

May 3, 2026

Chair Lauren Sanchez
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Dear Chair Sanchez and Members of the Board,

Re: 15-day amendments of April 15 to the California Cap on Greenhouse Gas Emissions and Market- Based Compliance Mechanisms Regulation

I am alarmed by the content of the 15-day amendments published on April 15. I outline my concerns below but as a procedural point the period of time for written public comment, even with the five-day extension, is inadequate given the magnitude of the changes compared to the Initial Statement of Reasons from January. The remedy is not, in my view, to extend the comment period because it remains important that the core of the January proposal to retire 118 million allowances from the 2027-2030 budgets is passed in a timely manner, but rather to remove the contentious part of the 15-day amendments relating to the Manufacturing Decarbonization Incentive (MDI) for now to allow full analysis and debate of the merits and demerits of this component and to consider alternatives to accomplish the underlying objective.

Emissions limits are not declining in the proposal

AB1207 requires that the state board “shall adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits”.

The proposed rules remove approximately 118 million allowances from the 2027-2030 annual budgets as in the January proposal but now concurrently introduce 118 million new allowances under the MDI. The net result is a flat, not declining, short term trajectory for the emission limits. This is inconstant with the statute and fails basic sanity check on whether the specific proposal to incentivize industrial investment in emissions reductions is reasonable.

The amendment has fundamental differences from the January initial statement of reasons

I quote two clauses of the January proposal where I see a disconnect:

“The staff Proposed Amendments use *future vintage year allowances for Incentive Allocation* in order to support needed emissions leakage risk protection and accelerate the deployment of low-carbon technologies in hard-to-decarbonize industrial sectors”

Creating new allowances is a fundamentally different from reallocating allowances from future vintage years. Creating new allowances, on assumption that industry will only spend to just

meet regulatory requirements and no more, has the effect of increasing total emissions by the amount of the new allocation.

“The exact amount of Incentive Allocation is unknown but could exceed a total of 40 million allowances over the proposed 12-year period”

The April proposal instead makes 118 million allowances available immediately. I interpret the original text to indicate an intention to make modest adjustments to the straight- line downward trajectory of the emissions budgets not considering MDI. Now proposing to make it flat is not within this interpretation.

The explanation given for these fundamental changes has little substance and does not have detail commensurate with the consequences of the changes

In the Notice of Public Availability of Modified Text, the main reason given for introducing new allocations in current period rather than using future vintage year allowances is stated in paragraph (O) 17 as:

The 45-day Amendment approach would have introduced administrative complexities related to the duration of true-up value for allowance transfers and retirements. The updated approach is necessary to provide a prescribed pool of incentive value and to avoid relying on future vintage allowances that would restrict allowance supply for future allocation.

Administrative complexities are not a basis to fundamentally change the nature of Cap and Invest.

To state that something is necessary is not an explanation of why it is necessary.

And it is an obvious part of the definition of using future vintage allowances that it involves restricting allowance supply for future allocation and this does not constitute reasoning that the consequences of such reallocation create more total emissions than the obvious point that introducing new allowances increases emissions.

State financial support for decarbonization should be targeted to people and organizations who lack reasonable means to pay for the decarbonization investments themselves

I do not think that allocation of new emission allowances, or indeed reallocation of existing allowances as proposed in January, is an effective way to fund and prioritize state incentives for investment in emissions reduction projects. This is because those adjustments impact the price of carbon due to modifying the supply and demand and this interaction to me seems to have no advantages and several disadvantages compared to explicit allocation of funds for those incentives. For example, the Greenhouse Gas Reduction Fund is one vehicle that could be used to provide incentives for carbon intensive industries to decarbonize. With that alternate

approach, the legislature can take in to account a full range of objectives, including the objective of avoiding emissions leakage that motivated the MDI, but also other considerations such as whether such allocation of funds is equitable and narrowly focused on the people and companies who are in greatest need of such support.

I do not mean to suggest that budgetary allocations equivalent to the hidden subsidy from the April amendments should be made from the Greenhouse Gas Reduction Fund, because I believe that full consideration of those other factors would lead to a conclusion that an appropriate funding level was much lower.

I request that CARB responds with their reasoning behind why they believe the approach of manipulating the declining cap is advantageous over this alternative of explicit funding.

Tangible emissions reductions now are much more valuable than promises of emissions reduction years from now in the uncertain future; and are achieved by retaining the simple straight line declining allowances. Any such promises have to be heavily discounted in deciding on the appropriate level of short-term subsidy to polluting industry that can confidently be counted on to make things better.

We need to stay on the straight line.

Sincerely,
Mark Forbes
Individual
San Carlos, CA