



October 13, 2017

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: CEJA Recommendations on Implementation of AB 617

To the California Air Resources Board:

On behalf of the California Environmental Justice Alliance (CEJA), we respectfully submit these recommendations regarding the implementation of Assembly Bill (AB) 617 (C. Garcia).

CEJA is a statewide coalition of community-based organizations working to advance environmental justice in state policy. Our members work across California in low-income communities and communities of color that are most impacted by pollution, many of which are struggling with long-standing air quality and related public health issues.

We are encouraged to see the California Air Resources Board (CARB) moving the AB 617 implementation process forward through the new Office of Community Air Protection. AB 617 delegates broad authority to CARB to develop by October 1, 2018 a statewide community air monitoring plan and a strategy to reduce toxic air contaminants and criteria pollutants, including the specific approach of utilizing best available retrofit control technology.

We urge CARB to act aggressively to implement AB 617 with principles of environmental justice at the center to ensure that communities across the state that have been suffering from poor air quality for decades see progress on the ground. The need for action is urgent, as California is home to many communities with the worst air quality in the nation. CARB has a responsibility to ensure that the implementation of AB 617 addresses this health crisis. We offer the following recommendations to help ensure that CARB effectively accomplishes this shared goal.

Overall Recommendations for AB 617 Implementation

These recommendations pertain to the overall approach to interpreting and implementing AB 617. They are not meant to be comprehensive in scope; rather, they highlight a few key considerations.

1. CARB should lift up the leadership of the many environmental justice groups that have worked on air quality issues in their communities for years. CARB should defer to their guidance throughout the decision-making and implementation process.
2. CARB should ensure that as communities are selected for air quality monitoring or emission reduction plans, there is a clear process to bring in additional communities over time and replicate successful models elsewhere to avoid creating divisions among communities. CARB should work to ensure that AB 617 implementation strengthens community capacity and infrastructure.
3. CARB must provide clear and specific guidelines, including dates and firm requirements, on how community emission reduction and air quality monitoring plans are to achieve desired outcomes.
4. CARB should strive for aggressive statewide strategies while enabling strong proactive leadership at the local level. CARB should provide baseline minimum standards for all air districts to meet, while supporting and empowering agencies to go above and beyond these minimum standards.

In addition to these general recommendations, CEJA also has the following specific recommendations related to CARB's implementation of AB 617.

I. Community Air Monitoring

AB 617 requires CARB to develop an air monitoring plan by October 1, 2018 and to designate the highest priority locations for monitoring based on high exposure burdens. The legislation does not provide detailed definitions of environmental burdens or exposure, nor does it describe how communities will be designated, how many communities will be designated, where monitors will be placed, or what pollutants will be measured. CARB should take the following actions to clarify and provide direction on these points.

1. CARB should provide clear and specific standards and criteria for how communities will be identified as highest priority locations for monitoring.
2. CARB should specify a minimum number of communities to be selected for monitoring in the first round (by October 2018) and subsequent rounds (2020 and thereafter). CARB should create a clear plan for expanding the program to additional communities over time, or replicating successful models in additional communities.
3. CARB should provide clear and specific guidance to air districts on minimum requirements for air monitoring, while giving them the ability to be proactive and go beyond these minimum standards. This guidance should clarify the pollutants to be measured as well as how to prioritize locations for monitoring. To develop this guidance, CARB should:
 - a. Require air districts to solicit and consider community input when determining the locations of monitors for this program.
 - b. Require air districts to prioritize the following to ensure that potential hot spots and toxic air gradients are captured:
 - i. Monitoring large sources of agricultural air emissions, such as dairies.

- ii. Measuring diesel PM at locations near transportation to capture potential hot spots.
 - iii. Fenceline monitoring at large facilities, especially for PM and for relevant toxics.
 - iv. Measuring toxic air pollutants near facilities to determine if they are causing potential localized hot spots.
 - v. Monitoring smaller facilities and their toxic air contaminants that are not currently captured in any monitoring.
- 4. CARB should provide funding for communities to conduct their own monitoring, particularly in areas with very poor air quality and hotspots. This money should be separate from Technical Assistance funds, which are meant for community engagement and technical support broadly across AB 617 implementation. In addition, CARB should specify what monitoring methods and results it will accept from community air monitoring programs.
- 5. CARB should lift up and defer to the knowledge and experience of community organizations that have worked extensively on community air monitoring.

II. Community Emission Reduction Program

AB 617 provides some language describing how communities should be chosen for community emission reduction plans, but it does not describe in detail how these decisions will be made, what the standard should be, or how many communities should be identified. The legislation also clearly states that community plans shall result in emission reductions, but it does not specify what types of emission reductions should occur and how they should be measured. CARB should take the following actions to clarify and provide meaningful direction on these points.

- 1. CARB should provide clear and specific standards and criteria for how communities will be identified and selected for this program.
 - a. CARB should consider the following data in developing selection criteria:
 - i. Overall indicators for total cumulative burden in a community;
 - ii. CalEnviroScreen 3.0 Air Quality Indicators;
 - iii. Cap and Trade facilities in the CARB Pollution Mapping Tool;
 - iv. Health indicators, including but not limited to childhood asthma rates and mortality rates;
 - v. Additional data sources that are unique to specific regions and local areas, especially where data from the above sources may be inadequate, such as in parts of the San Joaquin Valley and Coachella Valley, where health data can be sparse, and at oil refineries, where new studies indicate gross underestimation of VOCs and benzene.^{1 2}

¹ Emily Guerin, "LA-area refineries emit up to 12 times more toxic chemicals than reported," *KPCC*, December 29, 2016, <http://www.scpr.org/news/2016/12/29/67663/la-area-refineries-emit-up-to-12-times-more-toxic/>.

² Johan Mellqvist, et al, "Emission Measurements of VOCs, NO₂ and SO₂ from the Refineries in the South Coast Air Basin Using Solar Occultation Flux and Other Optical Remote Sensing Methods," *FluxSense Inc*, April 11, 2017, <https://drive.google.com/file/d/0B6QbHqs6e4y5N1ZzVVhrT2QzTGs/view>.

- b. In the development of selection criteria and in the actual selection process, CARB should ensure that differences in data sources or data quality are accounted for, such as in the case of rural communities where data collection may be inconsistent.
 - c. CARB should select a minimum of 50 communities in the first round of the program, by October 1, 2018, with the understanding that communities may vary in size from one to many census tracts. The first round selection should include at least one community in each nonattainment area. Subsequent selection rounds for 2020 and thereafter should include additional communities. CARB should create a clear plan for expanding the program to additional communities over time.
 - d. CARB should provide environmental justice organizations and other stakeholders with a clear process to nominate communities for this program. A community nomination process will help ensure that more communities are considered and that their input is included in the selection process. This will also allow communities to present data sources that are specific to their communities.
 - e. CARB should allow for some variance in the geographic size and scope of communities based on the specific circumstances of the areas and environmental burdens. In some areas, a hotspot may be highly localized within one or only a few census tracts, while in other cases, environmental burdens are distributed across a larger area. These differences should be accounted for.
2. CARB should provide clear and specific emission reduction requirements with dates and deadlines and separate standards for criteria air pollutants and toxic air contaminants.
 - a. For example, for criteria air pollutants, community reduction plans should be designed to achieve at least the level necessary to protect the health of the sensitive population as measured at sensitive receptors with an adequate margin of safety. This means meeting the state and federal ambient air quality standards.
 - b. CARB should propose a separate clear, concrete standard for toxic air emissions that considers at least both the cancer and non-cancer risks.
 3. CARB should outline specific types of emission reduction measures that must be included within community plans. These could include:
 - a. A requirement that major stationary sources install Best Available Control Technology (BACT) for any pollutants that the community is currently in nonattainment for.
 - b. CARB and air districts should update rules and attainment plans to ensure that regional pollutants such as ozone and PM_{2.5} are reduced in the relevant air basin to at least ensure compliance with state and federal ambient air quality standards within each community plan's area and at sensitive receptors within that area.
 - c. A requirement that any facility that either emits pollution levels of any toxic air contaminant above any of the reference exposure levels or is identified as a "high priority" under the hot spots prioritization process as described in OEHHA's risk assessment guidance install T-BACT.

III. Community Engagement

We encourage CARB to create a community engagement plan that will ensure real participation and input from residents in impacted areas across the state without delaying the creation of urgently needed statewide strategies. Recommendations to accomplish this include:

1. Ensure that at least half of the AB 617 Stakeholder Committee is comprised of representatives of environmental justice organizations.
2. Ensure that the AB 617 Stakeholder Committee includes a public health expert.
3. Hold community meetings that are co-hosted and planned with local community organizations in each area or region. This will be an important way to obtain valuable input from residents on the ground who are unable to attend meetings in Sacramento.
4. Create a mechanism of accountability between CARB and workshop participants to ensure that input from workshops is actually incorporated and addressed.

IV. Community Technical Assistance

The recently passed Greenhouse Gas Reduction Fund Expenditure Plan includes \$5 million for community technical assistance grants for AB 617 implementation. We recommend that CARB utilize that funding to further facilitate and support meaningful community engagement in the following way:

1. Create a new dedicated AB 617 Community Technical Assistance program that is run by the CalEPA Environmental Justice program. This program has strong ties with environmental justice groups across the state.
2. The Technical Assistance program should fund the following items: staff time for community-based organizations to participate in the AB 617 implementation process; consultants and technical experts to assist groups working on AB 617 implementation; limited overhead costs for organizations; and travel and other associated meeting costs.

V. Best Available Retrofit Control Technology

AB 617 requires CARB to establish and maintain a clearinghouse of best available retrofit control technology (BARCT) for criteria air pollutants. While BARCT represents an opportunity to lower emissions from stationary sources, it is a temporary solution. Investments in new pollution control technology should not be used to extend the life of fossil fuel facilities and infrastructure that will need to be phased out to meet the crisis of climate change. With that said, we recommend the following actions to strengthen the BARCT requirements to help achieve the goal of reducing emissions.

1. CARB should provide clear and specific requirements for air districts regarding dates and deadlines for plans and implementation of BARCT. In doing so, CARB should make it clear that nothing in its guidelines prevents local regulators from going beyond state standards.
2. CARB should update BARCT for specific industrial emission sources to provide consistent statewide standards.
3. CARB should issue an interpretation clarifying that emission reduction credits or other pollution trading may not substitute for the BARCT retrofit requirement. This interpretation is supported by legislative history accompanying the passage of AB 617.

We appreciate your consideration of our recommendations, and we look forward to working collaboratively with CARB staff to ensure that the needs of environmental justice communities are met through the implementation of AB 617. Please do not hesitate to contact us with questions or to discuss these recommendations.

Sincerely,

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