Danny Cullenward

Please see attached file.

May 4, 2026

Lauren Sanchez, Chair
California Air Resources Board
1001 I Street, Sacramento, CA 95814

Dear Chair Sanchez and members of the Board,

Thank you for the opportunity to comment on the 15-day changes to the proposed cap-and-invest regulations.[1] My comments today concern the apparent misalignment between the proposed allowance budgets, statewide climate targets, and the requirements of state law.

1. **The staff proposal does not justify why the number of allowances to be removed from the program will achieve the intended statewide emission reductions in 2030.**

The ISOR asserts that the removal of 118 million allowances from future allowance budgets is needed to achieve a 40% reduction in statewide emissions by 2030 and that the removal of 264 million allowances is needed to achieve a 48% reduction, with both changes calculated with respect to the status quo regulations.[2] Similarly, the ISOR asserts that a cumulative budget of 4,125 million allowances is required to achieve a reduction of 40% by 2030, while a cumulative budget of 3,793 million allowances is required to achieve a reduction of 48% by 2030.[3]

No justification is given for the claim that these proposed interventions are consistent with their intended 2030 statewide emissions outcomes.

2. **The proposed rationale for reducing allowance budgets does not make sense and does not appear to be consistent with the 2022 Scoping Plan Update.**

The ISOR and 15-day changes both propose to remove 264 million allowances from future allowance budgets, which staff present as necessary to respond to an important methodological change in the state's greenhouse gas inventory.[4] Staff do not present a justification for why this approach was taken, including why an adjustment to a single regulatory program is appropriate as a response to a statewide accounting matter. Furthermore, the delayed implementation of these proposed changes does not appear to be consistent with the 2022 Scoping Plan Update.

For context, CARB implemented a major methodological change in its 2022 statewide greenhouse gas inventory. Beginning in 2022, CARB decided to rely on emissions data from the Mandatory Reporting Regulation (MRR), which it determined were more accurate than prior data sources. Using the MRR data, CARB reported that statewide emissions were about 15 million tonnes of CO_2-equivalent lower than it had reported under its earlier methodology.

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1 CARB, Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information, 2026 rulemaking (Apr. 14, 2026) (hereinafter "15-day changes").
2 CARB, 2026 rulemaking ISOR (Jan. 20, 2026) at Table 3.
3 *Id*.
4 *Id*. at Table 2.

The IEMAC has observed that while this methodological change may have improved the accuracy of the statewide greenhouse gas emissions inventory, it also had the practical effect of weakening California's climate targets:

> *"Because California's greenhouse gas emissions limits are expressed relative to the 1990 baseline, however, changing the GHG Inventory methods without updating the 1990 baseline can reduce the stringency of state climate policy targets.*
>
> *Specifically, if the 1990 baseline is artificially high, which is implied by the substantial reduction in the GHG Inventory observed since adopting the MRR data as its primary source, then the emissions limits may be similarly biased because the emission limits are expressed as reductions relative to the 1990 baseline. This would result in a de facto weakening of statewide greenhouse gas emission limits (IEMAC 2022: 32-34). If such an outcome has occurred, it could be remedied by re-estimating the 1990 baseline."* [5]

As the IEMAC observed, one potential response to a change in statewide emissions inventory accounting methods would be to re-estimate statewide emissions in the 1990 baseline year. While there may be other valid alternatives, staff have not explained why it makes sense to address a statewide accounting issue with an adjustment to cap-and-invest allowance budgets in a single regulatory program that applies only to a subset of statewide emissions.

In addition, staff have not appropriately justified a significant change in the proposed intervention. In a July 2024 workshop presentation, staff indicated that it would be necessary to reduce statewide allowance budgets for program years 2021 through 2030 by 265 million allowances relative to the status quo.[6] In contrast, the ISOR proposes to make a similar reduction (264 million allowances) but instead of implementing these changes by 2030 would spread the reductions out over program years 2027 through 2045.[7]

No analysis is provided to demonstrate that this would be expected to reduce emissions in line with the 2022 Scoping Plan Update, including to achieve a 48% reduction in statewide emissions by 2030. While a delay of a few years may be necessary to address the passage of time since the July 2024 workshop, it is not clear why a delay of 15 years is required or internally consistent with any analysis provided earlier in the regulatory process.

3. **The 15-day changes propose to increase total allowance budgets by up to 118.3 million allowances, which contradicts the analysis provided in the ISOR.**

The 15-day changes propose a supplemental allocation of up to 118.3 million allowances to qualified industrial emitters.[8] Notably, these new allowances are created on "top" of (i.e., in addition to) annual allowance budgets through 2045. This would have the practical effect of

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5 2023 IEMAC report at 10-11.
6 CARB, Cap-and-Trade Program Workshop presentation (July 10, 2024) at slide 16.
7 CARB, 2026 rulemaking ISOR (Jan. 20, 2026) at Table 2.
8 15 day changes at § 95841(b) (establishing new allowances beyond those in the annual allowance budgets pursuant to § 95871(k)); *id*. at § 95871(k) (creating 118.3 million new allowances for the purpose of a supplemental allocation to industrial emitters pursuant to § 95891(g)).

increasing the supply of allowances relative to the ISOR proposal by up to 118.3 million, with a cumulative allowance budget of up to 3,911.3 million allowances.[9]

This proposal is inconsistent with staff's assertion in the ISOR that a reduction of 264 million allowances is required to align with the 2022 Scoping Plan Update, with a cumulative allowance budget of 3,793 million allowances.[10]

4. **The ISOR and 15-day changes ignore the statutory requirement to evaluate and address concerns related to allowance banking.**

As the IEMAC and many others have repeatedly observed for almost ten years, a large bank of allowances puts at risk the state's ability to achieve its required statewide emission reductions in 2030 and beyond. These concerns have manifested in practice. The private allowance bank has grown beyond any levels previously anticipated in prior CARB rulemakings, with 379 million allowances banked at the end of the fourth compliance period and rising.[11]

CARB is required by statute to "[e]valuate and address concerns related to overallocation" (i.e., allowance banking),[12] but the staff proposal does not contain any such evaluation. As discussed above, all of the proposed reductions in allowance budgets address considerations other than allowance banking, such that none of the proposed reductions in allowance budgets can be said to implicitly evaluate or address concerns related to allowance banking.

5. **The 15-day changes are inconsistent with the 2022 Scoping Plan Update and appear to contradict state law as a result.**

The 2022 Scoping Plan Update "identifies a need to accelerate the 2030 target to 48 percent below 1990 levels" (i.e., more ambition than the minimum 40% reduction required by SB 32).[13] Although CARB may prefer to revise its 2030 target in light of limited progress to date and will have the opportunity to do so in its upcoming scoping plan revision process, the 2022 Scoping Plan Update is still in effect and per AB 398, "[a]ll greenhouse gas rules and regulations adopted by the state board shall be consistent with the updated scoping plan."[14]

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9 While the total number that enters circulation depends on whether industrial emitters qualify under section 95891(g) of the 15-day changes, it appears likely that most and perhaps even all will enter market circulation because the eligibility criteria include a number of business-as-usual activities in place among eligible covered emitters, including the production of biofuels and the procurement of methane offsets from dairy digesters and wastewater management facilities. 15-day changes at § 95891(g)(2)(A) (biofuels and methane offset use in general); *id*. at § 95891(g)(2)(C)(2) (hydrogen production using methane offsets).

10 CARB, 2026 rulemaking ISOR at Table 3.

11 IEMAC, 2021 Report of the IEMAC (Feb. 4, 2022) at 12-18 (documenting the size of the allowance bank exceeding levels anticipated in the previous rulemaking); IEMAC, 2024 Report of the IEMAC (Feb. 25, 2025) at 44 (documenting the size of the allowance bank at the end of the fourth compliance period).

12 Health and Safety Code § 38562(c)(2)(D) (as added by AB 398); *see also* 2025 Report of the IEMAC, (Mar. 26, 2026) at 46-47 (individual statement of Danny Cullenward).

13 CARB, 2022 Scoping Plan Update (December 2022) at 71.

14 Health and Safety Code § 38592.5(a)(2) (as added by AB 398).

The staff proposal is inconsistent with this requirement for at least two reasons. First, the 15-day proposal to increase allowance budgets by 118.3 million allowances relative to the ISOR is inconsistent with the allowance budgets the ISOR identified as necessary to align with the 2022 Scoping Plan Update. Second, the proposed reductions to allowance budgets would be implemented through 2045, without any analysis to indicate that these changes are expected to reduce 2030 emissions in line with the 2022 Scoping Plan Update.

Thank you for the opportunity to provide comments.

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Disclaimer: I am writing only in my individual capacity as a researcher, and not on behalf of any other organization (including the IEMAC).