California Council for Environmental and Economic Balance
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January 31, 2022

Independent Emissions Advisory Committee
1001 I Street
Sacramento, CA 95814

RE: Independent Emissions Market Advisory Committee: Draft 2021 Annual Report Chapters

Dear Members of the Independent Emissions Advisory Committee,

On behalf of the California Council for Environmental & Economic Balance ("CCEEB"), we write to provide comments on the Draft 2021 Annual Report (2021 Report) by the Independent Emissions Advisory Committee ("IEMAC"). CCEEB is a coalition of business, labor, and public leaders that works together to advance strategies to achieve a sound economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization.

Our primary concern is that the 2021 Report assumes, without providing adequate quantitative or technical justification, that Assembly Bill 398 (E. Garcia, Chapter 135, Statutes 2017) will not achieve its intended purpose. Fundamentally, the 2021 Report is a critique of the AB 398 legislative design and ARB's programmatic implementation of California's Cap-and-Trade Program ("Cap-and-Trade", "the Program"), rather than an assessment of the current or past market performance as the committee is directed to analyze in AB 398. IEMAC is required to report on the environmental and economic performance of Cap-and-Trade and other relevant climate policies.[1] CCEEB questions why the 2021 Report opts to relitigate previously rejected legislative and regulatory proposals through speculative analysis of proposed policy changes outside of the bounds set by AB 398.

[1] AB 398 (E. Garcia, Chapter 135, Statutes 2017)
"…report to both the state board and the Joint Legislative Committee on Climate Change Policies on the environmental and economic performance of a specified market-based compliance mechanism and other relevant climate policies."

The legislative intent of AB 398 was to design an environmentally effective market that as a core principle manages and, to the extent possible, avoids undue economic burden to Californians. The recommendations within the 2021 Report seek to increase the price of allowances after the most recent auction cleared ~36% off the floor price. As a reminder AB 398 states:

"It is the intent of the Legislature that the State Air Resources Board extend the market-based compliance mechanism adopted pursuant to subdivision (c) of Section 38562 from January 1, 2021, to December 31, 2030, inclusive, ***in a manner that effectively reduces greenhouse gas emissions; minimizes any adverse impacts on state consumers, businesses, and the economy; and continues elements of the current program that protect state utility ratepayers.***

To further reinforce that cost-effectiveness and minimizing costs as a core principles of California's climate policy Assembly Bill 32 (Núñez, Chapter 488, Statutes 2006) states:

"It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that ***minimizes costs*** *and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality.*

The state board shall adopt rules and regulations in an open public process to achieve the maximum technologically feasible and ***cost-effective*** *greenhouse gas emission reductions from sources or categories of sources, subject to the criteria and schedules set forth in this part."*

AB 32 provisions related to the Scoping Plan further state the intent is, *"to facilitate the achievement of the maximum feasible and* ***cost-effective*** *reductions of greenhouse gas emissions by 2020."*

Cost-effectiveness and minimizing costs are mentioned throughout AB 398 and AB 32. The legislative direction that has informed ARB's regulatory action is very much focused on the economic efficacy of the climate programs including Cap-and-Trade. Yet the 2021 Report is focused on recommending programmatic changes to increase costs when the Program is achieving its environmental goal.

Just the Facts – Is the Program achieving its environmental and economic goals?

Based on Health and Safety Code 38591.2 (c), a plain read of the responsibilities of IEMAC is to "report to both the state board and the Joint Legislative Committee on Climate Change Policies on the environmental and economic performance of the regulation adopted by the state board pursuant to subdivision (c) of Section 38562 and other relevant climate policies." AB 398 does not ask IEMAC to speculate on the future of the Program or suggest programmatic changes that are not required to achieve the environmental objectives of the Program.

CCEEB urges IEMAC to focus on its statutory obligation to review the Program's environmental and economic performance, which the 2021 Report should state clearly. The 2021 Report should begin by answering this question:

> Is California's Cap-and-Trade Program (and other climate policies) performing satisfactorily from an economic and environmental perspective?

As evidenced by robust market participation, an auction clearing price off the floor price, and substantial capital being directed toward decarbonization investments, the answer is yes. California's Cap-and-Trade Program, as one of the many instruments in the California suite of climate policies, is helping deliver the right market directions and assigned emission reductions, cost-effectively, while protecting Californians from abrupt and excessive energy costs and minimizing economic and emissions leakage.

As recently discussed by ARB staff at an Environmental Justice Advisory Committee meeting, the Program is one part of a comprehensive suite of complementary policies that sends an aggregated signal through virtually all sectors of California's economy. It is due to this complexity of policies and overlaps that the performance of "other relevant climate policies" is included in the legislative direction for IEMAC but overlooked in the 2021 Report. We share the committee's perspective on the Scoping Plan and need to evaluate policy. CCEEB shares IEMAC's concerns with a technology-based modelling exercise that is new to this Scoping Plan and would prefer to focus on the suite of adopted policies and how to enhance their performance to achieve the 2030 and 2045 goals. We believe IEMAC should analyze the interplay of Cap-and-Trade with other climate policies adopted in California. This is a core charge of IEMAC and is required by AB 398. We encourage the committee to observe and report on any conflicting or complimentary policies that should be resolved to enhance the economic and environmental benefits of the extensive suite of climate change policies.

In an analysis of these questions, IEMAC must also factor in whether ARB and the Legislature are instituting other programs that detract from the Program's ability to achieve a 38% of the necessary reductions, and if so, to what degree. The focus on just one of the several markets California has developed to reduce emissions begs the question – is Cap-and-Trade simply a backstop for our other climate programs, and if so, are those programs performing to the extent they should be? These are the kinds of programmatic assessments that should have been put forward in the 2021 Report.

“Visible Hand” Recommendations will Increase Costs to Households and Businesses

The recommendations in the 2021 Report suggest a desire to increase market constraints in order to increase pricing. For example, on page 4, the 2021 Report states, "We also point to the impact that program reform could have on revenues to the Greenhouse Gas Reduction Fund (GGRF).” However, the committee avoids answering how increasing the price relates to the environmental and economic performance of the current program. If the Program is delivering on the compliance period’s prescribed reductions and continues to deliver these reductions, why do prices need to be increased? AB 398 does not require that GGRF guarantee funds. The 2021 Report should not focus on policy recommendations to enhance revenues as that is neither the statutory responsibility of IEMAC nor the legislative intent for Cap-and-Trade. Once again, we reassert that IEMAC should focus on whether the Program is achieving its environmental goals while having a functioning market.

Revenues for the GGRF are a co-benefit of the Cap-and-Trade Program but they are not the principle motivating factor for development of a market-based mechanism. The key goal of Cap-and-Trade is to first cap emissions and second, to contain costs by allowing the market to find the lowest possible cost of mitigation. California developed a full suite of climate policies and greenhouse gas mitigation strategies that have an impact on suppressing the price of allowances within the Cap-and-Trade by removing those emission reductions from the Program. As such, the Program has incorporated an escalating floor price to avoid an inadequate market signal and continue to drive facility-level investments.

Rather than describe the metrics by which the Program’s success is evaluated, the 2021 Report places disproportionate focus on policy proposals that have perpetually failed in the Legislature and ARB. This includes suggestions for previously addressed programmatic changes to banking, offsets, allowance supply, and floor price.

The 2021 Report begins by issuing a warning on the growing number of banked allowances. The 2021 Report concludes that these banked allowances will cause the Program to miss its intended emission reduction targets. Based on this conclusion, the 2021 Report recommends a series of changes to the Program design to fix this perceived “oversupply” issue. However, the Program was designed to self-adjust through removing unsold allowances. This mechanism has removed over 90 million metric tons from the Program to date. Furthermore, manual interference disrupts regulatory certainly and market integrity.

The 2021 Report makes a statement that compares the floor price to the social cost of carbon ("SCC"). This comparison misleads the reader into thinking that the range of SCC should be equivalent to the cost of mitigation. A complete description of the SCC acknowledges that the purpose and intent of the SCC is to evaluate the cost-effectiveness of regulations and whether a regulation's benefits outweigh the costs. The way in which the 2021 Report attempts to draw a parallel between the SCC and the cost of mitigation is incomplete and fails to recognize that emissions mitigated for less than SCC are in fact a savings to the public. With cost-effectiveness as a key component for the Obama Administration's development of SCC, CCEEB argues that IEMAC should consider SCC as an indicator of the ceiling price, not the floor price. Mitigation above the SCC indicates that the mitigating that ton is not cost-effective and other lower cost emission reductions or policies should be pursued. California's suite of climate programs was designed with statutory directives to achieve cost-effective reductions that minimize costs.

We have additional concerns that the IEMAC statement about pricing ignores the aggregated cost of carbon across the full suite of California's climate rules and regulations. By not accounting for all of California's climate programs the reader is given an incomplete picture of the ranges of carbon pricing in California some which far exceed the range of estimated SCCs developed during the Obama Administration. The low-carbon fuel standard, renewable portfolio standard, and zero-emission vehicle regulations all have credits and markets that can be included in the aggregated cost of carbon in California.

It is important to discover and analyze the aggregated costs across climate programs as we know that increased pricing in these programs is directly borne by Californians through their energy costs and costs of goods produced in this state. This committee should not be striving to make the Program more expensive for the sake of making the Program more expensive. Arbitrary price increases are counter to the intent of the enacting legislation and principles in California's suite of climate policies which are to deliver emission reductions at the lowest possible cost.

This is California, not Washington

Several recommendations in the 2021 Report promote the use of Washington's recently adopted comprehensive suite of climate policies. We applaud Washington for finally adopting a carbon market policy after over a decade of failed legislative attempts to curtail annual increases in greenhouse emissions. The state's entry into carbon markets does not suggest that California should change course or alter its programmatic design. Washington's climate program has different statutory elements to fit the politics and economics of that state. We look forward to data and results from its program implementation, but we believe it is too early to judge the impacts and success of the suite of policies Washington is developing. Furthermore, it is unclear that Washington's program will meet the equivalency standards set forth in Section 22, Chapter 5 (commencing with Section 12894) of the California Government Code.

Public Process

CCEEB appreciates the time IEMAC has dedicated to this effort. This effort is intended to take an annual look into the previous year's auction results to analyze the health of the Program and whether it is performing along with other climate policies. This important lookback serves as a way to independently update legislators and the ARB on current market status. It is important to maintain the transparency of the process and hold open meetings to protect the public trust. In that regard, we are disappointed in the timing to comment on the final chapters. The list-serve was updated after 8:30 p.m. on Thursday, January 20th, providing only seven working days to comment. For associations with a diverse membership like CCEEB, it is difficult to analyze, discuss, and come to consensus in such a short time. Though committee members clearly stated they were under no obligation to respond to public comment, we wish this were a more iterative process with public stakeholders.

We understand that reviewing, responding, and modifying the 2021 Report to answer or reply to public input or critique is time consuming. However, CCEEB believes a longer timeline for public input is appropriate and necessary to allow external stakeholders and market participants to provide robust analyses and recommendations.

Conclusion

While we have significant concerns with the 2021 Report as currently drafted, we are hopeful that the committee is open to modifications that we believe will improve the report prior to presenting it to the Legislature and the Newsom administration. We support California's Cap-and-Trade Program and want to ensure that it performs as well as is necessary to achieve California's climate goals. However, we do not believe the changes suggested by the 2021 Report are necessary or beneficial to the Program at this time.

Thank you for your consideration of our comments. We look forward to discussing them or answering any questions you may have at your convenience. Please contact me or Jackson R. Gualco, Kendra Daijogo or Mikhael Skvarla, CCEEB's governmental relations representatives at The Gualco Group, Inc. at (916) 441-1392 should you have any questions or comments.

Sincerely,

William J. Quinn

WILLIAM J. QUINN
President/CEO

Cc: Honorable Members, California Joint Legislative Committee on Climate Change
Secretary Jared Blumenfeld, California Environmental Protection Agency
Honorable Members, California Air Resources Board
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