



Dear IEMAC Committee:

We write to share our significant concerns about the Independent Emissions Market Advisory Committee's "Environmental Justice Report." This report, dated September 10, 2018, does not include or accurately represent the primary concerns that have been repeatedly raised by environmental justice organizations in relation to the Air Resources Board's Scoping Plan. Nor does this report include reference to an important peer-reviewed study assessing the impacts of climate change on the most disadvantaged communities of the state. We request that the Committee retract this report and replace it with a more inclusive discussion and independent balanced consideration of the issues raised by environmental justice organizations and the rest of the Scoping Plan's record.

Initially, we are concerned about the process for developing and publishing the "Environmental Justice Report." In particular, we are not aware of any outreach to or consultation with environmental justice organizations or communities in the development of this report. This complete lack of engagement is particularly concerning given that none of the Committee members appear to represent environmental justice organizations or communities. We are also concerned that the transcript from the June 20, 2018 meeting and that the reports from the Committee were not published until this week. The late publication of these materials inhibits the ability for meaningful comment and public participation in the process.

Some of our primary concerns with the September 10, 2017 "Environmental Justice Report" include:

1. Failure to Meaningfully Consider Connection of Air Pollutants to Greenhouse Gas Emissions

The "Environmental Justice" Report states that: "Although GHG emissions and emissions of local pollutants are correlated, a reduction in point source GHGs need not imply a reduction in local pollution. In sum, these are fundamentally different problems that are best addressed using coordinated – but distinct- policy responses." This statement contradicts both what environmental justice communities have raised in comments,¹ and what a peer-reviewed study examining this exact issue found.

Specifically, the July 20, 2018 research article entitled: "Carbon trading, co-pollutants, and environmental equity: Evidence from California's cap-and-trade program (2011-2015)" written by Lara Cushing, Dan Blaustein-Rejto, Madeline Wanter, Manual Pastor, James Sadd, Allen Zhu, and Rachel Morello-Frosch illustrates the importance of

¹ See, e.g., CEJA's December 2017 Comments on the Scoping Plan.



real GHG reductions for the state's most disadvantaged communities.²This journal article makes the following key findings:

- Facilities regulated under California's cap-and-trade program are disproportionately located in disadvantaged neighborhoods.³
- **Most regulated facilities increased their local GHG emissions after implementation of cap-and-trade. A majority of facilities also increased their annual average PM2.5, VOC, and air toxics emissions during this time period.**⁴
- GHGs and hazardous co-pollutants emitted by facilities regulated under California's cap-and-trade program were positively correlated when comparing across facilities.⁵
- Since California's cap-and-trade program began, neighborhoods that experienced increases in annual average GHG and co-pollutant emissions from regulated facilities nearby had higher proportions of people of color and poor, less educated, and linguistically isolated residents, compared to neighborhoods that experienced decreases in GHGs.⁶

As highlighted in this study, low-income communities and communities of color are disproportionately located near the state's largest GHG sources. After the implementation of cap and trade, the majority of large GHG sources *increased* GHGs and toxic air pollution. Thus, our state's ability to curb GHGs and slow climate change indeed has a direct impact on the state's disadvantaged communities. Sources need to actually reduce GHGs to mitigate these impacts and ensure that cap and trade does not disproportionately hurt the state's most disadvantaged communities.

The September 10, 2018 "Environmental Justice" Report fails to evaluate and consider this study and the connection between GHG policy and air pollution. AB 398 tasks this Committee with an independent analysis of policy issues. To meet this mandate, the September 10, 2018 Report's deficiency must be rectified to provide an independent analysis of cap and trade policies on environmental justice communities.

2. Failure to Analyze CARB's Duty to Prioritize Direct Emission Reductions under AB 197

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<http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002604#sec016>

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*



AB 197, passed in 2016, is a critical piece of legislation that creates a mandate for CARB to prioritize direct emission reductions. Its legal mandate still stands after the passage of AB 398, and its proper implementation is critical to environmental justice communities. Alarming, the September 10 2018's "Environmental Justice" Report also fails to analyze or discuss whether CARB is complying with the substantive requirements of AB 197.

Specifically, section 38562.5 requires ARB to consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

- (a) Emission reduction rules and regulations that result in direct emission reductions at large stationary sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.
- (b) Emission reduction rules and regulations that result in direct emission reductions from sources other than those specified in subdivision (a).⁷

As the August 24, 2016 Assembly Floor Analysis summarizes, AB 197 "requires ARB to prioritize regulations that result in direct emission reductions at large stationary, mobile and other sources."⁸ The September 10, 2018 Report fails to analyze whether the Scoping Plan adheres to this prioritization.

As we have previously stated in comments,⁹ we believe CARB has not prioritized direct emissions reductions, and it does not analyze any potential regulations that could meet this requirement. It does not identify potential measures by sector and industry that could help ensure that the most impacted communities are protected. Given the ongoing concerns with correlation between GHGs and co-pollutants highlighted in the study discussed above, the failure of this Committee's "Environmental Justice" Report to discuss the requirements of AB 197 is particularly concerning.

3. Overreliance on AB 617

Despite the separate requirements of AB 197, SB 32, and AB 398, the September 10, 2018 Report attempts to relegate the majority of air quality and environmental justice issues to the AB 617 process. Specifically, the "Environmental Justice" Report states:

⁷ Cal. Health & Safety Code § 38562.5

⁸ AB 197, August 24, 2016 Assembly Floor Analysis, *available at* https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB197

⁹ See CEJA December 2017 Comments on the Scoping Plan.



When California's cap-and-trade program for GHGs was extended under the auspices of AB398, a companion bill (AB 617) was passed to reduce criteria air pollutants and toxic air pollutants from stationary sources. In other words, rather than trying to use climate change policies to deliver local air quality improvements, AB 617 is designed to tackle these local problems directly.

This overreliance is fatally flawed and must be rejected because it ignores the statutory requirements from AB 197, SB 32 and AB 398 related to GHGs as well as the existing climate and air quality concerns that AB 617 will not address.

In particular, AB 617 *will not* analyze or assess whether greenhouse gas limits implemented by CARB, such as cap and trade, are disproportionately impacting low-income communities. It will not look at the relationship between climate regulations and how they impact air quality. In addition, under AB 617, only a handful of communities will be chosen for community plans designed to lower emissions. Relegating all environmental justice and air quality issues to AB 617 leaves many communities, who could benefit from statewide action, without recourse.

Thus, ongoing analysis of emissions trends in EJ communities and clear set of proposed actions from CARB as it relates to EJ issues and implementation of climate regulations is critical.

Finally, there are a broad and wide-ranging set of concerns related to environmental justice, as indicated by the breadth and depth of EJAC's comments. These include – but are not limited to – seeing actual GHG reductions in frontline communities and significant concerns with the actual cap and trade market design; an urgent need to achieve more improvements in the transportation section; and concerns related to the impacts of biomass incineration. For these reasons, we have previously voiced concerns about CARB's overreliance on AB 617, and we similarly find the September 10 2018 Report's exclusive reliance on AB 617 untenable for air quality and environmental justice issues. It is incumbent on this Committee to clearly and meaningfully consider how and whether CARB is actually integrating EJ into the ongoing implementation of climate regulations.

AB 398 created the Independent Emissions Market Advisory Committee to operate as an independent body to assess the Scoping Plan. Due to the issues discussed above as well as the other issues raised in our and other comments, we ask the Committee to:

1. Retract its September 10, 2018 Report and develop a more balanced report that examines the issues raised above.
2. We further request that any reports summarizing environmental justice issues be developed in close coordination and consultation with environmental justice parties as well as EJAC.



3. Finally, we request that this letter and any other letters or comments related to the reports or work of this Committee are included in the public record and available on the Committee's webpage.

Sincerely,

Gladys Limon
Executive Director
California Environmental Justice Alliance