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See attached PDF.

May 4, 2026
California Air Resources Board
1001 I Street
Sacramento, CA 95814

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

Dear CARB Board Members and Staff:

Thank you for the opportunity to comment on the April 2026 15-Day Proposed Amendments (15-Day Amendments) to California's Cap-and-Invest (C&I) regulation. This comment focuses on the Manufacturing Decarbonization Incentive (MDI).

While there are serious concerns about MDI implementation details — eligibility rules, the size of allocated MDI allowances, resulting auction revenue implications,¹ etc. — those are, in my view, subordinate to a more fundamental concern: the MDI, as currently structured, creates a separate allowance account outside the program's official cap that a subset of regulated entities can use for compliance. **In effect, the MDI is a subsidy that allows certain regulated entities to individually relax the cap.**

The environmental integrity of any cap-and-invest program rests on a bedrock principle: the aggregate emissions cap is fixed and not subject to manipulation by individual regulated entities. The MDI proposal departs from this principle. Rather than allocating MDI allowances from within the existing cap (i.e., Table 6-2 in the C&I regulations), the proposed regulation creates a separate "Build Up California Reserve Account" allowance pool that is distinct from the cap. Compliance entities that make qualifying clean energy investments receive these allowances for free and may use them for compliance. This enables regulated entities to individually expand the supply of allowances, relaxing the aggregate emissions constraint through their investment decisions.

While other existing C&I provisions allow CARB to increase the supply of allowances, this feature of the MDI — that polluters can individually expand the cap — is novel to C&I. For example, the price ceiling and Allowance Price Containment Reserve tiers also release cap-busting allowances, but those are triggered by a system-wide circumstance (the market allowance price), not by the behavior of an individual regulated entity. Offsets are the closest analogue, but even they differ: offsets lower compliance costs and may

¹ In an [analysis](#) by UCSB's Environmental Markets Lab (emLab), we find that if fully utilized over the next four years, the MDI program could lower C&I auction revenue by \$4 billion. For comparison, total auction revenue in FY24-25 was \$5.8 billion, with \$3.4 billion going to GGRF and \$2.4 billion to CCC.

increase global emissions when non-additional, whereas the MDI makes compliance profitable (why else would an entity apply?) and unambiguously increases global emissions.

The MDI could set a troubling precedent. If CARB sidesteps the official cap and issues a new pool of free allowances for certain stakeholders, other C&I stakeholders may also demand their own separate pools in the future. Moreover, once established, separate accounts like the MDI could persist and expand. If so, over time, the official C&I cap may stop serving as a meaningful measure of the program's overall climate ambition.

Recommendation

CARB should put the MDI program under the official C&I cap. This can be done as simply as striking the new Section 95841(b) text in the 15-Day Amendments, which creates a separate tranche of allowances distinct from the official cap in Table 6-2. A more involved change would be for CARB to revert back to the January 2026 45-Day Proposed Amendments MDI language.

Cap-and-invest programs have traditionally maintained a clean division between climate ambition (a fixed, binding cap) and redistribution (how value under that cap is allocated). The MDI as proposed in the 15-Day Amendments muddies that division by allowing some compliance entities to individually expand the cap. **I recommend that CARB preserves the foundational environmental integrity of California's pioneering C&I program by placing any MDI allowances under the program's official cap.**

Respectfully,



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