

# ENVIRONMENTAL JUSTICE ADVOCATES FILE LAWSUIT TO FORCE CALIFORNIA TO FOLLOW THE LAW IN IMPLEMENTING THE AB 32 GLOBAL WARMING SOLUTIONS ACT

—Summary of Legal Claims—

## Violations of AB 32 Law

AB 32 includes specific equity requirements for implementing regulations in order to avoid disproportionate impacts on low-income communities and communities of color. Relevant provisions related to environmental justice in the statute require ARB to:

(1) “evaluate the total potential costs and total potential economic and noneconomic benefits of the plan for reducing greenhouse gases to California’s economy, environment and public health;” (2) “ensure that activities undertaken to comply with [AB 32] do not disproportionately impact low-income communities;” (3) “consider the potential for direct, indirect, and cumulative emission impacts from [market-based compliance mechanisms], including localized impacts in communities that are already adversely impacted by air pollution;” (4) “design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants;” and (5) “maximize additional environmental and economic benefits for California.”

Plaintiffs allege that ARB’s Scoping Plan:

1. FAILS TO ACHIEVE THE MAXIMUM TECHNOLOGICALLY FEASIBLE AND COST-EFFECTIVE REDUCTIONS.
2. FAILS TO IDENTIFY DIRECT EMISSIONS REDUCTION MEASURES FOR SIGNIFICANT SOURCES OF EMISSIONS, NAMELY INDUSTRY AND AGRICULTURAL SOURCES.
3. FAILS TO SET A “DE MINIMIS” THRESHOLD OF GHG EMISSIONS SO THAT ONLY EMISSIONS BELOW THE THRESHOLD ARE CATEGORICALLY EXEMPTED FROM REGULATION.
4. FAILS TO PREVENT INCREASES IN CRITERIA OR TOXICS EMISSIONS.
5. DOES NOT DISCUSS THE FAILURES OF OTHER GHG EMISSION REDUCTION OR TRADING PROGRAMS AND FAILS TO DEVELOP ANY POLICIES TO AVOID THESE PITFALLS.
6. FAILS TO ADDRESS HOW ARB WILL MONITOR AND ENFORCE REDUCTIONS IN A REGIONAL MARKET.
7. FAILS TO EVALUATE TOTAL COSTS TO CALIFORNIA’S PUBLIC AND ENVIRONMENTAL HEALTH.
8. FAILS TO ASSESS THE LIKELY IMPACTS OF PROPOSED POLICY CHOICES AND REGULATORY PROGRAMS TO ENSURE THAT THEY DO NOT DISPROPORTIONATELY IMPACT ALREADY OVERBURDENED COMMUNITIES AND TO PROPOSE POLICIES TO ENSURE THAT THEY WILL NOT.

## Violations of the California Environmental Quality Act (CEQA)

ARB prepared a “Functional Equivalent Document” (FED), in lieu of an Environmental Impact Report, to comply with CEQA’s requirement to discuss potential environmental impacts of the Scoping Plan.

Plaintiffs allege that ARB violated CEQA in the following ways:

1. APPROVED THE FED AND TOOK STEPS TO IMPLEMENT THE SCOPING PLAN BEFORE IT HAD CERTIFIED THE FED.
2. FAILS TO COMPLY WITH THE REQUIREMENTS FOR PROGRAMMATIC REVIEW.
3. FAILS TO ANALYZE AND MITIGATE THE DIRECT, INDIRECT AND CUMULATIVE IMPACTS OF THE PLAN.
4. FAILS TO ADEQUATELY ANALYZE ALTERNATIVES TO THE MEASURES INCLUDED IN THE PLAN.
5. FAILS TO PROVIDE FOR FULL PUBLIC PARTICIPATION IN THE DECISION-MAKING PROCESS.