California Air Resources Board

Supplemental Response to Comments

On the

Environmental Impact Analysis

Prepared for the

Proposed Regulatory Amendments to the Cap-and-Invest Program

May 29, 2026

1.0 Supplemental Response to Comments

On May 26, 2026, the California Air Resources Board (CARB) posted its Final Environmental Impact Analysis (EIA),[1] California Environmental Quality Act (CEQA) Findings,[2] and Response to Comments on the Proposed Regulatory Amendments to the Cap-and-Invest Program (Response to Comments).[3] During the May 28 public comment portion of the May 28-29, 2026, CARB Board meeting, CARB received comments from public stakeholders raising environmental-related concerns about the Proposed Regulatory Amendments to the Cap-and-Invest Program (Proposed Amendments). The comments submitted are outside the scope of the noticed 45-day and 15-day comment periods; therefore, no response is required. However, CARB staff provide the following supplemental responses for transparency and full disclosure.

A. Public Hearing Comments and Responses on the Draft Environmental Impact Analysis

The comments regarding the Proposed Amendments contained several overlapping or similar themes pertaining to several aspects of the Proposed Amendments. These comments are discussed below under headings organized by theme. The supplemental responses below are intended to represent CARB's response to all written and oral comments received during the May 28 public comment portion of the May 28-29, 2026, Board meeting that raise significant environmental issues.

Emissions Leakage Comments

Comment: Implementation of the Proposed Amendments would result in economic, emissions, and environmental leakage.

Response: For comments related to environmental, emissions, and economic leakage, refer to Master Response 1 of Response to Comments dated May 26, 2026. See footnote 3.

Biomethane / Biomass Comments

Comment: Commenters expressed support for the concept of the Manufacturing Decarbonization Incentive (MDI) allocation, noting it provides crucial support for decarbonizing sectors like glass, cement, steel, and food processing; but advocate for a requirement that biomethane or biomass used under the MDI must be delivered to or manufactured in California. The commenters stated that absent such a requirement, the

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[1] CARB, Final Environmental Impact Analysis (May 26, 2026), available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2026/cap_invest/final_eia.pdf.

[2] CARB, CEQA Findings (May 26, 2026), available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2026/cap_invest/ceqa_findings.pdf.

[3] CARB, Response to Comments on the Proposed Regulatory Amendments to the Cap-and-Invest Program (May 26, 2026), available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2026/cap_invest/ceqa_rtc.pdf.

MDI component may not maximize the environmental benefits of the program and could fail to lessen existing environmental harms.

Response: This comment does not identify any significant adverse environmental impacts resulting from the Proposed Amendments beyond the environmental baseline. Rather, the commenters identify potential additional benefits that they argue may not be achieved. While the commenter's concerns here do not involve CEQA impacts, CARB further notes that CEQA does not require evaluation of speculative impacts (Cal. Code Regs., tit.14, § 15145). An environmental document is not required to speculate about the environmental consequences of future developments that are unspecified or uncertain, or where the design and siting details have not yet been established. Additionally, commenters did not provide evidence to support these claims.

CARB notes that the Proposed Resolution includes direction to the Executive Officer to evaluate and propose future amendments, as appropriate, that would further align the MDI program with statutory climate targets such as sufficient support to help achieve the methane reduction targets under Senate Bill (SB) 1383 (Stats. 2016, ch. 395).

Manufacturing Decarbonization Incentive (MDI) Comments

Comment: Commenters stated that the MDI involves subsidizing industry at the expense of California's climate goals and revenues that could otherwise be used to support reductions. Others stated that CARB's process lacked public transparency and requires additional environmental review for the proposed modifications to MDI. Commenters also stated concerns regarding the impacts of refineries on surrounding communities, particularly air quality impacts and associated public health concerns. Based on these concerns, commenters requested that CARB remove the MDI provisions.

Response: Please refer to Master Response 4 of the Response to Comments, regarding concerns about impacts of MDI allocation on emissions and program revenues. See footnote 3 above.

As explained in response to comment 15-124-4 in the Response to Comments, the MDI component was part of the 45-day proposal and was described and analyzed in the Draft EIA. Furthermore, the Final EIA and the Response to Comments explain that the 15-day changes do not change the MDI provisions in a way that would cause any new significant impacts or substantial increases in the severity of any previously identified significant impacts. Rather, these changes made refinements to the eligibility criteria and available allowance sourcing for the MDI and would result in substantially similar potential compliance response types to those analyzed in the Draft EIA. Therefore, no additional environmental analysis or recirculation of the Draft EIA was required due to the proposed modifications to MDI.

More specifically, the 15-day modifications added, as an eligible MDI category, alternative materials to reduce process emissions at an eligible facility, as well as clarifications that MDI funds can support capital costs for decarbonization activities. The modifications also changed the biofuels provision by adding a spending limit of 50% to fuel purchases, and a modification creating space for future potential inclusion of carbon capture, utilization, and storage (CCUS), if the Board chooses as part of a future rulemaking process to incorporate CCUS into the Cap-and-Invest Program.

These changes would involve the same compliance responses as those analyzed in the Draft EIA. This includes use of alternative materials and increased production and use of low-carbon fuels, such as low-carbon hydrogen and biomethane at food processors, cement producers, glass producers and other industrial manufacturing facilities, which the Draft EIA identified as reasonably foreseeable compliance responses. Additionally, as described in the Draft EIA, the MDI provisions proposed in this rulemaking package are designed to support deep decarbonization of industrial processes, including through electrification of process, use of alternative low-carbon fuels and renewable energy, and through other methods.

All uses of the MDI must reduce facility greenhouse gas (GHG) emissions or be returned to the State. This mechanism is designed to support faster decarbonization of sectors where large capital investments are needed, while maintaining efficient production in California, thereby minimizing emissions leakage. Also, the EIA describes the MDI as supporting the use of alternative materials that reduce process emissions. These measures are aligned with the key project objective of supporting industrial decarbonization. (See Draft EIA Project Objective 8.) As noted in the EIA, deep industrial decarbonization is needed to achieve the State's climate targets and ensure consistency with the Scoping Plan. (Final EIA at 38.)

<u>Comment</u>: Some commenters stated that the Cap-and-Invest Program is not beneficial to fenceline communities, and that MDI makes it possible for entities (including refineries) to receive allowances in excess of actual emissions, incentivizing them to concentrate more pollution in refinery communities, leading to greater health impacts. Some commenters also noted a 2022 report by the Office of Environmental Health Hazard Assessment (OEHHA), claiming refinery emissions increased at Cap-and-Invest-regulated refineries.

<u>Response</u>: The Final EIA (see page 60) discusses the findings of the 2022 OEHHA report referenced in the comments. CARB disagrees with the commenters' assertion regarding the conclusions of the 2022 OEHHA report. That report found that through 2017 the greatest beneficiaries of reduced emissions from facilities subject to the Cap-and-Invest Program have been disadvantaged communities and communities of color in California. These benefits have reduced the local pollution emission gap between disadvantaged and wealthier communities, but a wide gap still remains. In addition, the Proposed Amendments support direct decarbonization at facilities, including refineries. Rather than concentrating more pollution, the Proposed Amendments incentivize facility level changes to reduce GHG emissions, which also contributes to public health benefits through onsite emissions reduction of local air pollutants in frontline communities.

Greenhouse Gas Reduction Fund (GGRF) Comments

Comment: Commenters stated that the Proposed Amendments generally and the MDI specifically would reduce available funding to the Greenhouse Gas Reduction Fund (GGRF), including that it would affect revenues allocated to interests like affordable housing, transit affordability, air quality conformity programs, programs in Assembly Bill (AB) 617 communities, clean drinking water programs, and wildfire risk mitigation. Some comments argued that this result could be inconsistent with other state planning efforts, including the Scoping Plan. Some commenters argued that the diminished funding could lead to increased passenger car travel, decreased transit ridership, increased traffic congestion, or otherwise significantly impact transportation and public programs.

Response: The comments claiming the Proposed Amendments would adversely affect the GGRF are not properly viewed as CEQA comments, as they amount to claims that GGRF revenue would be reduced which, in turn, would result in decreased future emissions reductions. CARB disagrees that such changes, if they occur at all, constitute impacts under CEQA, as there is no evidence that emissions would increase as compared to the "existing conditions" baseline under any scenario.

Additionally, claims about hypothetical changes to GGRF revenues and to the specific programs funded by GGRF—which CARB does not dictate—are inherently speculative. CEQA does not require agencies to analyze impacts that are too speculative to evaluate (Cal. Code Regs., tit., 14 § 15145). Rather, agencies are required to focus on a project's direct and reasonably foreseeable indirect significant environmental impacts (Pub. Resources Code § 21065). Here, decisions about GGRF expenditures are made by the Legislature and Governor as part of the annual State budget process. CARB does not appropriate funding. Any potential impacts to projects funded by these revenues would be speculative, as any funding changes depend on how the Legislature prioritizes and directs which projects are funded. In other words, it remains unknown how much GGRF revenue will be allocated to any particular GGRF-funded program, or what changes to GGRF-funded programs the Legislature may make in the future. Therefore, CARB appropriately did not analyze this speculative impact in the EIA.

Furthermore, comments arguing that GGRF revenues would diminish due to less overall allowance revenue are also speculative. The goal of the program is to reduce GHG emissions, and it is designed to issue fewer allowances each year. Following statutory direction to minimize for leakage and protect electricity and gas rate payers, the amount of allowances is distributed across three buckets: 1) industry (to minimize GHG emissions leakage), 2) utilities (which return allowance value to ratepayers as the climate credit), and 3) allowances to auction (which generates revenues for the GGRF). Under the Proposed Amendments, the amount of allowances to these three buckets would decrease more rapidly each year and with slightly increased share of allocation to utilities and industry following direction from the Legislature as compared to the distribution in the current Regulation. Depending on the auction clearing price, these changes may, or may not, lead to lower GGRF revenues. In any event, between now and 2030, approximately 80% of the allowance value would come back to residents through the climate credit and programs funded through GGRF as appropriated by the Legislature.

Regarding the comments that the MDI will reduce GGRF funds, the MDI does not impact the number of allowances available for auction, nor does it impact how utility allowance allocation is calculated. The amount of revenues available from State-owned allowances sold at auction and thus the amount available for GGRF is uncertain as future prices of allowances sold at auction are unknown. The Proposed Amendments are removing over 1 billion allowances from future year allowance budgets. Generally, the removal of allowances tightens supply, which tends to lead to higher prices. The MDI would be limited in terms of how many allowances enter the market over several compliance periods if its use is maximized. And although releasing MDI allowances to the market may temporarily reduce overall demand for allowances, a significant market effect is highly unlikely due to the maximum amount of MDI allowances at any given time, and it is at least partially counteracted by implementation of allowance removals for offset use as part of the Proposed Amendments – and dwarfed by the overall removal of allowances through 2045 under the Proposed Amendments. The total MDI program if fully maximized is 5% of the overall market from 2027 through 2045. The offset-related provisions will remove additional allowances from future budgets corresponding with offsets used for up to 6% of total covered entity compliance obligations.

One commenter also stated that the Staff Report indicates less-than-significant impacts to transportation, and that it should instead identify significant impacts to transportation. It is unclear whether the commenter was referencing the Staff Report / Initial Statement of Reasons, or the EIA. Regardless, CARB's EIA discloses significant transportation impacts. As discussed above, CARB disagrees that less funding to GGRF is necessarily a result of the proposed MDI. CARB further notes that the commenter's claim connecting speculated reductions in GGRF revenues to reductions in transit revenues and thereby impacts to transportation is speculative, as GGRF funding is established through the Legislative budget process, as described above. Additionally, commenters did not provide evidence to support these claims regarding diminished revenues to the various funding recipients they claimed would be impacted, beyond noting the existence of the MDI provisions.

Final EIA Comments

<u>Comment</u>: The commenter supports the intent of the Proposed Amendments, including increasing production of low-carbon fuels and feedstocks, such as renewable natural gas or biomethane. The commenter cites the Final EIA conclusions that implementation of the Proposed Program could lead to adverse hydrology, water quality, air quality, agriculture, biological, geology and soils, land use planning, transportation, utilities and service systems and wildfire. The commenter states that the wastewater sector lies at the intersection of these resource areas, and noted that mitigation of the impacts is beyond CARB's authority and that impacts are significant and unavoidable because other lead agencies are tasked with those mitigation measures. The commenter recommends that CARB coordinate with other agencies to implement mitigation.

Response: The commenter correctly identifies various resource areas that the Final EIA concluded would be adversely affected by implementation of the Proposed Amendments. As required by CEQA, CARB analyzed and disclosed the potential impacts from the Proposed Amendments to inform decisionmakers and the public. As discussed throughout the Final EIA, because the authority to determine project-level impacts and require project-level mitigation lies with land use and/or permitting agencies for individual projects, and the programmatic level of analysis associated with CARB's environmental review cannot address project-specific details of mitigation, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts. However, the Final EIA does include recommended recognized mitigation practices that are routinely implemented to avoid and/or minimize impacts on the resource areas identified as resulting in potentially significant impacts. Nevertheless, given uncertainties in ultimate mitigation implementation by lead agencies when individual future development projects are proposed, CARB concludes that implementation of the Proposed Amendments would result in significant and unavoidable impacts to the specified environmental resource areas.

Comment: A commenter stated the environmental review was rushed and inadequate.

Response: CARB respectfully disagrees. The comment is vague, ambiguous, and commenter fails to provide sufficient detail for CARB to respond.

However, to the extent that the commenter is claiming that CARB did not adequately comply with the requirements of CEQA, CARB developed a Draft EIA which analyzed impacts from the reasonably foreseeable compliance responses to the Proposed Amendments for all twenty resource areas in the CEQA Guidelines. The Draft EIA also adequately analyzed the cumulative impacts of the Proposed Amendments and included a robust alternatives analysis as required by the CEQA Guidelines. CARB released the Draft EIA with a comment period beginning on January 23, 2026, and closing on March 9, 2026, for a period of 45 days as required by CEQA. The EIA disclosed potentially significant impacts to 14 resource areas. CARB included recommended mitigation measures in the EIA that can and should be implemented by lead agencies to reduce project-specific environmental impacts through the development review process. However, CARB does not have the land use authority to require project level mitigation, since this authority lies with land use and/or permitting agencies for any individual projects proposed. These potential impacts come not from CARB's regulation itself, but rather from compliance responses entities may undertake that involve physical changes to facilities, processes, etc. When CARB developed the 15-day modifications staff also determined the proposed modifications did not change implementation of the regulation in any way that changed the conclusions of the Draft EIA. The modifications do not alter the compliance responses for the project such that the significance determinations from the Draft EIA changed. Additionally, the modifications will not result in any new significant environmental impacts, any substantial increases in the severity of an environmental impact, or a declined feasible alternative or mitigation measure considerably different from those considered in the Draft EIA. Therefore, no additional environmental analysis or recirculation of the Draft EIA is required. CARB also notes that the 15-day notice explained why the environmental analysis did not need to be recirculated for another public comment period.

Comment: A commenter stated that CARB failed to release the Final EIA for an additional public comment period.

Response: No comment period is required on a Final EIA. The commenter provides no citation for such a requirement. As described in the Final EIA and in the Response to Comments document, CARB circulated the Draft EIA for 45 days of public comment, as required by CEQA. When CARB developed the 15-day change package, the 15-day notice provided an explanation as to why the environmental analysis did not need to be recirculated for another public comment period.