

CARB Response to 2025 EJAC Cap-and-Invest Recommendations to the Board

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Recommendation #1. Eliminate free allowances for the industrial sector.	<p>The free allowances provided to industry are designed to minimize emissions leakage per AB 32 and AB 398. More recently through AB 1207 (Irwin statutes of 2025, Chaptered), the Legislature has directed CARB to provide industrial allowance allocation to minimize leakage risk at set assistance factors through January 1, 2031. Pursuant to AB 1207, after January 1, 2031, CARB <i>shall</i> distribute sector allowances in a manner that minimizes emissions leakage risk.</p> <p>Removing free allowances for industry before replacement with some other mechanism to minimize leakage could have negative impacts on some industries, state and local economies, and jobs.</p>
Recommendation #2. Eliminate offsets. <ul style="list-style-type: none">a. If CARB does not eliminate offsets, they should correct the values of projects proven to be overestimated and prioritize projects within the state.b. If CARB does not eliminate offsets, they should prohibit the use of offsets to fund projects that increase air or water pollution.	<p>The offsets provision of the Program has legislative direction on usage limits and direct environmental benefits to the state per AB 398. All projects are verified to ensure they meet the rigorous requirements of compliance offset protocols that have gone through a formal public process and been adopted by the CARB Board. As part of existing requirements, an offset project must meet all applicable local, regional, state, and national environmental and health and safety laws and regulations in order to be issued offset credits. Importantly, the compliance offset program serves an important cost-containment feature of the Program, and eliminating offsets would increase costs for California businesses and consumers.</p> <ul style="list-style-type: none">a. AB 1207 provides direction on the use of offset credits within the Program, including that CARB shall:<ul style="list-style-type: none">i. Establish a 6% offset usage limit through 2046;ii. develop approaches to increase offset projects in the state; andiii. consider developing additional compliance offset protocols.b. SB 840 (Limón 2025, Chaptered) requires CARB to evaluate the contribution of offset projects to progress toward California’s Climate Goals

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and benefits to the State. SB 840 also requires CARB to update all existing compliance offset protocols by 2029 to ensure they reflect the best available science.

Recommendation #3. Cumulative health impacts and long overdue real, quantifiable, verifiable, surplus and permanent air pollution reductions in environmental justice neighborhoods must be assured, including but not limited to by:

- a. Restricting trading in disadvantaged communities (“no trade zones”) or establishing facility-level caps, particularly for sectors in which emissions have failed to decrease at a rate equivalent to the overall declining cap.
 - i. If CARB requires an affirmation of authority, it should make that request from the legislature to better safeguard Californians living near stationary sources in Disadvantaged Communities who have lived with greenhouse gas and related air pollution increases and/or a slower rate of air quality improvement in comparison to

There is no evidence that the Cap-and-Invest Program has exacerbated local air pollution in environmental justice communities. Studies tracking a relationship between implementation of the Cap-and-Invest Program and local air pollution found it difficult to disentangle which programs and other factors, such as the economic recovery after the Great Recession, were responsible for any changes in local air pollution. Since the Cap-and-Invest Program took effect, air quality in environmental justice communities with large Cap-and-Invest facilities has actually improved more than air quality in wealthier neighborhoods.

- a. Legislature has directed CARB on the design of the Cap-and-Invest Program through [AB 1207](#) and [SB 840](#). Restricting trading would effectively reduce the size of the market and erode the benefits of a well-functioning market program, such as cost-effectiveness, liquidity, and price transparency, thus increasing the potential for both market manipulation and higher costs for electricity, gas, and transportation fuels. It may increase overall auction prices, as covered entities with trading restrictions have no source other than auctions from which to procure allowances, thus increasing compliance costs for all entities, increasing the potential for leakage, and increasing economy-wide costs to California consumers. In the absence of options to increase emissions efficiency in a timely manner while maintaining the same level of production, entities may need to reduce production to reduce emissions, thus causing emissions leakage. The upward pressure on regulatory costs would be inconsistent with AB 1207’s direction on ensuring affordability and AB 32 direction on minimizing leakage and establishing cost-effective programs.

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<p>non-Disadvantaged Communities.</p> <ul style="list-style-type: none"> b. Prohibiting permitting - including expansion - of stationary sources in disadvantaged communities that directly emit pollution (toxic air contaminants, criteria air pollutants, and / or greenhouse gases) and / or that increase the volume or concentration of indirect or areawide pollution, including but not limited to mobile sources. c. Conducting statewide audits of facilities operating within environmental justice communities, including but not limited to by conducting permit reviews, site inspections, and source testing at pollution sources in priority communities. d. Ensuring direct emissions reductions beyond the Community Air Protection program, and that EJ communities are not experiencing foregone reductions due to carbon markets. e. Strengthening the Community Air Protection Program established by AB 617, including but not limited to: 	<ul style="list-style-type: none"> b. Limits on local harmful air pollution are imposed through stationary source permits administered by local air districts and that decades long policy is not altered by any climate related legislation. c. Air districts, rather than CARB, are primarily responsible for stationary source permitting and enforcement, though CARB has an oversight role on achieving ambient air quality standards for criteria air pollutants. CARB supports air district permitting and enforcement programs by providing enforcement training to ensure air district inspectors have necessary skills to verify facility compliance and reviewing proposed permits to ensure those permits effectively implement underlying regulatory requirements. Under current law, the air districts have primary authority here to control emissions of criteria air pollutants and toxic air contaminants. d. There is no evidence that the Cap-and-Invest Program has exacerbated local air pollution in environmental justice communities. Facilities in California are subject to annual reporting of greenhouse gas emissions, criteria pollutant emissions, and TAC emissions that can be used to identify emissions reductions over time, but it continues to be challenging to disentangle drivers of emissions reductions, whether that be from community protection programs, the Cap-and-Invest Program, the investment made using Cap-and-Invest proceeds, local air district requirements, or changing economic and/or environmental conditions. A 2022 report by the Office of Environmental Health and Hazard Assessment (OEHHA) found that through 2017 the greatest beneficiaries of reduced emissions from facilities subject to the Cap-and-Trade Program have been disadvantaged communities and communities of color in California.¹ e. SB 840 provides \$250 million for FY 25-26 to strengthen and support community air protection programs, including implementation of AB 617 by local air districts.

¹ [Impacts of Greenhouse Gas Emission Limits Within Disadvantaged Communities: Progress Toward Reducing Inequities. \(oehha.ca.gov\)](https://oehha.ca.gov/improvements/impacts-of-greenhouse-gas-emission-limits-within-disadvantaged-communities-progress-toward-reducing-inequities)

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<ul style="list-style-type: none"> i. making community plans legally enforceable by CARB and citizens, ii. targeting funds at community priorities rather than industry incentives and agency overhead, iii. improved data transparency, including online access to all air permits, and iv. Ensuring Best Available Control Technology (BACT) and Best Available Retrofit Control Technology (BARCT) are implemented and permits and standards are reviewed every 5 years. 	<ul style="list-style-type: none"> i. CARB has an existing obligation and oversight to ensure all CERPs are completed to the extent possible. Some strategies from early plans were not designed with a clear end date or measurable outcome, so they can be hard to determine when complete. For other strategies, CSC members have agreed to shift priorities and funding and CARB staff ensures that such decisions are made consistent with CSC decision-making processes. ii. Blueprint 2.0 has made a number of requirements encouraging participatory budgeting, clarifying CSC roles in decision-making, CARB's updated CAP incentive guidelines articulate clearer guidance on how community engagement should shape both implementation and incentive funding decisions. There are many examples of CERPs which reflect priorities that fund industry incentives because they can have the most direct immediate exposure and / or emission reduction benefits in their neighborhoods. iii. Each Air District is responsible for permitting the sources in their jurisdiction, and certain air districts are required by AB-1749 to post those permits on their websites. iv. CARB is in the process of finalizing major enhancements to its Technology Clearinghouse that will improve information transparency, including about BACT, BARCT, and NextGen technology as well as more foundational information such as how the permitting process is conducted and various sources are controlled in California.

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Recommendation #4. Prohibit crediting for Carbon Capture or Direct Air Capture projects, both in and out of state.

[AB 1207](#) directs CARB to consider developing additional compliance offset protocols to address sectors that are not covered by the Cap-and-Invest Program but are identified in the Scoping Plan, specifically including carbon dioxide removal. The Scoping Plan identifies Carbon Capture, Use, and Sequestration (CCUS) and Direct Air Capture (DAC) as essential tools for achieving the climate targets in AB 1279 which passed along side SB 905. In recognition of the critical need to remove historical and ongoing emissions and to address sectors where emissions are unavoidable and have no cost-effective or technologically feasible mitigation alternatives of carbon into the atmosphere, SB 905 (2022) requires CARB to create a CCUS Program to evaluate, demonstrate, and regulate CCUS and carbon dioxide removal projects and technology.

Recommendation #5. Require annual certification by the Board and Executive Officer that the program is being carried out in compliance with the civil rights requirements of Title VI of the 1964 Civil Rights Act and California Code 11135.

CARB is committed to compliance with civil rights requirements and implements all of its program, including the Cap-and-Invest program, in adherence with all relevant federal and state laws. Further, CARB applies tools to incorporate racial equity impact analysis into the various planning steps for proposals of policies, programs, and actions.

Recommendation #6. Continue to build on previous work for adaptive management planning.

CARB regularly monitors and evaluates Program outcomes and takes actions to adjust and improve its design as warranted to meet required statutory goals, to respond to evolving circumstances, and to address any demonstrated or potentially foreseeable adverse outcomes. CARB developed the Regulation for the Reporting of Criteria Air Pollutants and Toxics Air Contaminants (CTR) to require annual reporting of criteria and toxic emissions data using a uniform statewide system. The air pollutant emissions data collected through the CTR is presented alongside GHG emissions data collected through MRR in the [CARB Pollution Mapping tool](#), which visually displays high-quality emissions data in a user-friendly manner for accessibility and transparency. These emissions data provide the

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scientific basis to identify and address areas of concern, to guide the development and adjustment of CARB's regulatory programs, and to track progress in emission reduction efforts from stationary, mobile, and area sources. These tools were developed under new mandates from AB 617 and AB 197 to support meeting CARB's community protection and other public health priorities.