December 11th 2017

TO: The California Air Resources Board
**RE: California Environmental Justice Alliance Comments On The 2017 Final Climate Change Scoping Plan**

On behalf of the California Environmental Justice Alliance (CEJA), we respectfully submit these comments regarding the California Air Resources Board (CARB)'s 2017 Final Climate Change Scoping Plan (Scoping Plan). CEJA is a statewide coalition of ten community-based organizations representing approximately 20,000 residents across the state.

Environmental justice (EJ) communities are on the frontlines of climate change.[1] Low-income communities and communities of color are disproportionately located near the state's largest sources of GHG emissions, including both industrial facilities and major transportation corridors,[2] as well as oil and gas infrastructure.[3] The communities where CEJA's members and partners work are already facing the impacts of climate change, from suffering most acutely during the impacts from extreme weather events to bearing the burden of drought.

CARB's Scoping Plan presents a unique opportunity to outline a bold vision for California to achieve our ambitious 2030 greenhouse gas (GHG) reductions targets. The Scoping Plan should provide a comprehensive and overarching strategic plan for California to effectively reduce our state's greenhouse gas emissions to meet mandatory targets, while at the same time addressing the needs of our most impacted and vulnerable communities. There is a well established statutory requirement for CARB to protect against any disproportionate impacts that may occur as a result of climate change regulations. AB 398 requires CARB to "[e]nsure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities."[4] SB 32 further requires CARB to "achieve the state's most stringent greenhouse gas reductions in a manner that benefits the state's most disadvantaged communities."[5]

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[1] *See* SB 32, Section 1(c) (2016) (describing how disadvantaged communities "are affected first, and, most frequently, by the adverse impacts of climate change").
[2] *See* L. Cushing, et. al, *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program*, pg. 2, 4, 5 (2016), https://dornsife.usc.edu/PERE/enviro-equity-CA-cap-trade; OEHHA, *Tracking and Evaluation of Benefits and Impacts of Greenhouse Gas Limits in Disadvantaged Communities,* pgs. 15-17 (Feb. 2017).
[3] *See* OEHHA, *Tracking and Evaluation of Benefits and Impacts of Greenhouse Gas Limits in Disadvantaged Communities,* pgs. 15-17 (Feb. 2017).
[4] Cal. Health & Safety Code § 38562(b)(2). This provision is not limited to economic impacts, which CARB analyzes in Appendix E. As written, it includes all potential impacts including environmental impacts.
[5] Senate Bill 32, Section 1(d) (Pavley, 2016).

While CARB has increased programmatic attention and staffing dedicated towards environmental justice issues, it is disappointing that the current version of the Scoping Plan does not outline a clear course of action to meet California's 2030 climate targets. It further creates no clear plan for how the agency will comply with AB 398's, SB 32's, and AB 197's mandates to protect against disproportionate impacts in environmental justice communities.

We offer the following detailed analysis on several key EJ issues in the Scoping Plan, which is by no means exhaustive. In summary, our concerns are:

I. The Scoping Plan does not include a clear plan to ensure climate regulations do not negatively impact EJ communities and over-relies on AB 617 to address air quality concerns.
II. The Scoping Plan does not comply with AB 197 because it fails to prioritize, accurately account for and analyze potential direct emission reductions.[6]
III. The Scoping Plan's analysis of the Cap and Trade program is insufficient and does not demonstrate how the program will achieve the outlined emission reductions.
IV. The Scoping Plan's transportation analysis lacks clear goals or targets, despite being the sector with the largest source of greenhouse gas emissions.

## I. The Scoping Plan does not include a clear plan to ensure climate regulations do not negatively impact EJ communities and over-relies on AB 617 to address air quality concerns.

As the Scoping Plan clearly states, "[a]n important concern for environmental justice communities is for any Scoping Plan to provide air quality co-benefits."[7] CEJA and the environmental justice community have long advocated for policies that achieve the twin goals of improving air quality and reducing GHG's in our most vulnerable communities. The Environmental Justice Advisory Committee's (EJAC) priority Scoping Plan recommendations recently reiterated the EJ community's commitment to achieving these outcomes.[8]

The Scoping Plan has a clear focus on addressing criteria and toxic air contaminants through the newly-created AB 617 implementation process.[9] The Scoping Plan states:

> *We agree with the EJAC that more can and should be done to reduce emissions of criteria pollutants and toxic air contaminants. These pollutants pose air quality and related health issues to the communities adjacent to the sources of industrial emissions. Further, many of these communities are already disadvantaged and burdened by a variety of other environmental stresses. As described in Chapter 3, however, there is not always a direct correlation between emissions of GHGs, criteria pollutants, and toxic air*

[6] As described further below, although CARB analyzed many different programs before the passage of AB 398, its analysis after AB 398 fails to even analyze many of the same measures it previously analyzed. Scoping Plan, Appendix G.
[7] Scoping Plan, pg. 33.
[8] Scoping Plan, Appendix A, pg. 5, https://www.arb.ca.gov/cc/scopingplan/2030sp_appa_ejac_final.pdf.
[9] Scoping Plan, pg. ES6.

*contaminants. Also, relationships between these pollutants are complex within and across industrial sectors. The solution, therefore, is not to do away with or change the regulation of GHGs through the Cap-and-Trade Program to address these legitimate concerns; instead, consistent with the direction in AB 197 and AB 617, State and local agencies must evaluate and implement additional measures that directly regulate and reduce emissions of criteria and toxic air pollutants through other programs.*[10]

AB 617 has indeed created new potential to monitor and achieve emissions reductions in communities overburdened with air pollution, and we look forward to working with CARB to achieve these goals. However, CARB is still required by law to ensure that implementation of climate regulations – including cap and trade – are not disproportionately impacting disadvantaged communities. This requires an ongoing commitment to analyze the relationship between GHGs and co-pollutants, as well as action to address any negative impacts that may be documented, outside of the AB 617 process. Below we outline several specific concerns related to the Scoping Plans' treatment of air quality and EJ issues.

a. *The correlation between greenhouse gas emissions and co-pollutants, and whether climate regulations and cap and trade in particular impact these emissions, needs continued and deeper analysis.*

In order to comply with the provisions of AB 398, ongoing analysis and evaluation of the correlation between GHGs and co-pollutants is needed. AB 398 requires CARB to "[e]nsure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions."[11] CARB does not provide any analysis or set of proposed activities to ensure that climate policies will not interfere with air quality requirements.[12] Similarly, the Scoping Plan provides no concrete analysis or projected emission trends at facilities or sectors that have related toxic air contaminant emissions, thus providing no basis for how "activities" required in the Scoping Plan will impact toxic air contaminant emissions.[13]

The Scoping Plan uses an extremely limited reading of the major existing studies examining the relationship between greenhouse gas emissions and co-pollutants. In discussing the analysis completed by the Office of Environmental Health Hazard Assessment (OEHHA), the Scoping Plan states: "there are complexities in trying to correlate GHGs with criteria and toxics emissions across industry and within sectors, although preliminary data review shows there may be some poor to moderate correlations in specific instances. Lastly, the report noted, '...the emissions data available at this time do not allow for a conclusive analysis.' "[14] This limited reading overlooks other findings, which show a correlation between GHGs and criteria

[10] Scoping Plan, pg. 71.
[11] Cal. Health & Safety Code § 38562(b)(4).
[12] CARB only cites generally to its State Implementation Plan without any analysis or discussion. Scoping Plan, pg. 35.
[13] CARB's analysis of toxic air contaminants is limited to diesel PM. *See, e.g.,* Scoping Plan, Appendix G.
[14] Scoping Plan, pg. 37.

pollutants. Specifically, OEHHA's report found that:

> *There were moderate correlations between GHG emissions and the emissions of criteria air pollutants. The strongest correlation was with fine particulate matter emissions (PM2.5). There was also moderate correlation between GHG and toxic chemical emissions across the entire set of Cap-and-Trade facilities with covered emissions. Some individual industrial sectors showed greater correlations between emissions of GHGs and toxic co-pollutants. Refineries overall showed a strong correlation, while cement plants showed a moderate correlation. Oil and gas production facilities also showed a moderate correlation, depending on the statistical measure used. Facilities in certain sectors with broad ranges in emissions levels (e.g. electricity generation facilities) showed increased correlation with a specific statistical analysis (logarithmic transformation).* [15]

While it is certainly accurate that the exact relationship between GHGs and co-pollutants is complex and varies, it is clear there is a correlation that merits concern. Another study also affirms this basic relationship, but it is mischaracterized in the Scoping Plan.[16] In September of 2016, Lara J. Cushing, Madeline Wander, Rachel Morello-Frosch, Manuel Pastor, Allen Zhu, and James Sadd of UC Berkeley, University of Southern California and Occidental College published "A Preliminary Environmental Equity Assessment of California's Cap and Trade Program,"[17] which is erroneously referred to as "a California Environmental Justice Alliance report," [18] instead of attributing the correct academics. Unfortunately, the Scoping Plan fails to include the actual results of the report, which are as follows:

> *Preliminary analysis of the equity implications of California's cap-and-trade program indicates that regulated GHG-emitting facilities tend to be located in neighborhoods with higher proportions of residents of color and residents living in poverty. There is a correlation between emissions of GHGs and PM10, and facilities that emit the highest levels of both GHGs and PM10 are similarly more likely to be located in communities with higher proportions of residents of color and residents living in poverty. This suggests that the public health and environmental equity co-benefits of California's cap-and-trade program could be enhanced if there were more emissions reductions among the larger emitting facilities that are located in disadvantaged communities. Currently, there is little in the design of cap-and-trade to ensure this set of localized results. Indeed, while the cap-and-trade program has been in effect for a relatively short time period, preliminary evidence suggests that in-state GHG emissions from regulated companies*

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[15] OEHHA*, Tracking and Evaluation of Benefits and Impacts of Greenhouse Gas Limits in Disadvantaged Communities,* https://oehha.ca.gov/media/downloads/environmental-justice/report/oehhaab32report020217.pdf page ix

[16] *See* Scoping Plan, pg. 37.

[17] L. Cushing, et. al, *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program*, (2016), http://dornsife.usc.edu/PERE/enviro-equity-CA-cap-trade

[18] L. Cushing, et. al, *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program*, (2016), http://dornsife.usc.edu/PERE/enviro-equity-CA-cap-trade

*have increased on average for several industry sectors and that many emissions reductions associated with the program were linked to offset projects located outside of California. Large GHG emitters that might be of most public health concern were the most likely to use offset projects to meet their obligations under the cap-and-trade program.*[19]

The Scoping Plan's effort to quantify co-pollutant reductions associated with climate regulations simply includes rough approximations of co-pollutant reductions associated with potential measures, and the majority of these approximations have not been updated since the passage of AB 398.[20] This rough approximation limits the ability of CARB to fully analyze localized impacts of its regulations and develop any needed mitigations.

Given the documentation provided in existing independent studies, as well as the requirements of AB 398, AB 197, and SB 32, CARB should clearly outline plans to analyze these issues and create action plans to address any negative air quality impacts, should they arise.

*b. Overreliance on AB 617 to address air quality concerns.*

Despite the separate requirements of AB 197, SB 32, and AB 398 related to air quality, the Scoping Plan limits addressing air quality issues to the AB 617 process. The Scoping Plan states that:

*While the reports do not provide evidence that implementation of the Cap-and-Trade Program is contributing to increased local air pollution, they do underscore the need to use all of the tools (e.g., enhanced enforcement, new regulations, tighter permit limits) available to the State and local agencies to achieve further emissions reductions of toxic and criteria pollutants that are impacting community health. Importantly, AB 617 provides a new framework and tools for CARB, in collaboration with local air districts, to deploy focused monitoring and ensure criteria and toxics emissions reductions at the State's largest GHG emitters.*[21]

While we support the effort to use other tools to achieve co-pollutant benefits and look forward to working through the AB 617 process to accomplish these goals, there remain existing climate and air quality concerns that are required by law to be considered, and that AB 617 will not address.

Initially, 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. While

[19] L. Cushing, et. al, *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program*, pg. 10 (2016), http://dornsife.usc.edu/assets/sites/242/docs/Climate_Equity_Brief_CA_Cap_and_Trade_Sept2016_FINAL2.pdf.

[20] *See* Scoping Plan, Appendix G, Section 2. *See infra* Section II for more analysis on the limitations of this analysis.

[21] Scoping Plan, pg 37

these relationships may be complex, this is all the more reason why the issue deserves ongoing analysis and attention from CARB.

In addition, the AB 617 process is extremely new and under development. Many of its key programs have not been defined. Thus, it is unreliable as the sole and primary vehicle to address environmental justice issues, even though it may have potential to address more EJ issues in the future.

Furthermore, as currently proposed, AB 617's impacts will be limited to a select, and as of yet undetermined, number of communities. Relegating management of air quality issues to AB 617 would thus leave many communities, who could benefit from statewide action, without recourse.

CARB has focused significantly in the Scoping Plan on increased coordination and deepened relationships with local air districts, which is indeed critical. But AB 617 itself does not clearly outline enforcement protocols in the event that the AB 617 process or local air districts fail to deliver emission reductions from large sources of both GHGs and co-pollutants. It is also unclear whether CARB will include enforcement measures as part of AB 617 implementation.

CARB should continue analyzing air quality and EJ issues specifically as they relate to implementation of climate regulations – in addition to and outside of the AB 617 process - and create a clear set of proposed actions to mitigate against any potential disproportionate impacts, as is required under AB 197, SB 32, and AB 398.

## II. The Scoping Plan does not comply with AB 197 because it fails to prioritize, accurately account for and analyze potential direct emission reductions.

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."[22] Its proper implementation is critical to environmental justice communities. The Scoping Plan's updated AB 197 analysis lists five overarching programs: the Renewable Portfolio Standard, Mobile Sources CTF and Freight, 18 percent Carbon Intensity Reduction Target for LCFS - Liquid Biofuels, Short-Lived Climate Pollutant Strategy, 2x additional achievable energy efficiency in the 2015 Integrated Energy Policy Report (IEPR), and cap and trade, and then provides associated estimated emission reductions with each for NOx, VOCs, PM2.5, and diesel PM.[23]

Unfortunately, the Scoping Plan does not adequately provide the required analysis of greenhouse gas emissions measures and their potential emission reductions, nor does it

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

[23] Scoping Plan, pg. 37. The Scoping Plan's Updated Analysis does not include all the programs evaluated before passage of AB 398. Scoping Plan, Appendix G.

prioritize any emission reductions. It does not include any direct reduction strategies at stationary or mobile sources, outside of the broad programs outlined.

*a. CARB fails to actually prioritize any direct emission reductions, per the requirements of AB 197.*

The Scoping Plan does not provide the prioritization of measures. It does not identify potential measures by sector and industry that could help ensure that the most impacted communities are protected. For example, a large scale emissions cut similar to what CARB had earlier proposed for the refinery sector[24] should be explored for other sectors that have a disproportionate impact on disadvantaged communities, such as the transportation sector, or other sectors where GHG emission trends show increases.

*b. The AB 197 analysis does not include all potential direct emission reduction measures within each program, or update previous analyses for measures that were identified pre-AB 398.*

The five programs listed in the Scoping Plan's updated AB 197 analysis are broad programs, rather than specific measures as required under the AB 197 statute.[25] Several of the five programs listed in the Scoping Plan are actually comprised of multiple complimentary policies, but none of these are listed out or evaluated. Previous iterations of the Scoping Plan included a far larger range of measures, such as evaluating the potential for reductions from a variety of energy sector programs, including demand response and combined heat and power.[26] The Scoping Plan does not even provide updates or analysis for all the emission reduction measures that were analyzed *before* the passage of AB 398.[27] CARB's analysis also fails to include specific emission reduction measures that the California Legislature has enacted, such as legislation related to electricity resources and their potential to reduce air emissions.[28]

*c. CARB fails to analyze measures specifically listed in AB 398 as authorized ways to reduce emissions from the oil and refinery sector.*

Section 38592.5 provides that nothing in AB 398 limits CARB's ability to "adopt, maintain or revise" emission reduction measures including:

> (A) Measures governing methane and fugitive emissions at refineries and oil and gas facilities.

[24] CARB's earlier version of the Scoping Memo proposed a 20% direct reduction of refinery emissions. *See* Scoping Plan, pg. 43.
[25] Cal. Health & Safety Code § 38562.5
[26] *See, e.g.,* CARB Scoping Plan Update, pgs. 43-45 (2013), *available at* https://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf.
[27] Scoping Plan, Appendix G, Section 2.
[28] *See, e.g.,* SB 350 (De Leon, 2015) (related to the energy system including distributed energy and energy planning); AB 797 (Irwin, 2017) (related to solar thermal systems); AB 2868 (Gatto, 2016) (related to energy storage).

(B) Advanced clean cars program adopted by the state board.
(C) Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Article 4 of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations).
(D) Regulations addressing short-lived climate pollutants.

After the passage of AB 398, the Scoping Plan fails to evaluate these measures with the specificity required under AB 197. The Scoping Plan includes no analysis on the direct emission reduction potential for the advanced clean car program and measures related to methane and fugitive emissions at refineries and oil and gas facilities, which could potentially achieve air quality and GHG improvements in disadvantaged communities. Although the Scoping Plan discusses the low-carbon fuel standard and regulations for short-lived climate pollutants in relation to AB 197, its analysis fails to evaluate how different measures under these broad categories could impact emissions.

*d. The Scoping Plan's AB 197 analysis of the emissions reductions associated with each of the five programs is opaque and potentially inaccurate.*

The Scoping Plan does not provide a robust analysis for the expected range of air pollution from emissions reduction measures and how alternative compliance and incentive mechanisms are likely to impact this analysis. Recent data calls the underlying assumptions and values for the estimates in *Table 5: Ranges of Estimated Air Pollution Reductions By Policy Or Measure In 2030* into question. For example, although Appendix G states that the assumptions related to the Renewable Portfolio Standard (RPS) were updated after the passage of AB 398,[29] a recent analysis of the RPS by the California Public Utilities Commission (CPUC) shows that harmful air pollution is likely to increase in the energy sector even if the RPS is met. According to the CPUC's analysis, the CPUC's proposed 2030 scenario shows that the electricity sector is projected to increase harmful air pollution of fine particulate matter (PM2.5) and nitrous oxides (NOx) emissions in the State.[30] This increase of air pollution is predicted to occur despite the fact that the scenario projects GHGs from the electrical sector to decline to 42 MMT and meet the RPS requirement.[31] Consequently, the CPUC's analysis illustrates that the RPS requirement alone could increase, rather than decrease, air pollution from power plants in communities.

Table 5 not only includes potential data inaccuracies, it assumes that greenhouse gas emissions and air pollution are related on a 1:1 ratio.[32] This assumption is likely to be wrong and underestimate air pollution. Facilities often can emit more pollution when starting, stopping, and operating at partial load than during steady-state operation. For example, power plant facilities that are spinning and operating at partial load generally emit more pollutants per

[29] *See* Scoping Plan, Appendix G, pg. 13.
[30] *See* Cal. Public Utility Commission, R.16-02-007, September 19, 2017 ALJ Ruling, Attachment A, pp. 86-87 (summarizing the Staff's results), *available at* http://cpuc.ca.gov/irp/proposedrsp/.
[31] *See* Cal. Public Utility Commission, R.16-02-007, September 19, 2017 ALJ Ruling (describing the proposed reference case).
[32] Scoping Plan, pg. 37.

megawatt hour than units operating at full capacity.[33] In addition to increased emissions from startups and shutdowns, natural gas facilities also emit more when operating at partial load; the California Independent System Operator's SB 350 studies estimated that NOx emission increases "may be around 30 percent" as compared to steady state operation.[34] Increased emissions from startup, shutdown, and partial load is not considered in CARB's assumption of a 1:1 ratio between greenhouse gas and air pollution.

These are just a few examples that call into question CARB's assumptions regarding the 1:1 ratio of GHGs and co-pollutants. As a result, CARB likely underestimates the air pollution that can be attributed to the measures described in the Scoping Plan. In doing so, CARB fails to provide adequate analysis or a set of action items to ensure that its proposed activities are not disproportionately impacting disadvantaged communities.

## III. The Scoping Plan's analysis of the Cap and Trade program is insufficient and does not demonstrate how the program will achieve the outlined emission reductions.

While CEJA has long expressed concerns with the cap and trade program overall, the market design questions that CARB must now grapple with are more important than ever. Previous versions of the Scoping Plan projected the cap and trade program will only need to drive 28 percent of the total emissions reductions to achieve our statewide 2030 goal. In the current Scoping Plan, CARB projects that cap and trade will have to achieve 43 percent of the total reductions needed to achieve the 2030 target.

The increased "work" the cap and trade market must do is combined with new prescriptions on the program enacted within AB 398, such as an increase in Industrial Assistance Factors and limitations on CARB's regulatory authority to mandate reductions in the oil and gas sectors. All of this means increased pressure on the actual cap and trade market itself.

The Scoping Plan does not provide a clear analysis to show how the cap and trade market will achieve the additional reductions, how new prescriptions may or may not necessitate changes in market design, nor what other measures might be needed if the market cannot achieve the emissions outlined. Indeed, CARB finds that even under its rough analysis, the reductions from cap-and-trade could range from 76 to 144 MMTCO2.[35] This significant differential is not evaluated or analyzed even though this differential will impact whether California can meet its SB 32 requirements. Rather than conduct a detailed analysis, CARB simply notes that in late 2017, CARB began a process to evaluate program design features for 2020, and that changes will be part of a future rulemaking that would take effect by January 1, 2021.[36]

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[33] See CAISO SB 350 Studies, Volume 9, pgs. 98-101, *available at* https://www.caiso.com/Documents/SB350Study-Volume9EnvironmentalStudy.pdf.

[34] CAISO SB 350 Studies, Volume 9, pg. 99, *available at* https://www.caiso.com/Documents/SB350Study-Volume9EnvironmentalStudy.pdf (citing NREL).

[35] Scoping Plan, Appendix G, pg. 27.

[36] Scoping Plan, pg. 27.

The market design questions are a fundamental piece of whether California actually achieves our 2030 emission targets. Our main concern is that the current cap and trade structure could allow actual emissions to exceed the SB 32 targets in 2030, even while the cap and trade program is meeting its goals nominally. This is primarily because of the prevalence of allowances banked or held in reserve - of which there is currently a massive oversupply – as well as the use of offsets, and these issues are not adequately analyzed in the Scoping Plan.

Analysis by the Senate Environmental Quality Committee has raised serious questions about whether reductions will occur under AB 398's cap and trade paradigm. The Senate Environmental Quality Analysis committee stated:

> *Allowing for an overreliance on allowances and offsets results in delays of true emission reductions. If ARB focuses on cumulative reductions in the Scoping Plan and cap-and-trade design processes, oversupply and banking will lead to delays in control measures being adopted, ultimately resulting in statewide emissions being substantially above the target in 2030.* [37]

Whether California actually achieves our GHG emission reductions is a critical issue for EJ communities. As has been well documented, California's largest sources of GHG emitters are in disadvantaged communities. If these sources are not reducing their actual emissions because of cap and trade design features such as an oversupply of allowances, allowance banking, and offsets, it directly impacts disadvantaged communities. In limiting our progress to mitigate climate change, it also perpetuates the disproportionate exposure to climate change impacts that many vulnerable communities are susceptible too. Unfortunately, neither in the Scoping Plan nor materials provided at the first cap and trade workshop, has CARB outlined any plans to model actual emission trajectories by sector, using various scenarios to model out the best path to achieving the SB 32 targets.

This issue is of particular concern in light of data analyzing emission trends by sector under cap and trade. The 2016 Cushing et. al report highlighted preliminary findings that showed emission increases in certain sectors under the cap and trade program.[38] The recently released 2016 cap and trade compliance data also showed similar patterns: certain sectors, such as refineries, have actually increased emissions.[39] In addition, the majority of California's emission reductions thus far have come from the electricity sector, and these reductions will only become harder to achieve in the future, meaning that cap and trade will need to drive more reductions in other sectors. Furthermore, recent modeling suggests that the electricity sector's pollution is predicted to increase as it reduces GHGs instead of decrease, as outlined in section II(d) of this letter.

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[37] July 12, 2017 AB 398, Analysis from the Senate Environmental Quality Committee, available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB398.

[38] L. Cushing, et. al, *A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program* (2016).

[39] https://calmatters.org/articles/californias-emissions-dip-climate-policies-get-less-credit-weather/?utm_source=CALmatters+Newsletter&utm_campaign=fdcb7a06db-RSS_WEELKY_SUB_EMAIL&utm_medium=email&utm_term=0_faa7be558d-fdcb7a06db-150198313

In short, whether California actually achieves our GHG reduction goals, and where those reductions take place, is a critical environmental and climate justice issue that has not been fully addressed in the Scoping Plan.

One area of particular concern is the issue of overallocation. AB 398 requires CARB to evaluate overallocation of allowances, providing that CARB must: "[e]valuate and address concerns related to overallocation in the state board's determination of the number of available allowances for years 2021 to 2030, inclusive, as appropriate."[40] The Legislative Analyst's Office has conducted an analysis on the potential impacts of the oversupply of allowances in the current market. In June 2017, in a letter to Assembly Member C Garcia, the LAO found that "the cumulative oversupply of allowances in California's cap and trade program through 2020 could range from 100 million to 300 million allowances, with it most likely being roughly in the middle of that range."[41] This could end up being a significant portion of our state's post-2020 reductions.

The Scoping Plan does not make any mention of this significant market issue, despite its clear relevance to California's ability to meet the 2030 GHG reduction goals. Failure to act on overallocation would have serious impacts on the ability of California to meet our 2030 goals in terms of actual emission reductions.

## IV. The Scoping Plan's transportation analysis lacks any clear goals or targets, despite being the largest source of greenhouse gas emissions.

Transportation is the largest source of GHG emissions in California, equaling nearly 40 percent of all GHG emissions statewide. Air pollution from tailpipe emissions contributes to disease and early death, with disproportionate impacts on low income communities and communities of color. Reducing GHG emissions from the transportation sector is critical to achieving California's overall climate goals.

For both environmental justice communities and our overall climate change goals, it is critical that CARB support and accelerate progress on transitioning to a zero carbon transportation system, while ensuring vehicle miles travelled are actually reduced.

Unfortunately, the transportation section of the Scoping Plan lacks clear and specific targets for both freight and non-freight vehicle emissions. CARB has already identified the need for a 25 percent reduction in GHG emissions by 2035 through the regional SB 375 targets. The Scoping Plan must create commensurate, aggressive transportation sector related goals for emission reductions.

## Conclusion

[40] Cal. Health & Safety Code § 38562(c)(2)(D).
[41] *See* July 12, 2017 AB 398 Analysis, Senate Environmental Quality Committee (citing letter).

CARB's Scoping Plan clearly outlines the many already existing impacts of climate change, the need for California to "continue to take steps to reduce GHG emissions in order to avoid the worst of the projected impacts of climate change,"[42] as well as reach the 2050 statewide GHG target (80 percent below 1990 levels).[43] The Scoping Plan consistently recognizes the need to decarbonize California to achieve these goals. Unfortunately, nowhere in the Scoping Plan does CARB outline efforts to actively explore the underlying need to make a managed and equitable transition off fossil fuels. Without engaging in a clear process to realize the climate benefits of phasing out of fossil fuel production in a thoughtful and carefully managed way, we will continue to fail our most vulnerable communities and limit our global climate leadership.

Finally, CEJA would like to lift up and echo the important role that the Environmental Justice Advisory Committee has played over the past year. We strongly support the priority recommendations that EJAC developed in regards to the final Scoping Plan, many of which are related to the issues outlined in this letter.

It is our hope that CARB will take action on the range of issues we have outlined, either through the Scoping Plan process or through additional activities. We recognize and appreciate the ongoing attention to environmental justice issues at CARB, and are encouraged to hear that CARB will be initiating a public process to develop "a new strategic plan for further institutionalizing environmental justice and social equity."[44] We look forward to working with the CARB staff in achieving our shared goals of environmental justice, improved air quality, and meeting our climate change goals.

Sincerely,

Amy Vanderwarker
CEJA Senior Policy Strategist

[42] Scoping Plan, pg. 9
[43] Scoping Plan pg. 18
[44] Scoping Plan, pg. 96