dynamic gives all entities, including those without a strong near-term project pipeline, a reason to apply as quickly as possible and identify qualifying investments later.

Rational participants will respond to the design incentives by front-loading applications. The likely result is a concentrated draw on the reserve in the first few years of the MDI program (2028-2030), rather than a measured release calibrated to the budget trajectory the Board adopts. A drawdown of that shape would inject substantial supply into the market over a short window, with knock-on effects for auction performance, GGRF revenue predictability, and price discovery — the same set of dynamics we flagged in our March letter regarding back-loaded budget reductions, operating now through an additional channel.

Together, the price-arbitrage incentive and the competitive-claiming incentive point in the same direction — a concentrated, early run on the reserve that the current design does not constrain.

We see this as the most consequential design issue in the 15-day package. We respectfully recommend an adjustment to meaningfully reduce the supply volatility risk:

- **An annual limit on issuance** from the MDI, calibrated so that the release of MDI allowances is distributed evenly across 2028-2035, rather than concentrated in its earliest years.

2. The Package Should Reaffirm That the Cap Is the Binding Constraint on Supply

A defining feature of a well-functioning cap-and-invest program is that total supply is set in advance and is not contingent on the discretionary actions of covered entities. As we read the 15-day amendments, the volume of allowances flowing into the market through the expanded MDI program is determined principally by the pace at which compliance entities apply and CARB approves projects — not by the budget trajectory the Board adopts. That is a meaningful change in how supply has been managed under the program to date.

MDI, if well designed, can be a useful tool for addressing leakage risk and accelerating capital deployment in hard-to-abate industrial sectors, and we do not oppose the concept. Our concern is that, as currently structured, the budget is no longer the binding constraint on supply — the application pipeline is. That changes how investors and covered entities plan in the program, and it is consistent with continued auction weakness that we've observed in recent months: prices at or near the floor, undersubscription, and hesitation rather than confidence.

Independent analysis released this month underscores the scale of the supply implications. In an April 27, 2026 post on the Energy Institute at Haas blog, Professor Meredith Fowlie of UC Berkeley, Chairwoman of the IEMAC, estimates that under the 15-day amendments, a qualifying refinery could

receive free allowances "well in excess of its GHG emissions" — with combined baseline plus MDI allocation reaching roughly 6.1 allowances per barrel against a benchmark emissions rate of approximately 3.89 tons per barrel.¹ Whatever weight one places on a single illustrative sector, the structural point is straightforward: allowance issuance through MDI is not constrained by — and in some cases may exceed — the underlying emissions the cap is intended to bound.

Two refinements would substantially address this:

- **In the final rule and accompanying findings, reaffirm in plain terms** that the emissions cap is the binding constraint on overall supply, and that all compliance instruments, including those issued through the MDI program, or successor mechanisms will come from within established annual budgets that the CARB board approves.
- **Reaffirm that the established budgets are established consistent** with hitting the state's statutory 2030 and 2045 emissions targets, and that the cap remains the mechanism by which the program is held to those commitments.

A Practical Path to Adoption on Schedule

This rulemaking process has gone on for almost 3 years now, and the program is in desperate need of clarity. Despite the importance of fully reestablishing the integrity of the program, we acknowledge that some of the refinements above may not be feasible to incorporate into regulatory text in time for adoption on May 28 without an additional 15-day comment period. We support finalizing on schedule, and there is a practical path that allows the Board to do so:

- **In the final rule and accompanying findings:** A clear statement — in regulatory findings, the Final Statement of Reasons, or the adopting resolution — reaffirming the Board's intent that the program continue to operate with annual allowance budgets as the binding constraint on overall supply, and committing the agency to ensuring, through subsequent regulatory action, that MDI does not function as a supply channel outside the established annual budgets.
- **By resolution directing a near-term follow-on rulemaking:** The design refinements that require operative text changes — an annual issuance limit on MDI, and the mechanism for issuing MDI allowances from within the established annual budgets. CARB has used board resolutions in past rulemakings to direct staff to take up specific issues in subsequent action, consistent with how other elements of this package — post-2030 cap adjustment factors and EDU allocations — have been deferred to future rulemaking.

Conclusion

Our recommendations are narrow, measured, and consistent with our March 9 letter. We respectfully urge the Board to:

- **In the final rule,** reaffirm in findings and resolution language that the emissions cap is the binding constraint on overall supply, that the established allowance budgets remain calibrated to deliver the state's statutory 2030 and 2045 emissions targets, and that MDI does not function as incremental allowance supply on top of those budgets.

¹ Meredith Fowle, 'A Stress Test for California Carbon Pricing,' Energy Institute Blog, UC Berkeley, April 27, 2026. <https://energyathaas.wordpress.com/2026/04/27/a-stress-test-for-california-carbon-pricing/>.

- **By resolution at the May 28 hearing**, direct staff to take up, in a near-term follow-on rulemaking, an annual issuance limit on the MDI and the mechanism for keeping MDI allowances within the established annual budgets.

These adjustments do not reopen the cumulative emissions budget, alter the affordability framework, or revisit the leakage protections in the package. They address the integrity of the cap and timing and predictability of supply — the element most relevant to current auction performance and to the long-term credibility of the market. We appreciate CARB's leadership and look forward to the May 28 hearing.

Respectfully submitted,



Ari Freisinger

Chair, California Carbon Forum

4/30/26