

Final Recommendations
Environmental Justice Advisory Committee
on the Proposed AB 32 Scoping Plan
April 11, 2014

I. Introduction and Background

The Global Warming Solutions Act of 2006 (AB 32) required the Air Resources Board (ARB) to prepare a Climate Change Scoping Plan (Scoping Plan) to achieve reductions in greenhouse gas (GHG) emissions in California to 1990 levels by 2020. The Scoping Plan must be updated every five years and thus the ARB initiated this process in 2013. The ARB also reconvened the Environmental Justice Advisory Committee (EJAC) to advise the AB32 Scoping Plan Update (Update), with the goal of ensuring that environmental justice needs and concerns are integrated into the fabric of the State’s climate programs.

California today is a majority people of color state, the ranks of which represent the strongest views on the environment and climate change. Voters of color were critical in saving AB 32 in 2010 when Prop 23 threatened to suspend our landmark climate law. Improved health and job outcomes were their aspirations for AB 32, and the EJAC echoes this belief in our recommendations. We see the promise of healthier communities when climate pollution is reduced and our families are part of the workforce that transitions us to a low carbon economy.

The EJAC’s “Initial Recommendations to Inform Development of the 2013 Update to the AB 32 Scoping Plan” included specific GHG emission reduction strategies in each Scoping Plan sector, Cap-and-Trade, and currently uncapped sectors, plus an emphasis on short-lived climate pollutants. Our recommendations place great value on maximizing co-benefits (such as local pollution reduction, public health improvements, increased economic opportunities) and the need for ongoing assessment of the impacts of the State’s climate programs on environmental justice communities. In the draft Update, we are encouraged to see mid and long-term GHG reduction targets, and progress in strategies to address short-lived climate pollutants, transportation, agriculture, waste, and natural and working lands. The EJAC identifies 5 priority changes to the Scoping Plan that include EJ metrics, accelerated AB 32 targets, problematic energy technologies, transit operations and weaknesses of the Cap-and-Trade program.

II. EJAC Recommendations: Progress, Outstanding Issues, Priority Changes

A. Overarching Issues

1. Progress:

- a) We are pleased to see the addition of short-lived climate pollutants (SLCP) to the list of economic sectors, including the regulation of fugitive methane emissions. We are encouraged to see our recommendation for an environmental justice assessment of AB 32 discussed in the Plan.

2. Outstanding Issues:

- a) While we agree with ARB on the need for strong metrics and new data collection tools, we are disappointed that ARB does not lay out a plan for developing an evaluation research agenda that addressed how CARB will evaluate the total potential costs and total potential economic and noneconomic benefits of the actions in the scoping plan.
- b) As evaluation and implementation of the Scoping Plan continues it will be important to ensure sufficient staffing at ARB, other implementing agencies, and the Climate Action Team. Addressing climate change and its social, economic and health consequences will require greater coordination and cooperation, new policy tools and more investments in solutions.
- c) Reversing climate change means shrinking our use of fossil fuels that when used release GHGs. It is important to address plans for increased conventional and unconventional fuel extraction in California, and how this practice will affect our ability to meet both clean air and climate goals in an era of proposed expansion.
- d) Nowhere in the Scoping Plan are green jobs discussed when one of the primary hopes of Californians in AB 32 is the jobs and economic opportunity that a green economy brings. Innovation in clean energy production and deployment have great economic promise but this promise will be lost if ARB and other state agencies do not make a coordinated effort to develop, train and deploy the new economy workforce. Define “green job” and prioritize low-income communities to benefit from AB32 programs and projects that yield green jobs. Existing and new job growth (in energy, natural lands, waste, transportation and other sectors) should provide family-sustaining wages, strong health and safety protections, and opportunities for training, education and career ladders to low-income communities.

3. Priority Changes:

- a) Assess the benefits and problems of AB32 in environmental justice communities so that as AB 32 is implemented, State Agencies can be responsive to and responsible for the communities hit first and worst by climate change. Collect, assemble and distribute the data on GHGs, criteria pollutants, air toxics, allowances and offsets

from over 800 reporting stationary sources by the end of 2014 and complete the analysis by June of 2015. Integrate the Adaptive Management Plan in these EJ metrics, and expand this program to include impacts from RPS and LCFS. This data along with facility locations needs to be shared with OEHHA, DPH, CEC and other agencies to explore options and determine the potential impacts on disadvantaged communities using many indicators and establish a baseline for future comparisons.

- b) Set an aggressive and accelerated reduction curve beyond 2020 because of the critical importance of pursuing early reductions. California should establish 2030 (a minimum reduction of 40% of 1990 levels) and 2040 (a minimum reduction of 60% of 1990 levels) emissions reduction targets.

B. Energy

1. Progress:

- a) California's energy loading order is an important guide for the energy sector of AB 32, and has led to breakthroughs in energy efficiency and renewable technologies in the public and private arena. We agree that these technologies need to permeate the industrial sector where the greatest emissions occur. We are also pleased to see the nexus of energy and transportation, via the concentrated deployment of light, medium, and heavy vehicle electrification in our communities.

2. Outstanding Issues:

- a) It is counterproductive to AB 32 goals the plans to bring new high-emission natural gas power plants online, as well as expand fossil fuel extraction in our state lands. We know these industrial practices primarily harm environmental justice communities where they are sited, and accelerate climate change.
- b) The success of RPS and associated clean technology has provided economic benefits to companies and wealthier citizens across the state. To ensure that these public energy programs also reach low-income Californians, affirmative action to increase the siting of efficient and clean distributed energy projects in environmental justice neighborhoods is necessary (i.e. solar, wind, and energy storage projects).
- c) Robust workforce standards and career pipelines need to be developed proactively to ensure maximum GHG reduction, energy savings, and job creation. Green jobs should pay family supporting wages with good benefits and safety protections.

3. Priority Changes:

- a) California must reduce its energy use and transition to 100% renewable energy. Prevent new oil and gas operations (refineries, power plants) and unconventional fuels (fracking, tar sands, oil by rail, biomass incineration, waste to energy, artificially induced geothermal wells) from coming online because it adds GHGs and pollution rather than reduces them. Unanticipated consequences of currently deemed renewable energy under the RPS must be evaluated (life cycle emissions, co-

pollutants) by the CEC to ensure they do not create new problems in overburdened communities. The CEC should then render ineligible those technologies that increase air quality burdens. The CEC should ensure that imported renewable energy, including that from Tribal lands, is consistent with California requirements.

C. Transportation: Vehicles/Equipment, Sustainable Communities, Housing, Fuels, and Infrastructure

1. Progress:

- a) Good progress made on incorporation of the linkages between addressing climate change from the transportation sector while acknowledging the potential social justice impacts of Transit Oriented Development. Embedded in the scoping plan is also an recognition of the need to address SLCP and promoting a transition to cleaner freight alternatives.

2. Outstanding Issues:

- a) Provide guidance to transit agencies on the co-benefits of well-coordinated transit systems. Implementing agencies can and should incentivize the co-location of first/last-mile electric vehicle car sharing programs, safe routes with transit, etc. with increased incentives for income qualified core transit riders and rural farmworker communities.
- b) Preserving and investing in current transit services is as important to reducing VMT as is creating new ridership via expansion projects. Prioritization should be placed on the preservation of the existing transit systems (operations and maintenance/ replacement) rather than continued emphasis on expansion projects.
- c) Recommend that jobs/housing fit, and other racial and economic equity criteria for allocation of public monies targeted in support of equitable TOD planning, development, and supporting infrastructure be weighted heavily.
- d) Highway expansion and road repaving should not be considered eligible GHG mitigation strategies for purposes of the Cap-and-Trade investment plan.
- e) Public funding for infrastructure should be prioritized and focused to achieve the upfront benefits of more rapidly transitioning communities to transit based modes of transportation. Specifically, this would include strategically leveraging public resources among agencies and departments to equitable TOD that includes benefits to the existing core transit riders such as those residing in low income and affordable housing, and other investments near transit nodes that enhance mobility and affordability for our communities.
- f) Support and encourage efforts to strengthen AB32/SB375 mandates and incentives to ensure public benefits by ensuring strong equity focused TOD. Specifically, 1) remove barriers to and create resources for public land banking at the time of transit siting, 2) requiring or incentivizing meaningful anti-displacement measures and inclusion of affordable and low income housing, and 3) requiring a jobs-housing fit

analysis to be conducted concurrent with SCS preparation.

3. Priority Changes:

- a) Financially support transit operations and restoration of transit service and routes in disadvantaged communities. The Plan should recognize and promote the GHG reduction and co-benefits of providing free youth transit passes for public school students and low cost transit service for low-income families.

D. Agriculture

1. Progress:

- a) Moving California agriculture toward sustainability remains a major challenge. In concept the Update agrees with EJAC on the need to address carbon and other GHGs from the agricultural sector. This includes measures to maximize carbon sequestration, reduce methane emissions and the phase out of organic materials at landfills and discusses expanding agricultural waste diversion through composting.

2. Outstanding Issues:

- a) CARB needs to move faster to set sector specific goals. Protecting agriculture will involve strong action that goes beyond discussing potential measures and face the challenge of creating more sustainable systems and practices
- b) Establish measures that limit the use of any crop for fuel and as a general principle, reduce overall transportation fuel use.
- c) Do not allow the creation of cap-and-trade offsets for methane capture from dairies..
- d) Directly regulate all major sources of agricultural GHG emissions.

E. Water

1. Progress:

- a) Energy and Water are inextricably linked and the scoping plan does address the need for greater conservation, communications and coordination.

2. Outstanding Issues:

- a) The state shall provide competitive grants and/or incentivize municipal governments to install water drinking fountains in appropriate areas of the community intended for pedestrians and bicyclists in the effort to further encourage non-vehicular transportation, i.e. sidewalks, greenways, and pedestrian refuges.
- b) While the scoping plan mentions several pieces of important water legislation there is no acknowledgment that the state of California also passed (AB 685) Water Code section 106.3. It states that it is the policy of the State that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes."
- c) Hydro power should not be included in the Renewable Portfolio Standard for

- pumping.
- d) Decarbonize irrigation and systems to move water across the state by using distributed renewable energy to power these technologies.

F. Waste Management

1. Progress:

- a) The Proposed Update includes new recommended action to eliminate landfilling of organic materials at landfills, which is laudable.

2. Outstanding Issues:

- a) CARB should develop measures that do not have the unintended consequence of incentivizing new incinerators and “thermal technologies.” The recommendations in their current format unfortunately continue to support greater investment in biomass incineration.
- b) Waste incinerators should have compliance obligations under the Cap-and-Trade program. The 2014 Proposed Update states: “ARB is to develop a comprehensive approach for the most appropriate treatment of the Waste Sector under the Cap-and-Trade Program.” It appears that this “comprehensive approach” will determine whether incineration will be subject to future Cap-and-Trade compliance obligations.
- c) All definitions of what technologies constitute renewable energy should be consistent across state and local agencies. Please also see the above recommendations on waste to energy technologies.
- d) When ARB conducts this analysis, it should include a public process and meaningful engagement with environmental justice communities and others that will be impacted by the decision whether incinerators have compliance obligations under the Cap-and-Trade program.
- e) CARB should emphasize measures in the waste section that actually create real waste reduction like redesign of products and packaging, reuse, recycling and composting, instead of the current language that opens the door for increased incineration.
- f) ARB and other state agencies (including PUC, CEC, OEHHA, DTSC, and CalRecycle) should undertake a process to examine the growing evidence that biomass and biogenic carbon have real and significant climate impacts, examine long distance transport contribution to overall GHG impacts of burning biomass material, and examine assumptions health and environmental impacts from burning various materials considered to be biomass, including impacts of biomass ash. This is of growing importance as new EPA regulations allow for the increased burning of waste and biomass at industrial facilities (i.e. industrial boilers, cement kilns), and as material deemed to be biomass are exempt from compliance obligations under the Cap and Trade program.
- g) Eliminate organic materials from landfills, accompanied with elimination of organic materials from all incineration and thermal technologies in order to avoid creating new incentives for incineration/thermal technologies.
- h) During the analysis of whether incinerators are subject to future Cap-and-Trade compliance periods, ARB should commit in the Scoping Plan to a public process and

meaningful consultation with environmental justice communities who would be impacted by a continuing exemption for incinerators.

G. Natural and Working Lands

1. Progress:

- a) We see eye-to-eye on many of the goals in this sector, especially valuing the co-benefits of green infrastructure projects and targeted investments in disadvantaged communities.

2. Outstanding Issues:

- a) Natural and working land GHG reduction strategies, such as green infrastructure and ecosystems management, should be integrated into land use planning under Sustainable Communities Strategies and major transportation infrastructure projects.
- b) Community tree planting goals encourage proactive actions that have both localized and global climate benefits.

H. Short-Lived Climate Pollutants

1. Progress:

- a) Significant progress has been made in addressing the concerns and recommendations of the EJAC committee in regards to reducing the major short lived climate pollutants.

2. Outstanding Issues:

- a) The current recommendations call for primarily research and establishing inventories, and preliminary measures. While these are important first steps it is important to develop actual measures and tools to address agricultural emissions, emissions from concentrated animal feed operations.
- b) ARB needs to take seriously the need to reduce emissions from the agricultural sector and set specific measures now.

I. Green Buildings

1. Progress:

- a) The measures proposed in the green building sector do a good job of addressing issues related to new buildings and the scoping plan acknowledges the need to increase the feasibility of micro grid and energy storage.

2. Outstanding Issues:

- a) AB 758 was passed in 2009 and yet no regulations have been developed.
- b) The plan should ensure that increased energy efficiency and building standards are being met without using toxic building materials that worsen indoor air quality and create an end of life disposal problem.

J. Cap-and-Trade Regulation

1. Progress:

- a) Through SB 535 (de Leon) and the Cap-and-Trade Investment Plan, we are aligned in targeting at least 25% of the investments for disadvantaged communities. We agree that measurements of GHG reductions and co-benefits are important to have in determining the success of AB 32's effectiveness.

2. Outstanding Issues:

- a) Strict and ongoing evaluation of the Cap-and-Trade system is important to determine the efficacy or weakness of the state's primary mechanism to reduce industrial emissions, because if it is not succeeding in achieving AB 32 goals, then the state needs to correct its course. Establish 2030 (a minimum reduction of 40% of 1990 levels) and 2040 (a minimum reduction of 60% of 1990 levels) emissions reduction targets.) and 2050 (a minimum reduction of 80% of 1990 levels) emissions reduction targets. Direct reductions of emissions should be prioritized in EJ areas.
- b) Minimize or eliminate carbon offsets, and international forestry offset programs such as REDD, since it can diminish direct industrial emissions reduction at fenceline communities and compromise GHG reductions in the state.
- c) Do not give away free allowances so as to avoid rewarding industry stalling, delay, and obstruction.
- d) The Adaptive Management Plan should provide for proactive solutions when unintended environmental justice impacts are discovered. Adaptive Management should be expanded to include the Renewable Portfolio Standard and the Low Carbon Fuel Standard. Publish annual report on where allowances are being surrendered and offsets used, disaggregated by facility, starting 2015.
- e) The controversial components of the cap and trade regulation (including offsets and free allowances), should not be exported to other jurisdictions.

3. Priority Changes:

- a) Reduce the weaknesses of the Cap-and-Trade program by selling all allowances, not extending transition assistance to the industrial sector with free allowances, canceling or disallowing the offsets program (especially REDD, methane capture from dairy digesters and coal mines, rice, forestry clearcutting) and not exporting this scheme to other jurisdictions.

III. Conclusion

The first EJAC asked some key questions on the Scoping Plan eight years ago that current EJAC members continue to be concerned with. How do we maximize the public health, environmental and economic benefits of AB 32 for the communities who have borne a century of industrial pollution burdens and who are the most vulnerable to climate change impacts? We want to ensure that the Scoping Plan Update moves us quickly towards reducing emissions and diversifying our energy choices while at the same time being based in strong principles of equity and opportunity.

One of the aspirations of the EJAC and broader social justice movements is that AB 32 can set the stage for investments in a new green economy, creating new green career paths and entrepreneurial opportunities.

This scoping plan has a stronger focus on the short lived climate pollutants and greater acknowledgment of the need for deeper sector reductions. We hope that this refined vision will steer our course to 2020 and beyond and enable meaningful emissions reductions delivering a range of co-benefits and address the air pollution that represents a public health crisis in our communities. We continue to believe that AB 32 holds great promise for reducing the pollution that is fueling climate change and health inequalities, and ensuring that polluters pay for the harms they create.

Free allowances give polluters a way out of emissions reductions and provide their shareholders a windfall at the public's expense. Extending transition assistance for the industrial sector, and in particular the refining sector, does violence to the core principles of AB32. Offsets poses problems in verification of true carbon reduction, and then further threatens displacement of forest communities around the world that contribute to migration problems. The ARB should spend more of its effort to ensure the Adaptive Management Plan prevents and mitigates unintended consequences of the Cap-and-Trade program, especially in environmental justice communities. We want to see the benefits and opportunities of AB 32 focus on California. If California wants to export our climate programs to other jurisdictions, we have a responsibility to make sure it's the meaningful programs like efficient and clean energy and investment in vulnerable communities, not controversial regulations that do nothing to reduce local emissions while transferring more burdens on low-income communities.

EJAC Recommendations - Priority Changes	Agency
<p>1. Assess the benefits and problems of AB32 in environmental justice communities so that as AB 32 is implemented, State Agencies can be responsive to and responsible for the communities hit first and worst by climate change. Collect, assemble and distribute the data on GHGs, criteria pollutants, air toxics, allowances and offsets from over 800 reporting stationary sources by the end of 2014 and complete the analysis by June of 2015. Integrate the Adaptive Management Plan in these EJ metrics, and expand this program to include impacts from RPS and LCFS. This data along with facility locations needs to be shared with OEHHA, DPH, CEC and other agencies to explore options and determine the potential impacts on disadvantaged communities using many indicators and establish a baseline for future comparisons.</p>	<p>ARB, OEHHA, CalEPA, DPH</p>
<p>2. Set an aggressive and accelerated reduction curve beyond 2020 because of the critical importance of pursuing early reductions. California should establish 2030 (a minimum reduction of 40% of 1990 levels) and 2040 (a minimum reduction of 60% of 1990 levels) emissions reduction targets.</p>	<p>ARB</p>
<p>3. California must reduce its energy use and transition to 100% renewable energy. Prevent new oil and gas operations (refineries, power plants) and unconventional fuels (fracking, tar sands, oil by rail, biomass incineration, waste to energy, artificially induced geothermal wells) from coming online because it adds GHGs and pollution rather than reduces them. Unanticipated consequences of currently deemed renewable energy under the RPS must be evaluated (life cycle emissions, co-pollutants) by the CEC to ensure they do not create new problems in overburdened communities. The CEC should then render ineligible those technologies that increase air quality burdens. The CEC should ensure that imported renewable energy, including that from Tribal lands, is consistent with California requirements.</p>	<p>ARB, CPUC, CEC</p>
<p>4. Financially support transit operations and restoration of transit service and routes in disadvantaged communities. The Plan should recognize and promote the GHG reduction and co-benefits of providing free youth transit passes for public school students and low cost transit service for low-income families.</p>	<p>ARB, CalSTA</p>
<p>5. Reduce the weaknesses of the Cap-and-Trade program by selling all allowances, not extending transition assistance to the industrial sector with free allowances, canceling or disallowing the offsets program (especially REDD, methane capture from dairy digesters and coal mines, rice, forestry clearcutting) and not exporting this scheme to other jurisdictions.</p>	<p>ARB</p>