



Comments on AB 617 Blueprint

July 23, 2018

We are regional groups in California interested in effective implementation of Assembly Bill (AB) 617. We support the goals of AB 617 to reduce exposure in communities most impacted by air pollution.

However, we believe the draft Blueprint and Appendices falls short in areas that are critical to providing the necessary guidance, criteria and successful implementation of AB 617. We urge the California Air Resources Board (ARB) to adopt a program that is consistent with and complementary to existing air quality regulatory programs in the state. AB 617 implementation must rely on quality data and input from actual residents and businesses located in the affected communities and technical experts to build effective monitoring and emission reduction programs. The AB 617 implementation process must also provide maximum opportunity for learning and program adjustments along the way.

Therefore, we make comments and recommendations on the following features of the Blueprint and associated Appendices:

1. AB 617 community monitoring and emissions reduction programs must be limited to criteria pollutants and toxic air contaminants.
2. The community selection process should be standardized and data-driven.
3. Community monitoring campaigns should employ validated sampling protocols and use properly calibrated technologies.
4. Community monitoring campaigns and emissions reduction programs should be goal-oriented and time limited.

5. ARB should include additional detail on how source attribution will be employed in emissions reduction programs and which emissions reduction methods are appropriate under certain circumstances.
6. Community emissions reduction programs should be technology-neutral and performance-based, account for feasibility, engineering capability, cost-effectiveness and include workable project implementation timeframes.
7. Businesses operating in selected communities must be stakeholders in the Community Steering Committee process.
8. A formal mechanism must be created to make periodic adjustments to AB 617 program requirements based on information gathered during the course of AB 617 implementation.

Thank you for considering our comments.

Inland Empire Economic Partnership
 BizFed Central Valley
 BizFed Los Angeles
 West Contra Costa County Council of Industries
 Coastal Energy Alliance
 The Industrial Association of Contra Costa County
 Orange County Business Council
 Wilmington Chamber of Commerce

East Bay Leadership Council
 Western Agricultural Processors Association
 Bay Planning Coalition
 California Cotton Ginner and Growers Association
 California League of Food Producers
 Industrial Environmental Association
 California Manufacturers & Technology Association
 Climate Change Policy Coalition

1. AB 617 community monitoring and emissions reduction programs must be limited to criteria pollutants and toxic air contaminants.

The statute states clearly that the focus of community-level monitoring programs under AB 617 should be to reduce toxic air contaminants and criteria air pollutants (California Health and Safety Code § 42715.5 (b)). Similarly, community emissions reductions programs must be designed to “reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden” (CH&SC § 44391.2 (b)). ARB has appropriately adhered to these explicit statutory constraints by specifying in Appendix C that community emissions reduction programs will focus on localized sources of particulate matter (PM) 2.5 and toxic air contaminants. However, the Blueprint would benefit from more discussion on the importance of differentiating local PM 2.5 sources from contributions that originate outside of the target community.

The statute also requires ARB and the air districts to focus limited program resources on “the highest priority locations around the state ... which shall be communities with high exposure burdens for toxic air contaminants and criteria air pollutants” (CH&SC § 42705.5 (c)). The Blueprint document does not provide sufficient information describing how ARB will ensure that this statutory directive is achieved. To the contrary, it contains proposals that suggest a very coarse screening process and actions in all “nominated” communities, including those **not** selected for AB 617 programs. This approach disregards the statutory directive to prioritize among the most highly burdened communities and will dilute program resources, limiting the air quality benefits that can be achieved in those communities. We request that ARB work with stakeholders to develop more rigorous screening criteria consistent with the statutory requirements.

We have noticed an extensive discussion in public meetings about the appropriate role for health effects indicators such as asthma rates, cancer incidence and hospital admissions in the AB 617 program. Public health professionals have repeatedly attested to the fact that air quality is only one of many factors that can influence public health outcomes in a given community.¹ In that regard, we support ARB’s decisions in Appendix B to limit use of public

¹ For example, the Alameda County Public Health Officer identified multiple factors that influence community health in a presentation to ARB’s AB 617 Consultation Group on March 26, 2018, entitled *Air Pollution Risk and Vulnerability to Health Impacts*:

health indicators only to initial community screening and in Appendix C to focus community emissions reduction programs on reducing individual criteria air pollutant and/or toxic air contaminants that drive air pollution burden in the selected community. We also support ARB's statement on page C-4 that "Meeting State and federal PM2.5 and ozone standards is ... the current focus of California's criteria air pollutant programs."

However, we do not believe it is appropriate for ARB to encourage districts to go below State or Federal air quality standards to "reduce the cumulative exposure burden" (page C-13) as this position contradicts ARB's statement at C-4 and may only shift air quality burdens from one community to another. We trust this is not ARB's intent, and therefore urge ARB to clarify that the focus of the 617 program is to achieve the established health-based federal and state air quality standards.

Recommendation: We request ARB work with stakeholders to develop more rigorous community screening criteria and further clarify that the goal of the AB 617 program is to achieve PM 2.5 and air district toxic air contaminant standards. ARB should remove any references that would allow districts to implement reduction targets below the current air quality standards.

2. The community selection process should be standardized and data-driven.

AB 617 is intended to benefit those communities most heavily burdened by exposure to toxic air contaminants and criteria pollutants. It is not a blanket mandate for every region throughout California to have equal ambient criteria and toxic emissions. ARB should further define those specific areas in a given region where validated emissions data shows a documented emissions burden that is disproportionately higher than other areas within the region. This approach will ensure the selection process is not co-opted by local political interests who may demand AB 617 prioritization regardless of what the data show.

The criteria specified for community self-nominations are lacking in comparison to the criteria required for air district nominations. Varying levels of rigor in the information provided to support community nominations is inappropriate and may lead to community selection for reasons other than disproportionate air quality burden. While we appreciate ARB's stated intent to complete technical assessments for all nominated communities, this is likely to be a highly resource-intensive exercise that will delay the community screening process and implementation of emissions reduction programs in the most highly burdened communities.

The Blueprint offers examples of screening tools that may be used by air districts and ARB in the community selection process, including ARB's Environmental Justice Screening Method, CalEnviroScreen 3.0, the California Healthy Places Index and ARB's Pollution Mapping tool. With the exception of CalEnviroScreen, which ARB previously acknowledged is not designed to identify communities with disproportionate **air quality** burdens, it is unclear whether the identified tools are appropriate for community selection because, to the best of our knowledge, they have not been subject to external peer review or public review and comment.

Recommendation: ARB should revise its proposed community selection criteria to ensure that community nominations are based on disproportionate air quality impact and that only the most heavily burdened communities are selected in a given geographic region.

3. Community monitoring campaigns should employ validated sampling protocols and use properly calibrated technologies in accordance with accepted regulatory standards specifying minimum requirements for quality assurance and quality control.

The Blueprint speaks in general terms about the need for validation and verification of community monitoring data but does not provide any specifics about how this will occur or what standards must be met. Regulatory agencies cannot formulate effective air quality policy without ensuring the validity and reliability of emissions data being

considered. For this reason, ARB and the local air districts, along with the US Environmental Protection Agency (EPA), have established rigorous regulatory standards for the proper collection of emissions data, including requirements for calibration and maintenance of monitoring equipment, use of approved methodologies and adherence to defined collection procedures. We appreciate that ARB has provided guidance in Appendix E that seems to anticipate a similar approach, but it is **critical** that ARB define a much more specific process for the quality and validation of data developed during the implementation of AB 617 and take steps to ensure that process is applied consistently across all air districts.

ARB's focus on increasing community-based monitoring, including new grant programs to provide monitoring equipment and training to community groups, raises potential issues of transparency in terms of the methodologies and collection techniques, much of which may occur beyond the public eye. Without adequate agency guidance and oversight, it will be difficult, if not impossible for agencies to evaluate inaccuracies or biases in the collection and reporting of data. The problem is likely to be compounded if such questionable data is then made widely available and relied or insisted upon by community residents, political action groups and other oversight agencies to justify regulatory decisions affecting those communities. Propagation of potentially inaccurate or unreliable data will be in no one's best interest and ARB and the air districts will be in the untenable position of having to mediate disputes between stakeholders concerning the proper interpretation and use of the data.

Before relying on community-generated data, CARB and the air districts must carefully review the validity and verifiability of that data and determine whether that data is corroborated by independent data from one or more sources of agency-approved monitors. CARB and the districts should further specify that community generated data not corroborated in this way cannot be the only basis for justifying enforceable emissions control strategies, whether under AB 617 or otherwise. In the interest of transparency, all sampling and analytical methods, all data produced from AB 617 community monitoring programs and agency QA/QC analyses should be made available for public review.

Recommendations: We strongly recommend that ARB add a new section to Appendix E of the Blueprint that specifically describes a clear technical evaluation and educational process for collecting, analyzing and communicating community monitoring data to the public. This program section must clearly outline how data will be determined to be accurate, and how the data can and cannot be used. This information is critical to ensure that all stakeholders have a full understanding of what the data means, especially in the context of community emissions reduction programs, and most importantly to avoid future disagreements between community groups, air districts and ARB as the agencies implement AB 617.

4. Community monitoring campaigns and emissions reduction programs should be goal-oriented and time limited.

Community monitoring campaigns should be sufficiently detailed in design and their duration should be explicitly outlined to accurately assess air quality impacts in the selected community, support decisions about the need for an emissions reduction program, and in cases where such programs are developed, to track progress toward achieving defined program goals. Community monitoring should not continue in perpetuity or be extended solely on the basis of community demands or changes in monitoring technology.

Similarly, community emissions reduction plans should sunset once the emissions reduction goals or actions specified in ARB-approved community emissions reductions programs have been achieved. Setting vague or open-ended goals for these communities could lead to excessive resource commitments, not only to eliminate a disproportionality, but also to engage in a potentially endless process of requiring air quality goals above and beyond other non-program communities. Program goals must also be based on actual and verifiable emissions data. A reduction in the number of notices of violation and other enforcement actions, in contrast, is a poor metric because it will not directly measure whether the community's particular emissions burden has been reduced in relation to other communities.

These concerns speak to the long-term sustainability of a program that is intended to expand into additional communities over time. As ARB is aware, the Legislature did not identify a permanent source of revenue for AB 617 implementation. The Blueprint must address how ARB and the air districts will conclude AB 617 work in some communities to create sufficient capacity for new programs in other communities.

Recommendation: We urge ARB to include specific language in Appendix E that will ensure monitoring programs have sufficiently defined goals and program end dates to adequately assess air quality impacts in a community and provide accurate information in support of emissions reduction programs.

5. ARB should include additional detail on how source attribution will be employed in emissions reduction programs and which methods are appropriate under certain circumstances.

AB 617 requires identification and assessment of sources contributing to elevated exposure to air pollution in impacted communities and an estimate of their relative contribution (CH&SC § 44391.2(b)(2)). Selection of additional measures in community emissions reduction programs should be based on rigorous source apportionment which accounts for transport of pollutants and precursors from outside the monitoring area and without bias for source type (point, mobile, area) or sector (industrial, agricultural, residential, commercial). The Blueprint documents acknowledge the statutory requirement to identify sources contributing to the disproportionate emissions burden and to determine the relative contribution of each source (ARB uses the term “source attribution”) but are silent on how the districts should approach this analysis or what methods they should use in a given set of circumstances. These issues are deferred to ARB’s online “Resource Center” for further development, which will limit transparency and opportunities for public review and comment. Source apportionment methods should be made available to the public, including all background assumptions and appropriate references to support those assumptions, along with guidance on proper method application and interpretation.

The Blueprint documents also suggests that in some cases assessment of data gaps may occur *after* a community has been selected for an emissions reduction program. It would be inappropriate to select a community for an emissions reduction program until any significant data gaps are filled and this process may require community monitoring as a first step in determining community eligibility. For example, additional monitoring may be necessary to accurately characterize contributions from major transportation corridors adjacent to stationary sources, to ensure that emissions reduction program measures target the actual emissions sources. In any case, a more rigorous approach to source attribution is necessary to ensure that AB 617 programs actually result in meaningful improvements in community air quality.

Community emissions reduction program measures should also be structured around existing state and federal air quality standards and regulatory thresholds. Community emissions reduction programs should not include requirements that reach beyond ARB and air district regulatory jurisdiction. The Blueprint includes an extensive discussion of the impact of local land use decisions and offers examples of extreme measures for consideration in AB 617 emissions reduction programs, such as minimum setback distances and revocation of existing land use authority. Under California law, CARB and the local air districts are prohibited from infringing on cities, counties and regional planning agencies’ jurisdiction to plan and control land use. (CH&S Code 40414, 40468, 40716(b), 40717.5(c), 40717.6(c), 41015, 43018(c)(3)). AB 617 programs will be developed by air districts and approved by ARB, yet none of these agencies has the statutory authority to regulate local land use decisions. The Blueprint should not suggest that AB 617 would somehow compel certain local land use planning decisions, but that those oversight agencies will be assisted by the information, resources and collaboration of ARB, the districts and the communities at issue. Accordingly, local land use measures do not belong in an air district emissions reduction program.

We appreciate ARB’s enumeration of existing and planned emission reduction regulations and incentives and we support statements in the Blueprint that these programs should be taken into account in AB 617 community emission reduction plans.

Recommendations: ARB should include additional detail on how source attribution will be employed in emissions reduction programs and which methods are appropriate under certain circumstances. Community emissions reduction programs should not include requirements such as land use restrictions that reach beyond ARB and air district regulatory jurisdiction.

6. Regulatory actions should be technology-neutral, account for feasibility, engineering capability, and cost-effectiveness and include workable project implementation timeframes.

The Blueprint minimizes the role of cost-effectiveness in evaluating emissions reduction program measures, despite clear statutory direction to air districts to select cost-effective measures (CH&S § 44391.2(c)). Other important considerations that will impact overall program success, such as technical and engineering feasibility and reasonable implementation periods are also given inadequate treatment in the Blueprint documents. A greater focus on these issues will be necessary to maximize emissions reductions and program benefits for selected communities in a cost-effective manner. Failure to address these issues in the implementation process will only lead to misdirection of program resources and results that do not achieve program objectives.

The Blueprint continues to elevate zero emissions strategies over alternative measures, despite the fact that AB 617 does not mandate or even suggest this approach. Rather, the statute requires consideration of multiple emissions control options that may accomplish the emission reduction objective(s) (CH&S § 40926.6(a), § 44391.2). Before selecting a measure or measures for inclusion in a community emissions reduction program, a district must assess which control measures are available, achievable and cost-effective. The bias in the draft Blueprint toward zero emissions strategies diminishes the potential for deployment of more cost-effective and immediately feasible near-zero emissions technologies, even if those technologies would match or outperform zero emissions strategies in the affected communities.

Recommendation: ARB should include more descriptive and balanced language in the Blueprint that ensures the districts and ARB evaluate technical and engineering feasibility and cost-effectiveness for any proposed control measures as required under AB 617 and all applicable air quality laws and regulations.

7. Businesses operating in selected communities should be stakeholders in the Community Steering Committee process.

The Blueprint's guidance on formation of Community Steering Committees recommends that the committee include members "who live, work or own businesses within the community" (Appendix C, p. 7), but does not specifically require or recommend including on the committee the actual regulated business stakeholders who will be asked to directly implement the emissions reductions. Participation of the regulated industry stakeholders on the Community Steering Committees is critical to ensuring that air quality objectives and proposed reduction plan elements are achievable and likely to be effective in practice. Accurately understanding the concerns and practical realities of the regulated businesses is indispensable to the Committee's effective function. Business involvement is also necessary to ensure that baseline technical assessments of emissions inventories and sources are done correctly and completely.

While the air districts should lead the Community Steering Committee process, ARB also needs to play an active role to oversee development of monitoring and emissions reduction programs, to ensure proper treatment of mobile sources over which it has exclusive jurisdiction and to provide additional data and analysis to support science-based program decisions.

Recommendation: ARB should specify inclusion of regulated business stakeholders in the Community Steering Committee since these stakeholders are most likely to be subject to emissions reduction requirements and whose input is critical to the success of the programs.

8. ARB should create a formal mechanism to make periodic adjustments to AB 617 program requirements based on information gathered during initial implementation.

AB 617 prescribes novel, untested requirements. The technical complexity of measuring localized emissions with the level of precision necessary to inform effective emissions reduction programs, ongoing program expansion and the unprecedented cooperation envisioned in ARB's Blueprint means that the need for program-wide course-corrections is inevitable. Lessons learned from the first round of community monitoring and emissions reduction programs will inform the need for changes in state and local air district implementation strategies and this iterative process will be critical to the success and sustainability of the overall program. The Blueprint should anticipate this eventuality by including a formal mechanism for updating the statewide monitoring plan and emissions reduction strategy. The process should be transparent, with opportunities for public review, comment and approval by local district and ARB governing boards. It should also include recommendations to the Legislature for any statutory changes that may be necessary to address circumstances not known at the time the enabling legislation was approved.

Recommendation: ARB should include a provision in the Blueprint that will allow a time-based review of the program, including, but not limited to, the statewide monitoring plan and emissions reduction strategy.