

## Draft AB 32 Environmental Justice Advisory Committee Charter

### 1. Introduction

The Draft Environmental Justice Advisory Committee (EJAC) Charter sets clear goals for the California Air Resources Board (CARB) and EJAC members, as well as provides clarity and accountability as it relates to governance. This ongoing process allows EJAC to advise the CARB Board on pertinent matters in implementing Health and Safety Code, Division 25.5 known as the Global Warming Solutions Act or AB 32.

Components of this draft Charter is cited from the following public documents, and in some cases is updated by CARB staff.

- Draft EJAC Guiding Principles 2021 (<https://ww2.arb.ca.gov/resources-related-ab-32-environmental-justice-advisory-committee-2022-scoping-plan-update>);
- CARB Presentation to EJAC at November 29 – 30, 2022, meeting (<https://ww2.arb.ca.gov/sites/default/files/2022-11/CARB%20EJAC11292022.pdf>); and
- CARB Advisory Committee Transparency Requirements (October 2022) (<https://ww2.arb.ca.gov/sites/default/files/2022-10/Final%20-%20CARB%20Advisory%20Committee%20Transparency%20Requirements%20-%2010.19.2022.pdf>).
- The People of Color Environmental Justice “Principles of Working Together” (<http://www.ejnet.org/ej/workingtogether.pdf>).

### 2. Background

The EJAC was created through the California Global Warming Solutions Act of 2006 (Stats. 2006, ch. 488; Health & Saf. Code §§ 38500 et seq.) (AB 32). The legislation called for CARB to convene this Committee to advise the Board in developing the Scoping Plan, and any other pertinent matter in implementing AB 32. Three iterations of the Committee have been convened. The first EJAC was in 2007 to advise on the Initial Scoping Plan. The second EJAC was convened in March 2013 to advise the Board on the 2013 Scoping Plan Update. The EJAC convened in 2015-16 to advise on the 2030 Target Scoping Plan Update. The EJAC convened in 2021 to advise on the 2022 Scoping Plan Update and provided recommendations in 2022.

### 3. Definitions

“Assembly Bill 32 (AB 32)” means the Global Warming Solutions Act of 2006 (Nunez, Stats. 2006, ch. 488); Health and Safety Code sections 38500 et seq.

*"Environmental Justice"* has the same meaning as in Government Code section 65040.12(e) and California Health and Safety Code section 39711."

*"Majority"* means half of the total EJAC members present at a meeting, plus one.

*"Per Diem"* means a payment of public funds to EJAC members as authorized by and consistent with Health and Safety Code sections 38591(c) and 39603 and Government Code section 11564.5.

*"Quorum"* means half of the entire EJAC members, plus one and is the minimum number of EJAC members required to hold a meeting and a vote.

#### **4. Disclaimers**

This Charter does not alter or modify the terms of any law and does not constitute legal advice. This Charter is not intended, and should not be construed, to define the legal relationship between CARB and anyone else. This Charter is not a regulation, and it does not create, expand, limit, waive, or interpret any legal rights or obligations. It does not affect or diminish any rights or protections afforded to any person or entity under any law. Nothing in this policy will be construed to prevent CARB from taking timely action to fulfill legal obligations to protect the public health and safety, or the environment; or to carry out federally-mandated duties under delegated federal programs. Nothing in this policy will be construed to prevent EJAC from taking timely action to fulfill its obligations.

#### **5. AB 32 Statutory Language**

Health and Safety Code section 38591 states the following:

(a) The state board, by July 1, 2007, shall convene an environmental justice advisory committee, of at least three members, to advise it in developing the scoping plan pursuant to Section 38561 and any other pertinent matter in implementing this division. The advisory committee shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.

(b) The state board shall appoint the advisory committee members from nominations received from environmental justice organizations and community groups.

(c) The state board shall provide reasonable per diem for attendance at advisory committee meetings by advisory committee members from nonprofit organizations.

## 6. EJAC Mission Statement

The mission of the EJAC is to advise the Board on environmental justice considerations, prioritizing racial equity, related to implementation of AB 32, via input to CARB on the Scoping Plan Updates and all other pertinent matters related to the implementation of AB 32. EJAC will engage with community members to ensure that communities impacted by the climate crisis are engaged in CARB.

AB 32 requires CARB to convene an EJAC to advise the Board in development of the Scoping Plan and any other pertinent matters in implementing the Global Warming Solutions Act under Division 25.5 (AB 32).

CARB intends to convene EJAC in regard to environmental justice as the agency endeavors to meet its required greenhouse gas emission goals, and to incorporate to the extent possible the environmental justice priorities identified by the EJAC.

## 7. CARB and EJAC Goals

### a. EJAC Goals

- i. Ensure that environmental justice needs and concerns are integrated into the fabric of the State's AB 32 climate programs through workable recommendations.
- ii. Aim to work cooperatively with all relevant bodies (State Agencies, Departments, Community Based Organizations, Residents) to provide the best possible advice to the CARB on the development and implementation of the Scoping Plan and all other pertinent matters related to the implementation of the AB 32 to ensure climate solutions include environmental justice communities.
- iii. For the EJAC and CARB to ensure engagement of the broader environmental justice community in the implementation of AB 32 by providing additional time and space (including community driven workshops and webinars) to report and seek feedback on the Scoping Plan, especially issues most relevant to the experience of those communities.
- iv. Provide recommendations on how best to reduce greenhouse gas emissions while maximizing co-benefits and the overall societal benefits, including reductions in other air pollutants, diversification of clean or renewable energy sources, community resilience, just transition and other benefits to the economy, environment, and public health.

### b. CARB Goals

- i. Engage the broader environmental justice community in the implementation of AB 32 by providing additional engagement opportunities (including community driven workshops and webinars) to the extent possible.
- ii. Commit to ongoing and active engagement with the EJAC to inform the development of the Scoping Plan, its implementation, which will help ensure that CARB addresses environmental injustices and advances racial equity in achievement of its mission.
- iii. Be transparent with publicly available information as requested by EJAC members in relation to the Scoping Plan and its implementation. This includes providing briefings and/or ensuring the information is accessible to support EJAC's development of recommendations.

## 8. EJAC Meeting Frequency

- a. The EJAC will meet as a quorum minimum **eight times** per year (i.e., 2 times per quarter).
- b. There will be minimum **one joint EJAC / CARB meeting** with a quorum of both bodies per year.
- c. When scheduling EJAC meetings, CARB rulemaking comment periods, specific deadlines for deliverables under the Administrative Procedure Act, California Environmental Quality Act, as well as other statutory and legislative deadlines shall be incorporated into the meeting date(s).

## 9. Membership

- a. Number of Members
  - i. The EJAC will be composed of no more than **11** members appointed by the Board. There may be up to 11 alternative members appointed by the Board, who are affiliated with an EJAC member, and who may only participate in EJAC meetings as an EJAC member if the primary EJAC member is unable to attend.
  - ii. As an exception, there will be 13 members reappointed by the Board on March 23, 2023, who will serve out the **36** month term, pursuant to Health and Safety Code section 38591(b). These members were given the option to stay on for the ongoing EJAC.
- b. Selection of Members
  - i. CARB staff (Office of Environmental Justice, Tribal Affairs, and Border Relations (OEJTB)), in consultation with other CARB divisions, will issue solicitations for qualified EJAC members on an as needed basis.

- ii. Based on completed applications (nominations) received, CARB staff will review qualifications of the applicants and recommend to the Board new members and/or alternates for the EJAC.
  - iii. CARB will prioritize in their recommendations to the Board for EJAC members, representation to reflect the diversity of California, including California's geographic and regions and tribal governments.
- c. Qualifications of Members
- i. Qualifications for EJAC members and alternates will be based on AB 32 statutory language, which requires that:
    - 1. EJAC members be appointed based on nominations from environmental justice organizations and community groups; and
    - 2. The EJAC shall be comprised of representatives from communities in the state with the most significant exposure to air pollution, including, but not limited to, communities with minority populations or low-income populations, or both.
- d. Term of Appointment
- i. Members' appointment to the EJAC will be for a term of 36 months that begins on the date the EJAC member is first appointed to the EJAC by the Board and/or the Executive Officer through Board delegation.
- e. Reappointment
- i. Any member eligible for and seeking reappointment shall inform the agency staff liaisons, in writing, of their desire to continue serving on the EJAC prior to the end of their term to allow the Board sufficient time to act upon the request.
- f. Removal
- i. A member of the EJAC may be removed under one of the following circumstances:
    - 1. Two-thirds of the EJAC members present and voting may vote to recommend to the Board the removal of a member upon demonstration of reasonable cause, provided, however, that reasonable cause shall not include any policy position taken by the member in his or her capacity as a member of the EJAC. The Board may remove the member upon notice by the EJAC.
    - 2. The Board may remove a member upon demonstration of reasonable cause, provided, however, that reasonable

cause shall not include any policy position taken by the member in their capacity as a member of the EJAC.

3. An EJAC member who misses 5 or more consecutive EJAC meetings without an excused absence or communication with CARB or the EJAC Leadership Team will be removed. An excused absence may include events such as illness, family illness, emergency, and/or death of a loved one.

g. Vacancies

- i. CARB staff will run new solicitations pursuant to section 9(b) and make recommendations to the Board for appointments to fill EJAC member vacancies on an as needed basis.

h. Resignation

- i. EJAC members must submit their resignation in writing to CARB and the EJAC Leadership Team at least 10 days in advance of the next EJAC meeting to allow appropriate time to fill the vacancy.

i. Alternates

- i. Alternates will be appointed by the Board in the same manner as EJAC members.
- ii. Alternates will be formally associated with (i.e., employed by) the entity that the EJAC member represents.
- iii. Alternates will only receive a stipend and travel reimbursement for EJAC meeting(s) if the alternate attends a meeting on behalf of the Board appointed EJAC member who is unable to attend.
- iv. Alternates will not receive stipend or travel reimbursements for EJAC meetings that they attend in addition to the EJAC member.

j. Per Diem and Travel Reimbursements

- i. CARB will provide a per diem and reasonable travel reimbursements to EJAC members for attendance at EJAC meetings (i.e., minimum 8 times per year), and when members are invited by CARB to attend and speak at CARB Board meeting(s) or other CARB meetings as further specified by the Board.
- ii. EJAC members will not receive per diem or travel reimbursements for meetings that they organize and attend themselves.

## 10. Roles and Responsibilities

a. Meeting Expectations

- i. Always adhere to the Principles of Collaboration and Meeting Agreements outlined in section 14.

- ii. Implement and follow The People of Color Environmental Justice “Principles of Working Together” where possible.
- iii. Promote trust and healthy interactions. This will mean paying attention to ensure space is made for all EJAC members to participate.
- iv. Practice compassion and understanding.

b. Meeting Attendance

- i. Regular attendance of Committee members is expected in order for the Committee to function effectively.
- ii. EJAC members must give CARB staff and EJAC Leadership Team advanced notice if an EJAC member cannot attend a meeting and whether they have an appointed alternate that will join in their place.
- iii. EJAC members can alert the EJAC if they do not think a decision or discussion should move forward.
- iv. An EJAC member who misses 5 or more consecutive EJAC meetings without an excused absence or communication with CARB or the EJAC Leadership Team will be removed.
- v. An excused absence may include events such as illness, family illness, emergency, and/or death of a loved one.

c. Leadership or Co-Leads

- i. A Leadership Team made of up to 3 members will work with CARB staff, and a facilitation team if resources allow, in preparing meeting agendas, strategizing on the general direction and work planning for the full group and any working groups.
- ii. The Leadership Team will also work to ensure the EJAC recommendations are shepherded to timely finalization in a publicly available document.
- iii. The Leadership Team includes geographic representation from Southern, Central, and Northern California.
- iv. The Leadership Team will serve as primary liaisons to CARB Board Liaison.
- v. The Leadership Team and any member thereof will only speak on behalf of the EJAC on substantive positions when those positions have been clearly established by the EJAC as a whole, generally by a supermajority vote of the EJAC at a publicly-noticed meeting.
- vi. For all matters, substantive, procedural, and otherwise, the EJAC will make an effort to clarify the scope of the authority of the Leadership Team and any member thereof to speak on behalf of the EJAC at each publicly-noticed meeting.
- vii. Notwithstanding these efforts, the Leadership Team and any member thereof will be afforded reasonable leeway in

- communicating on behalf of the EJAC and will be given the benefit of the doubt should there be any question regarding the propriety of communication(s) of one or more members of the Leadership Team to a third party, outside of a publicly-noticed meeting.
- viii. Members of the EJAC who are not a member of the Leadership Team are generally discouraged from speaking on behalf of the EJAC, as a whole, unless specifically so authorized by a vote of a supermajority of the EJAC in a publicly-noticed meeting.
  - ix. Any failure to abide by the above may result in censure by the EJAC, up to and including being demoted from a leadership position, whether as member of a working group, committee, or the Leadership team.
- d. Sub Quorum Meetings
- i. The EJAC may utilize sub quorum meetings as needed. However, care must be taken not to involve a quorum of members via subsequent communications (to avoid a prohibited “serial meeting”).
- e. CARB Support as Convener
- i. Office of Environmental Justice, Tribal Affairs, and Border Relations (OEJTB) will utilize existing staff to set up meetings, and provide assistance to the EJAC as it advises CARB on pertinent matter(s) regarding AB 32 implementation, consistent with available resources.
  - ii. Neutral third-party facilitation and interpretation for EJAC meetings and/or joint EJAC / CARB board meetings may be provided, as consistent with available resources.
  - iii. Interpretation and technical writing support for EJAC recommendations may be provided consistent with available resources.
  - iv. CARB will make every effort to provide reasonable accommodations and accessibility to those who request it to the extent resources allow and consistent with the law.

## 11. Decision-Making

- a. No action shall be taken at any meeting unless a quorum is present. Each voting member shall have one vote, and the EJAC may take action by vote of a majority of the members present and voting at a meeting at which a quorum is present. A majority of the members present at a meeting, whether or not a quorum is present, may adjourn the meeting



to another time and place. Any adjourned meeting shall be subject to the same notice requirements as a regular meeting.

- b. The clearest and strongest power of the group exists when consensus can be reached. To seek consensus, when needed, the group may use informal polling to quickly understand the range of support a given proposal or recommendation has. The committee members will first strive for consensus (~~using modified consensus~~) and when appropriate, will use a supermajority vote of a quorum. Minority opinions are also welcome and will be included in the public process.
- c. While performing these duties and responsibilities, the EJAC shall act in an advisory capacity to the CARB Board. The CARB Board shall maintain all policy and program decision-making authority.

## 12. Transparency Requirements<sup>1</sup>

- a. As a State body, EJAC members are subject to legal requirements and agree to follow State Law, including but not limited to all transparency requirements identified in the Transparency Memo identified in footnote 1 and provided to EJAC members on October 19, 2022.
- b. As a part of legal requirements, EJAC will meet in a public setting and EJAC meetings will include public comment, in accordance with legal requirements.

## 13. Records

- a. CARB's shall take written minutes for each meeting. Minutes will:
  - i. Identify the date, time, and place of the meeting;
  - ii. Identify the EJAC members and agency staff liaisons in attendance; and
  - iii. Contain a summary of actions taken. Draft minutes will be provided to members prior to the next regular meeting in order to allow sufficient time for the members to review them for adoption at that meeting. Copies of the minutes will be provided upon request.
- b. EJAC records are public documents under the California Public Records Act, §§ 7920.000 et seq. (formerly 6250 et seq.) of the California Government Code, subject to any exceptions set forth therein.

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<sup>1</sup> CARB, CARB Advisory Committee Transparency Requirements (October 2022), <https://ww2.arb.ca.gov/sites/default/files/2022-10/Final%20-%20CARB%20Advisory%20Committee%20Transparency%20Requirements%20-%202010.19.2022.pdf>.

#### 14. Principles for Collaboration and Meeting Agreements

EJAC members and their alternates agree to the following principles for collaboration and meeting agreements in order to ensure effective and efficient communications:

- a. Be Respectful: Communication needs to be respectful. Please do not interrupt people who are speaking. Please do not use language that is violent, bullying, offensive, attacking, or hurtful. Listen and be compassionate and supportive. Reach for/invite inspiration and intuition. Respect the agenda and trust the process.
- b. Communication: Strong emotions are okay and need to be responsibly communicated; personal attacks to or about EJAC members, their alternates, or CARB staff will not be tolerated. We encourage using nonviolent communications techniques and practice active listening.
- c. Expectations: Come prepared to meetings and ensure you have had a chance to review all documents that the EJAC will discuss. Be thoughtful about your comments and remember that virtual comments in the Zoom Chat are part of the public record. Be concise with your comments, and always practice active listening. Be realistic and monitor our ability to get through the full agenda or decide when we need to go deeper on a particular part of the agenda rather than moving on.
- d. Be Present: Avoid distractions and agree to stay present. Active listening is imperative to ensure we understand other people's viewpoints. We also encourage the practicing of self-care while maintaining engagement. There will be a 15-minute break every 2 hours. If, during the course of the EJAC meeting you are unable to be present, please inform the group.
- e. Seek Synergies and be Flexible: Share responsibility for success. Seek out synergies in our work to find ways to move toward action where possible. Build on each other. Maintain openness to being flexible in our approaches.
- f. Timing: Respect time agreements; priority is given to EJAC member discussions; public members are invited to speak during the public comment period. Pay attention to equity of airtime. Be mindful of how much space you are taking and of those who have not spoken. Speak one at a time using a speaking order (if you have already spoken, yield your turn to someone who has not had a chance to speak); no one or two people will dominate the discussion; stick to the topic under discussion.

- g. Facilitation: The facilitator will intervene to keep the conversation on track and on time, and will introduce and enforce the EJAC meeting agreements. Facilitation will do time checks to ensure the EJAC stays on track during the course of the meeting.

## **15. Effective Date and Amendments**

The EJAC adopted this Charter on March 15, 2023.

The effective date of this Charter is the date that the CARB Board approves of the Charter through Resolution. Any attempt to modify or amend this Charter, or any portion thereof, is only valid if it is approved by the CARB Board and the EJAC.

## **16. Acknowledgment and Approval of Charter**

EJAC Members and their Alternates:

- a. Agree to follow all provisions in sections 1 through 14.
- b. Approve of the Charter.