

January 29, 2022

Jared Blumenfeld
Secretary, California Environmental Protection Agency
1001 I St, Sacramento, CA 95814

RE: 2021 Draft Annual Report of the Independent Market Advisory Committee

Dear Sec. Blumenfeld,

NextGen California would like to thank you for the opportunity to comment on the 2021 Draft Annual Report of the Independent Market Advisory Committee (“Report”), and we thank the Committee members for their thoughtful analysis and their comprehensive, consensus-driven, and inclusive process in developing this report.

NextGen California fights for progressive policy change to address environmental, social, racial, and economic inequities in California. Our interest in commenting on this report and offering comment on California’s Emissions Market is to ensure that market rules and any changes that may be considered aid in achieving our state’s climate goals and that they prioritize equitable, justice-centered solutions.

We respectfully request the consideration of the following brief comments on the Report, organized below by Report chapter heading.

1. Climate Change Scoping Plan

We agree with the Report’s assertion with respect to the Scoping Plan that, “it is difficult to understand how progress toward the 2030 greenhouse gas emission reduction goal or the development of an “actionable blueprint” of state efforts can be achieved without such evaluation of existing policies.” NextGen California has commented, both in the context of the 2017 Scoping Plan Update, and in the current Update process, that the agency should ensure that measures identified in the scoping plan as contributing significant greenhouse gas reductions, including especially the Cap and Trade program, must reflect real world conditions to the extent feasible.

Based on the analysis elsewhere in this report, it appears that the 2017 Update’s assessment of the Cap and Trade program’s effectiveness at delivering emissions reductions was likely significantly overestimated. Moreover, the

program has undergone significant revisions since that time, and present market conditions appear to be changing rapidly.

We therefore suggest that, in addition to the recommendations offered in the Draft Report, that the final report consider offering additional recommendations for how the Air Resources Board can best account for uncertainties inherent in relying on the Cap and Trade system in achieving especially the near-term 2030 target. We believe a conservative approach here would be for the Board to evaluate approaches to achieving the 2030 target that place little or no reliance on the Cap and Trade system to deliver unique emissions reductions, and to treat the market instead as an economic condition whose effects, if any, are reflected in the other measures assessed in the Scoping Plan.

2. Allowance Banking

We appreciate the careful assessment of Allowance Banking in this chapter, and we are pleased that this Report has (at last) been able to offer the public a decisive analysis of the role of banked allowances in the Cap and Trade Market. This information is of vital importance in evaluating the effectiveness, if any, of the Cap and Trade program in generating emissions reductions in California.

We agree with the Report's recommendation that the Air Resources Board adopt and regularly publish updated banking metrics going forward. We suggest, however, that the final report include this and other recommendations related to each of the three findings in this chapter in a list or summary. The subject matter of this chapter is particularly technical and dense. But the information contained in this chapter is also critically important. We therefore recommend that the Committee help to enhance public understanding of its contents by pairing the findings with recommendations in the Summary of this chapter.

We realize that some of these recommendations may be duplicative or overlapping with those in the following chapter, but we believe that the enhanced public understanding created by providing them in this chapter as well outweighs concerns for brevity that may be served by reserving them.

3. Emissions Market Design and Program Reform

We appreciate the analysis and summary of recommended reforms the Committee has offered in this chapter. We believe many of the suggestions offered here have merit, and we would urge the Air Resources Board to begin considering these and other options as soon as possible. Ideally, the Board would consider these options, at least in preliminary form, as part of the ongoing Scoping Plan Update process, but failing that, the Update process should take a conservative approach such as we describe above by developing a plan and scenarios that are not contingent upon Cap and Trade for their success.

4. Carbon Offsets

This Chapter concisely summarizes important analyses that indicate potentially serious flaws in the application of carbon offsets in the context of California's Cap and Trade system, and offers three potential solutions for the Air Resources Board and other policymakers' consideration. We thank the Committee for its diligence in synthesizing this information in such a transparent and digestible manner.

We suggest that, in addition to providing sum totals of offsets usage, the Committee should also place these numbers in context to the extent possible, comparing for example, offsets usage to any documented emissions declines by entities participating in the program or to aggregate cap reductions or other claimed greenhouse gas reductions associated with the Cap and Trade system. The Committee may also wish to consider whether all suggested solutions are administratively available, whether enabling legislation may be needed, and whether further options may exist that would rely on enabling legislation.

5. Emissions Leakage Mitigation Measures

We thank the authors for their discussion of leakage prevention measures both through California's Border Carbon Adjustment (BCA) for electricity and Output Based Allocation (OBA) for industrial polluters. We agree that both approaches currently contain flaws that the Air Resources Board and legislators should address in order to avoid inadvertently subsidizing high-polluting activities both in-state and out of state.

In the context of the OBA, in particular, it is somewhat distressing that, rather than taking an approach that sought to determine true leakage risk and to create policies tailored to address the scale of that risk, California has instead

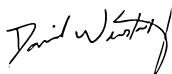
presupposed that aggressively subsidizing in-state industrial polluters is necessary to avoid leakage. This approach has left academics and public interest advocacy groups to meet the burden of demonstrating that these policies have the effect of increasing pollution levels at the expense of California residents and competing budgetary priorities. We therefore strongly agree that the Air Resources Board should immediately undertake significant revisions to the OBA framework, including but not limited to updating the emissions intensity factors.

In the context of the BCA, the evidence provided here that resource shuffling is occurring confirms warnings that members of the public have delivered to the Air Resources Board for nearly a decade.¹ We suggest that the authors urge the Board to re-examine these warnings in light of this evidence in addition to the suggestions the Committee offers here. We also suggest that the Committee consider offering alternative approaches to reduce the perverse incentive created by the current BCA for unspecified power sources in addition to the approach included here. For example, the BCA could, rather than maintaining a static level of emissions intensity, reflect a living figure that automatically adjusts based on real time power mixes or an adjusted average that factors in lower-carbon generators' decision to opt-out from the default emissions intensity assignment.

Conclusion

This report provides a timely and valuable resource to the public and to policymakers, and we reiterate our thanks to the Committee for its efforts. We believe that the minor recommendations we offer here will help to make the report more accessible to stakeholders and potentially offer additional actionable policy changes for legislators and administrators' consideration.

Sincerely,



David Weiskopf
Senior Policy Advisor, NextGen California

¹ See, e.g., <https://law.stanford.edu/publications/resource-shuffling-and-the-california-carbon-market/>