



Assembly Member E. Garcia
Speaker of the Assembly Rendon
Senate Pro Tem De Leon
Senator Weickowski, Chair
Senate Environmental Quality Committee

July 12th 2017

Re: Oppose AB 398

On behalf of the California Environmental Justice Alliance, Asian Pacific Environmental Network, Center on Race, Poverty & the Environment, Center for Community Action and Environmental Justice, Central Coast Alliance United for a Sustainable Economy, Environmental Health Coalition, Leadership Counsel for Justice and Accountability, Physicians for Social Responsibility – Los Angeles, PODER, and Strategic Concepts in Organizing and Policy Education, we respectfully submit our strong opposition to AB 398.

We appreciate the hard work of all the bill authors and recognize the everyone's shared goals of maintaining California's strong track record of climate policies, but unfortunately in our analysis, AB 398 does not achieve this objective.

Environmental justice communities are on the front lines of climate change and will be hit first and worst by changing climatic conditions. Our communities - and the planet - need the most aggressive, effective greenhouse gas reduction policies as possible. While we recognize that compromises must be made, especially to reach a 2/3 vote bill, we believe the bill in its current form contains far too many concessions to the various industries whose activities we are trying too - and must - curtail in order to stop climate change and protect the health of the communities where we work.

We believe the following elements of the bill significantly undermine our ability to reach our climate goals and provide too much flexibility for industry compliance:

1. A rollback of the state's regulatory authority, which undermines the hard work completed last year through AB 197, by preventing direct regulations from the California Air Resources Board on oil and gas outside of the market-based mechanism and other existing regulations.
2. Circumventing local air districts ability to independently regulate carbon dioxide from stationary sources, which would overturn years of work from community groups and the Bay Area Air Quality Management District on proposed refinery caps, and has the potential to undermine numerous other air district climate change regulations.

3. The continued use of offsets and a carryover of reserve allowances from the current program into 2030 program. There are up to ~300 million tons of either carryover allowances or offsets being included in the proposed program. That's at the high end of the reductions that will be required from cap-and-trade, which ARB estimates is 191 million metric tons.
4. Provision of free allowances at more than double the level needed to prevent leakage, and locking in the industrial assistance factors for the current period. This will lead to increased free allowance allocation to industry in excess of what ARB currently recommends. This primarily benefits oil and gas; in 2016 they received 72 percent of all the free allowances. This also impacts the state's ability to meet our SB 32 targets.

We are also concerned about the potential to undermine Greenhouse Gas Reduction Fund (GGRF) investments across the state through the provision that backfills the loss of revenue from the cancellation of the Fire Prevention Fee and the tax break for manufacturers and energy producers. By expanding entities who are eligible for the tax break, it includes facilities that are burning biomass and anaerobic digestors at dairies, both of which are significant contributors to air quality issues, especially in the San Joaquin Valley.

If California is to maintain our climate leadership, we simply cannot tie the hands of our state and local authorities to enact GHG regulations. We need a program that helps us achieve our 2030 targets, not hinders that ability. In our analysis, the bill as in print now unfortunately does not help us meet our statutory requirements under AB 197 or SB 32, nor does it address the urgent crisis of climate change in a meaningful way.

CEJA and our member organizations have consistently conveyed the range of program design changes that are important to us in any carbon pricing mechanism, which, broadly speaking, include a strong price signal that can incentivize early action and less flexibility for industry compliance. While we believe we could have come to an agreement on a potential market-based mechanism, the version outlined in AB 398 is too far removed from both the goals of climate protection and environmental justice for us to support at this time.

We hope we can continue to work with your offices to develop a market-based mechanism that achieves our shared goals of climate and environmental justice in the future.

Sincerely,

Antonio Diaz, PODER

Amy Vanderwarker and Strela Cervas, California Environmental Justice Alliance

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Veronica Garibay and Phoebe Seaton, Leadership Counsel for Justice and Accountability