

March 6, 2026

California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

By web portal: <https://carb.commentinput.com/comment/landingPage?lang=en>

**Re: Proposed 2026 Amendments to the Cap-and-Invest Regulation**

Dear Staff and Members of the California Air Resources Board:

The undersigned organizations write to express our deep concerns with the “Proposed 2026 Amendments to the Cap-and-Invest Regulation” released on January 13, 2026. These proposed regulations come at a critical moment in our response to the climate crisis. In short: our communities across California - and communities outside of the state who look to California for inspiration and guidance - demand and deserve more ambition in this program.

**Our core concern lies in the staff’s proposal for allowance allocation to covered entities.**

We do not believe that the proposed amendments reflect the stringency necessary to meet the 2030 and 2045 targets in the law. In 2025, through AB 1207, the Legislature reinstated CARB’s ability to adjust free allowance allocations to reflect actual leakage risk - however staff is proposing to keep 100% free allowances across industries until *at least* 2035 with no justification to how that aligns with legislative intent. To add insult to injury, staff is proposing a new manufacturing decarbonization incentive credit for manufacturers *in addition to* their GGRF-funded tax breaks and the free allowances they have enjoyed (and will continue to enjoy). This new credit further weakens an already lax program design, leading to a delayed fossil fuel transition and continued emissions.

However, the allowance allocation proposal means more than reduced climate ambition. This also means reduced revenue for the Greenhouse Gas Reduction Fund (GGRF) and California Climate Credit, which are our main - if not only - way to mitigate climate damages and affordability issues for communities who need it the most. Staff’s own projections show GGRF revenue dropping off to dangerous levels after 2035 that will leave no revenue for affordable housing, transit, safe drinking water, the Community Air Protection Program, and other critical investment opportunities. **While Cap-and-Invest is not solely a revenue generating measure, and revenue could be expected to drop over time as the program achieves its goals - that is not what is happening in this scenario.** CARB is intentionally making the choice to *not* reduce allowances to increase stringency of the program, which is critical for meeting our emissions target and for generating the revenue we need to fund California’s climate transition with expediency.

In short: CARB staff seem to be under the misapprehension that providing more credits to industry will not only reduce emissions, but also lower costs to consumers. **There is no**

**evidence to support either theory.** We would much rather CARB charge emitters a higher price for the carbon they emit so the state can invest in tangible benefits to Californians.

We have other, more nuanced, concerns that we do not feel are adequately addressed in staff's proposed amendments - or, in some cases, are made worse by the staff proposal:

- **The continued and enhanced special treatment for livestock pollution will be detrimental to the environment and people living near dairies.** The dairy biomethane pathway incentivizes dairy producers to increase manure production and its accompanying pollution. Communities near dairy farms will bear the brunt of this pollution. Large, industrial dairy operations in the San Joaquin Valley are disproportionately located near low-income and communities of color, especially Latino communities.<sup>1</sup> Communities near dairy operations already experience cumulative environmental burdens, and CARB must not enact policies that incentivize increased pollution near their homes. CARB's changes to § 95852.1 are problematic because they will exempt dairy and biogas biomethane from compliance obligations for CO<sub>2</sub> emissions released throughout the product's entire lifecycle, rather than solely CO<sub>2</sub> emissions released during combustion. Throughout its various regulatory programs, CARB has ignored or created exemptions for emissions at different phases of biomethane's lifecycle. Without compliance obligations, producers will have no incentive to limit these CO<sub>2</sub> emissions. This will inevitably result in increased CO<sub>2</sub> levels near dairy operations and will be detrimental to the health and wellbeing of nearby communities. Furthermore, the changes will enhance pollution allowances for biogas and biomethane production and use while still allowing biogas and biomethane producers to benefit from combustion fuels through pollution trading schemes like the Low Carbon Fuel Standard (LCFS). By seeking to streamline biomethane regulation between the Cap and Invest program and the LCFS program, CARB solidifies pathways for applicants to rotate between the programs and creates long-term market dependency on biomethane fuel. CARB does this by introducing § 95852.1.1(a), which creates an alternative exemption for CO<sub>2</sub> emission compliance obligations for biomass-derived fuels when the applicant was previously enrolled in the LCFS biomethane pathway. California's Cap and Invest program should exclude the dairy biomethane pathways because of their detrimental impact on environmental justice communities. In the alternative, dairy biomethane producers should not qualify for CO<sub>2</sub> emission exemptions, and regulations should include a plan to phase out crediting and exemptions for biomethane so that California can achieve its climate goals without creating sacrifice zones near dairies.
- **We support moving climate credits to electric distribution utilities, but urge CARB, through these regulations, to direct the CPUC and electrical distribution utilities (EDUs) not regulated by the CPUC to support the identified goals of increasing energy affordability and aiding the transition away from natural gas to clean electricity usage.** Specifically, we urge CARB to direct the CPUC and EDUs not regulated by the CPUC to develop policies that address affordability and access to clean

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<sup>1</sup> Arbor J.L. Quiest et al., *Disparities of Industrial Animal Operations in California, Iowa, and North Carolina* (2022).

energy for lower-income Californians, especially those in areas with higher energy burdens. We support a requirement for publicly owned utilities and electrical cooperatives to provide the value of additional allowances to their residential customers as periodic direct returns, including residents who receive electricity through a master-metered property where the utility account may be classified as commercial, but the end users are residential households, and that they ensure a public participation process as part of setting up this system. Additionally, we urge CARB to direct all EDUs to provide greater transparency to customers regarding the use of all granted allocated allowances.

- **We have concerns that these draft regulations, if implemented as drafted, will facilitate offset projects that will not provide benefits to Californians but instead may further pollute the environment and endanger public health.** It is critical that all offset projects must provide direct environmental benefits to California residents, as defined in the regulations, including both in-state and out-of-state offsets. As drafted, in-state offset projects or projects that avoid GHG emissions within the state of California are considered to provide a direct environmental benefit. This means that in-state offset projects, or a project that avoids GHG emissions in the state, do not have to reduce or avoid emissions of an air pollutant or reduce or avoid a pollutant that could have an adverse impact on waters of the state. All offset projects - especially offset projects that take place in the state - must have to demonstrate and periodically verify that they reduce or avoid emissions of an air pollutant and/or reduce or avoid a pollutant that could have an adverse impact on waters of the state. Moreover, they should have to demonstrate and periodically verify that they do not create emissions of any criteria or toxic air pollutants or discharge pollution that degrades waters of the state.
- **We urge CARB not to include CCUS as a pathway for compliance to reduce emissions, given the multiple concerns environmental justice communities have with this technology.** Currently, projects are being developed in the Central Valley, one of which CARB staff have toured, although the state does not have a rule to regulate these types of projects, putting community members in danger. We want to better understand the types of projects CARB aims to capture by expanding the definition of CCUS by removing the term “geologic” to include other forms of sequestration.

**Finally, we would also like to flag staff’s response to recommendations from the AB 32 Environmental Justice Advisory Committee (EJAC).** It should be noted that the EJAC is *not* convened currently, giving members no opportunity to formally respond to staff’s comments before this rulemaking concludes. **But what staff refuses to understand is that EJAC - and the broader environmental justice community, for that matter - has always evaluated the impact of the Cap-and-Invest program against what could be achieved from more direct regulations that ensure reductions in overburdened communities.** By continuing to posit environmental justice concerns against what would happen if there were *no regulation* on facilities misses this critical point, thereby avoiding the substantial discussion about community impacts that is required under AB 32. CARB staff continue to insist that they monitor the

program outcomes so they can make adjustments if there are adverse outcomes, but to date has never done so to address the data that shows that emissions from covered entities in some communities have *gone up* since the program began.

In other words: CARB's current modeling framework is not designed to answer the questions that AB 32 requires it to answer. The models prioritize statewide greenhouse gas reductions and cost effectiveness, but they do not adequately assess community-level impacts, co-pollutant exposure, cumulative burdens, or whether alternative, more direct regulatory approaches would achieve greater benefits in overburdened communities. As a result, CARB's modeling cannot substantiate the claim that the Cap-and-Invest program is not making conditions worse in environmental justice communities. When the analytical tools themselves are not built to measure localized harm or to compare Cap-and-Invest to more protective regulatory alternatives, the conclusions drawn from those tools are necessarily incomplete. This is not a question of data availability, but of model design and institutional priorities. Without fundamentally improving its modeling to center community-level pollution, cumulative impacts, and health outcomes, CARB lacks the technical basis to demonstrate compliance with AB 32's requirement to avoid disproportionate impacts and to advance environmental justice.

**Environmental justice communities and their advocates are not CARB's enemy, and should not be treated as such.** The Legislature has repeatedly made clear its intention that CARB do all it can to address the needs of overburdened communities. Despite repeated requests for a more nuanced analysis on EJAC recommendations or environmental justice concerns broadly, staff continues to generalize emissions impacts to make their case that there is no harm - while ignoring the very real examples and concerns and ideas that environmental justice advocates have put forward. We will not achieve our climate targets if CARB cannot put aside ideological differences and partner with environmental justice communities to address the concern about lack of reductions in their communities. We encourage CARB to reconvene the EJAC immediately and to revisit their conclusions on the EJAC recommendations before the regulatory process proceeds to the next step.

Thank you for your time and consideration of our comments. We are ready and willing to collaborate with you to address these concerns in the coming weeks. If you have any questions, please contact Katie Valenzuela at [kbvale@gmail.com](mailto:kbvale@gmail.com).

Sincerely:

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Cc: Governor Newsom's Office