



**Western States Petroleum Association**  
**Credible Solutions • Responsive Service • Since 1907**

**Catherine Reheis-Boyd**  
President

April 6, 2018

Mr. Richard Corey  
Executive Officer  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: WSPA Comments on ARB's Draft AB 617 Community Air Protection Program Framework  
Concept Paper and Draft Process and Criteria for 2018 Community Selections

Dear Richard:

The Western States Petroleum Association (WSPA) appreciates this opportunity to provide comments on the Air Resources Board (ARB) draft "Community Air Protection Program Framework Concept Paper" (Concept Paper) and draft "Process and Criteria for 2018 Community Selections" document. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

As the ARB embarks on AB 617 implementation, it is important to recognize that this program will be built on top of a very comprehensive network of federal, state and local regulations controlling emissions of criteria air pollutants and toxic air contaminants. In particular, large stationary sources in California are subject to the most stringent air quality regulatory requirements in the world. The vigorous pursuit of emissions reductions from these sources means that the most cost-effective reductions have already been captured. Extracting additional emission reductions from this baseline will require unconventional strategies, including incentive-based programs, and a broader focus on all sources that materially contribute to local air quality impacts.

In many cases, additional information and analyses will be necessary to identify these sources and quantify their relative contribution to criteria pollutant and toxic air contaminant emissions at the community level. It is also important to recognize that the air quality in particular communities is influenced by a variety of factors that are beyond the control of individual sources. Population density, pollutant transport, regional weather patterns and meteorology, topography and natural sources all help to define air quality in a given community. These factors should be taken into account in evaluating source contributions and in setting emission reduction targets in a given community.

In all cases, decisions that allocate program resources and impose additional control requirements on particular sources must be both feasible and cost-effective. These considerations are required by the statute<sup>1</sup>, but they are also necessary to ensure efficient allocation of program resources, maximize air

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<sup>1</sup> For example, Health and Safety Code section 42705.5 (c) requires that the state monitoring plan consider "... technical capabilities, cost, and the degree to which additional data would materially contribute to an

quality benefits, support long term program sustainability and prevent further economic dislocation in already disadvantaged communities. WSPA agrees with ARB that program adjustments will be necessary as better information becomes available. The implementation process should include mechanisms to change decisions made in the interest of satisfying statutory deadlines, but which prove to be ineffective or to misallocate program and stakeholder resources.

Presented below are general comments regarding key elements of the draft Concept Paper. Attachment A includes more detailed margin comments on the draft Concept Paper. Attachment B includes WSPA's comments on the draft Process and Criteria for 2018 Community Selections document.

### **Guiding Principles**

WSPA supports several of ARB's Guiding Principles, including those pertaining to the need for clear metrics to track progress, a strong science-based foundation to support identification of communities with the greatest cumulative exposure burden, and ensuring scientifically sound evaluations of community air quality. One exception that is repeated throughout the Concept Paper is ARB's emphasis on deployment of zero emission technologies. ARB's principles should not endorse particular technologies or classes of technologies, and ARB should not presume that zero emission technologies will be the most effective path to achieving AB 617 objectives in all cases. AB 617 requires consideration of cost-effective emission reduction measures (H&SC 44391.2 (c)(2)) reflecting the reality that ARB, the air districts, regulated entities and communities are working with limited resources. For these reasons, the Concept Paper should promote an overarching goal of deploying the most cost-effective emission reduction technologies to maximize the benefit per dollar invested in a given community.

### **Identification and Selection of Communities**

During the first meeting of ARB's AB 617 Consultation Group, there was considerable discussion about potential use of public health indicator data – asthma rates, incidence of chronic health conditions, such as chronic obstructive pulmonary disease, emergency room visits, and other factors – as a basis for tracking program performance. We agree that public health outcomes may be one of several appropriate metrics to consider in screening communities into AB 617 monitoring programs. However, as ARB discusses in several sections of the draft Concept Paper, public health evaluation at the community level is a complex, long term undertaking and available data precludes direct linkages between local air quality and public health outcomes. Therefore, ARB should use air quality indicators, not public health indicators, to designate communities for emission reduction programs and as a mechanism for tracking the performance of those programs over time.

ARB indicates that CalEnviroScreen should be used as an initial screening tool to identify candidate communities for monitoring and emission reduction programs. However, the Concept Paper should more explicitly discourage use of CalEnviroScreen in isolation and state that any use of this tool should be limited only to factors that relate directly to air quality and socio-economic conditions, consistent with the AB 617 mandate.<sup>2</sup>

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understanding of community risk." The emission reduction program requirements at section 44391.2(c)(2) require local air district programs to "... achieve emissions reductions for the location selected using cost-effective measures ..."

<sup>2</sup> The statute explicitly directs ARB and the air districts to develop monitoring and emissions reduction programs in "... communities with high exposure burdens for toxic air contaminants and criteria air pollutants." (See for example Health and Safety Code section 42705.5 (c).)

The criteria used to select a community for an emission reduction program should be more rigorous than those used to select a community for an AB 617 air quality monitoring program. A determination of community “readiness” for an emissions reduction program must address multiple factors including, but not limited to, the cumulative emissions burden relative to other communities on a statewide basis, identification of all potentially contributing sources, data needs to support reliable source apportionment and infrastructure for stakeholder engagement. The existence of organized community interest groups that support development of an emissions reduction program is not by itself a sufficient basis for community selection.

An important part of the readiness assessment for community emission reduction programs is a thorough understanding of emissions from all contributing sources (H&SC 44391(b)(2)). In some communities, risk from air toxics emissions may be driven by multiple small sources for which current emissions data are limited or not available. A default focus on large stationary sources and mobile sources in the absence of data for other sources may not achieve the intended emissions and risk reduction. To that end, we support the development of more granular emission inventories for communities selected for both monitoring campaigns and emission reduction programs.

The invitation for community self-nominations will complicate the community selection process, especially in light of the information needs and resource limitations identified by ARB in the early years of the program. Rigorous air quality-based screening criteria will be critical to ensure the objectivity and defensibility of community selection decisions, and to ensure that resources are allocated in a manner that maximizes air quality benefits in the most impacted communities.

### **Health-Based Air Quality Goals**

As noted above, ARB’s draft Concept Paper describes in some detail the limitations of available health outcome information for purposes of AB 617 implementation. Health outcomes are driven by multiple sources of pollution, not just air pollution, and “structural determinants of health within a community” which include access to healthcare, lifestyle and dietary choices and genetics. Health professionals’ understanding of the interactions between these factors is limited, especially at the community level. The potential for synergistic health impacts is still an emerging field of research and available studies are focused on much larger populations spread over larger geographic areas. The epidemiological research required to establish actionable relationships between air pollution exposure and public health outcomes at the community level requires long lead times, on the order of decades, and will not produce results within the timeframes anticipated in AB 617.

In the absence of such reliable information, emission reduction programs should be focused on reducing health risk through reductions in emissions of risk-driving compounds. While the Concept Paper makes reference to establishing “specific quantitative emissions reduction targets,” there is no discussion about potential risk-based targets. Many local air districts have established risk-based regulatory action levels in their air toxics regulations, and these regulations have become considerably more stringent as a result of recent changes in statewide risk assessment methodology (OEHHA, 2015). A source that is already operating below district risk-based action thresholds should not be subject to additional air toxics control requirements simply because it operates in a community that is subject to an AB 617 emission reduction plan.

With regard to criteria pollutant-based metrics, WSPA agrees with ARB that ozone cannot be controlled at the community level and is therefore not appropriate for inclusion in community emission reduction

programs. Inclusion of PM 2.5, which is also a regional pollutant, may be appropriate to the extent there are actual sources of PM 2.5 in the target community, and that controlling those sources would have a meaningful impact on ambient PM 2.5 concentrations in that community. The need for additional PM 2.5 reduction measures should be based on achieving NAAQS/CAAQS standards, which are set at a level determined to be protective of public health.

### **Community and Industry Involvement**

WSPA appreciates that AB 617 envisions a high level of community involvement in program implementation. However, it is important to define boundary conditions for stakeholder participation to ensure that AB 617 regulatory actions are based on best available information and rigorous scientific and economic analysis. For example, community representatives can help identify potential emissions sources, and should register any concerns with their local air district, but they should not be directly involved in enforcement activities. Enforcement authority is vested in regulatory agencies based on the premise that they have the expertise necessary to conduct investigations and determine whether a particular source is actually operating in violation of applicable regulatory requirements. Enforcement decisions should be grounded in evidence, not in perception or social media campaigns.

ARB should define more clearly how grant funding should be used to facilitate community participation in the AB 617 implementation process. Grant funding should be used for educational purposes, for dissemination of public information and to support public participation in AB 617 implementation (e.g., public meetings). It should not be used to fund advocacy by groups that purport to represent communities. Such action would dilute the public health benefits achieved through expenditure of grant funds. It is also a recipe for intensifying conflict among stakeholders rather than promoting the cooperative working relationships that will be necessary to accomplish AB 617 objectives.

AB 617 contemplates potential updates to existing local air district risk reduction audits and plans. The Concept Paper suggests that decisions about which facilities to review should involve community input. This approach would politicize what should be a science and data-driven decision-making process and may lead air districts to focus on the highest profile stationary sources rather than the sources that are actually driving health risk in the affected community. This outcome would diminish the air quality benefits of AB 617 emission reduction programs.

The Concept Paper also diminishes the role of facility operators in the implementation process. Facilities are part of the community and their representatives have technical expertise in air quality and facility operations. They should play a central role, along with ARB, the air districts and community representatives, in every facet of the AB 617 implementation process.

### **Enforcement Issues**

The Concept Paper recommends use of certain enforcement tools as metrics for community selection and program performance which are poorly suited to the intended tasks. For example, notices of violation (NOVs) may be useful in identifying recalcitrant operators, but they can provide a false indication of emission reduction program performance, especially if they stem from nuisance complaints or paperwork violations that have no bearing on source emissions or compliance with permitted emission limits. Moreover, numbers of violations may simply be related to the complexity of a source, or the fact that the jurisdiction dedicates more enforcement resources to that source without a clear nexus between the violations and the impacts experienced in the surrounding communities. AB 617 implementation will be a challenge for many stationary sources because they are already highly regulated. ARB and air districts

should use enforcement tools judiciously and work cooperatively with stakeholders to bring affected sources into compliance with applicable requirements as quickly as possible.

ARB's proposed use of emerging monitoring technologies has the potential to introduce error and bias into the emission reduction program implementation process. Given concerns about the accuracy and reproducibility of data from smartphone applications and other emerging low-cost monitoring technologies, enforcement staff should not rely on this kind of information as a basis for facility inspections and enforcement actions. Any such actions should be predicated on corroborating information obtained from reliable data sources.

### **Community Air Monitoring Issues**

WSPA supports ARB staff review of existing community air monitoring networks. These reviews should be coordinated with local air district oversight of monitoring networks, including networks designed by third parties. This effort should focus on lessons learned from deployment of air monitoring networks, including identification of contributing sources, the utility of particular technologies relative to actual emissions profiles, interpretation of results (including the impact of anomalies such as unusual weather events, temporary construction projects, etc.) and communication of results to the public. The goal of this review should be to avoid past mistakes, to provide proper context for public disclosure of monitoring data and to make best use of available program resources.

We also agree that ARB and the air districts should field test emerging air sensor technology to assess real-world performance before relying on information from air sensors to support monitoring programs or emission reduction program design and performance.

### **Technology Clearinghouse**

As ARB acknowledges in the draft Concept Paper, permitting requirements vary by location based on facility and equipment type, local programs, attainment status and other source-specific factors including, but not limited to, cost-effectiveness and feasibility determinations. The Clearinghouse should include cautionary language indicating that identification of "the most stringent control technologies, measures, and rules" in the abstract may not translate to individual sources in light of the factors noted by ARB. Furthermore, no source should be penalized for taking earlier actions to reduce emissions that may not fit squarely within the scope of technologies identified in the Clearinghouse.

### **Program Budget**

The Concept Paper envisions a budget that expands each year to accommodate additional community programs and related work. It is unclear how this approach can be sustained over the long term. This challenge should be discussed in the Concept Paper. The Concept Paper should also include a process for removing communities from the program if ARB determines that a community is not disproportionately impacted, or if the goals established for the community emissions reductions program have been achieved.

### **Land Use Planning**

WSPA appreciates ARB's recognition of the critical role that land use planning plays in local air quality management. The tension that exists between some communities and industrial facilities stems in large part from decades of local land use decisions that allowed sensitive uses to encroach on existing facilities

in historically industrial areas. It is important that local government agencies work with air quality regulators and other stakeholders in the land use planning process to prevent similar outcomes in the future.

### **Mobile Source Control Measures**

Mobile sources are likely to be the primary drivers of air quality impacts in many communities and ARB is signaling its intention to direct a significant amount of grant funding toward reducing emissions from these sources. ARB should offer further explanation as to how it will address mobile source emissions in the context of community emission reduction programs.

WSPA looks forward to ARB's responses to our comments and to our ongoing dialogue on AB 617 implementation. If you have any questions, please contact me at this office, or Tiffany Roberts of my staff at [troberts@wspa.org](mailto:troberts@wspa.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Catherine Dunwoody".

### Attachments

cc: Tiffany Roberts, WSPA  
Catherine Dunwoody, ARB  
Heather Arias, ARB