The Climate Reality Project
SILICON VALLEY CHAPTER

May 4, 2026

Chair Lauren Sanchez and Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms

Dear Chair Sanchez, CARB Board Members, and Staff:

I am writing to reiterate concerns voiced by many stakeholders and the Legislature[1] about the legality of CARB's proposed Build Up California Reserve, and to identify several regulatory alternatives that would be responsive to industry interests and supportive of CEC efforts, under Governor Newsom's direction[2], to ensure stability of the transportation fuels market. These alternatives include (1) a Carbon Border Adjustment Mechanism (CBAM), (2) a higher Cap Adjustment Factor (CAF) for upstream emissions from in-state refineries, balanced by a lower CAF for downstream emissions from refined petroleum products including imports, (3) a low-priority GGRF allocation to in-state refineries in lieu of the industry's requested higher CAF. Some of these alternatives may be within the Legislature's purview, and I encourage CARB to advise the Legislature, in the FSOR, of alternatives that may require statutory authority.

The legality of the Build Up California Reserve is questionable.

CARB's proposed Build Up California Reserve is of dubious legality under statutory GHG limits because the 118 million allowances allocated to the new reserve are required to achieve the SB 32 statewide GHG reduction target in 2030, according to the ISOR (pages 34 and 329-330):

> The Cap-and-Invest Program supports achieving State climate goals by establishing cumulative budgets and emissions trajectories that are aligned with the path needed to achieve State GHG emissions reduction targets. … The updated allowance budgets in the Proposed Amendments accomplish this objective by removing a total of approximately 118 million allowances from 2027 through 2030 budgets …
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> Alternative 1 removes 118 million allowances from the pool of pre-2030 Program allowances reserved for cost-containment to support meeting the statutory target to

[1] Legislators' comment letter Re: 15-Day Amendments to the Cap-and-Invest Program https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213315/assets/merged/ip0licygj88_document.pdf
[2] Office of the Governor April 21, 2025, letter to California Energy Commission Vice Chair Siva Gunda. https://www.gov.ca.gov/wp-content/uploads/2025/05/Newsom-Gupta-Letter-4.21.pdf

> reduce GHG emissions by 40% by 2030 relative to 1990 levels. This removal is the minimum needed to align the supply of allowances for this decade with the updated AB 32 GHG Inventory. … the Proposed Amendments remove the same number of allowances as Alternative 1 through 2030 …

The SB-32 emissions reduction target (HSC 38566) is legally inviolable as long as allowance auction prices remain within the price ceiling (HSC 38562(c)(A)(ii)(II) and 38562(c)(A)(iii)).

The industry's ISOR comment letters from Chevron[3], PBF Energy[4], and Marathon[5] do not propose or advocate for the Build Up California Reserve. Their main complaint is that CARB's proposed Cap-and-Invest regulation could make in-state refineries economically uncompetitive against more highly-polluting imports. PBF Energy stated that "Unless CARB puts in-state refineries on an equal footing with importers, which we think can be accomplished this year, we will be forced to address the viability of our in-state operations, along with every other refiner in the state." CARB should consider alternatives for remedying this situation without breaching allowance budgets.

Border adjustment

One such alternative advocated in Chevron's comment letter (and also recommended by NRDC[6]) is a Carbon Border Adjustment Mechanism (CBAM). CARB was required by statute to deliver an AB 398 report by December 31, 2025 (per HSC 38562(c)(2)(J)) addressing leakage risk and including recommendations on the potential for a border carbon adjustment. That report, which is still forthcoming, could lay the groundwork for a CBAM in the petroleum products sector.

Fuel refineries are, in effect, already subject to a border adjustment under the LCFS, which applies to upstream emissions (extraction, transport, and refining) for both in-state and imported petroleum products, as well as downstream emissions from combustion. A Cap-and-Invest CBAM for refined petroleum products could perhaps be implemented by adapting to the existing LCFS regulatory framework.

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[3] Chevron ISOR comment letter:
https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213315/assets/merged/9p0pifm0lf8_document.pdf

[4] PBF Energy comment letter:
https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213315/assets/merged/e104ibdg0if_document.pdf

[5] Marathon comment letter:
https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213315/assets/merged/zv0bipn87p7_document.pdf

[6] NRDC's March 9, 2026, ISOR comment letter and November 12, 2025 workshop comment letter:
https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid377/did200184/pid_213315/assets/merged/mm0yif2dfji_document.pdf
https://ww2.arb.ca.gov/form/public-comments/submissions/54501

Higher CAF

Chevron's and Marathon's comment letters advocated for a higher Cap Adjustment Factor (CAF) for petroleum refining. This would increase the sector's free allowance allocation and diminish GGRF revenue from allowance auctions. However, the leakage issue could be remedied without reducing GGRF revenue by balancing a higher CAF (e.g. 0.85) for upstream refinery emissions with a lower CAF for refined petroleum products' downstream emissions. The former would apply to in-state refinery emissions, while the latter would apply to petroleum products from both in-state refineries and imports. This CAF variant would create a more efficient decarbonization incentive because expedited phasing out of fossil fuel consumption will concomitantly draw down upstream emissions.

GGRF allocation

In-state refineries could be given a GGRF allocation in lieu of their requested CAF of 0.85. This could be a low-priority allocation, which would not impact higher-priority GGRF programs, but which could potentially rebate a significant portion of refineries' compliance costs at high allowance prices. (The Legislature controls GGRF expenditures, but CARB could provide an advisory evaluation of this option for the Legislature in its FSOR response to this proposed alternative.)

The GGRF allocation could help restore the competitiveness of in-state refiners relative to importers, provided that they pass the GGRF rebate on to consumers. The allocation could help to mitigate regulatory impacts on consumers' transportation costs, similar to how the California Climate Credit returns rebates to electricity and natural gas ratepayers.

Chevron's estimation of compliance costs and consumer impacts is premised on allowance prices at the ceiling after 2030, based on UC Davis modeling and the November 16, 2023, Joint Cap-and-Trade Program Workshop[7]. (See Figures 1 and 2 in Chevron's ISOR comment letter.) The ISOR's projections of expected GGRF revenue, by contrast, are premised on a Price Assumption at the "Midpoint between Floor Price and APCR 1 Price." (See ISOR Tables 15 and 21.)

CARB should reconcile the discrepancy between the ISOR's Price Assumption and the UC Davis study upon which Chevron's price expectations are based. Industry cost concerns can be partially addressed by demonstrating the plausibility of the ISOR's Price Assumption. However, "plausibility" is not a guarantee, and CARB should also estimate GGRF revenue, including a potential refinery allocation, under Chevron's allowance price assumption, i.e., at the ceiling after 2030.

There appears to be a discrepancy in ISOR Table 15 ("Expected Change in Total GGRF Revenues under the Proposed Amendments"), which should be resolved. The first line of the

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[7] Cap-and-Trade Meetings & Workshops
https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program/cap-and-trade-meetings-workshops

table shows $4 billion in annual GGRF revenue in 2027, which is premised on a Price Assumption of approximately $50 (based on Table 21). However, the November, 2025, auction brought in $844 million in quarterly revenue at an allowance price of $28.32, implying that a $50 price would be expected to result in $1.5 billion in quarterly revenue ($6 billion annual, not $4 billion) under the premise that revenue is proportional to the allowance price. The ISOR appears to have underestimated GGRF revenue at its Price Assumption, and it provides no revenue estimate under the UC Davis modeling scenario.

I encourage CARB to focus its efforts on expediting decarbonization with minimal economic disruption to California's economy, giving reasonable consideration where possible to industry interests and concerns.

Sincerely,

Ken Johnson
Legislation and Public Policy Committee
The Climate Reality Project: Silicon Valley Chapter

Copy to:
The Honorable Gavin Newsom, Governor, State of California
Joint Legislative Committee on Climate Change Policies
Senate Environmental Quality Committee