



## California Council for Environmental and Economic Balance

101 Mission Street, Suite 805, San Francisco, California 94105  
415-512-7890 phone, 415-512-7897 fax, [www.cceeb.org](http://www.cceeb.org)

September 24, 2018

Karen Magliano

Director, Office of Community Air Protection

Air Resources Board

Submitted electronically to <http://www.arb.ca.gov/lispub/comm/bclist.php>

RE: Final Draft ARB Community Air Protection Blueprint (August 2018) and  
AB 617 Program Implementation

Dear Karen,

On behalf of the members of the California Council for Environmental and Economic Balance (CCEEB), we submit these comments on the Air Resources Board (ARB) Final Draft Community Air Protection Blueprint (“Blueprint”) and implementation of AB 617. We appreciate the efforts of ARB to engage stakeholders and other public partners in developing the Blueprint, as well as the many other related efforts that are meant to build a foundation for AB 617 programs going forward. This work is even more remarkable given the accelerated deadlines required under AB 617 to complete the statewide strategy for reducing emissions of toxic air contaminants (TACs or “air toxics”) and criteria pollutants in communities affected by high cumulative exposure burden and the accompanying state plan for community air monitoring. While AB 617 has other provisions and requirements, these two plans, combined as the Blueprint, are the core of AB 617 and reflect the main goals of the bill, i.e., reducing emissions and exposures in over burdened communities.

CCEEB previously submitted comments on the Draft Blueprint (CCEEB to ARB, July 23, 2018). Those recommendations still stand, and we incorporate them by reference in our comments here. In particular, CCEEB believes focus must be placed on implementing the statutory requirements of AB 617, and is concerned that efforts going beyond the already ambitious bill will divert needed resources and distract from the legislation’s core goal, i.e., reducing emissions and exposures in overly burdened communities.

CCEEB also reiterates our recommendation that ARB adopt a process for formalizing community boundaries at the city-block level – this is critically important since future rulemakings at ARB and the air districts could mandate actions within these boundaries, and affected industry must have clear signals for regulatory compliance. These

boundaries are also important for determining eligibility for incentive programs and participation in Community Steering Committees (CSCs).

Our other main comments are as follows:

- **The selection of AB 617 communities in future years should be based on a well-defined and transparent process, as described in the bill.** This includes selection of communities for both air monitoring and emissions reduction plans. Efforts should be made to improve use of best available data in prioritization and to minimize any appearance of politicization in community selections.
- **ARB must coordinate closely with CAPCOA and the air districts** to further develop and implement key program details. This includes, but is not limited to, efforts to 1) support community air monitoring, 2) define boundaries of AB 617 communities, 3) develop a statewide emissions reporting system, and 4) secure and allocate funding for program activities and community capacity building. ARB staff should fully leverage air district expertise and resources, avoiding duplication of effort and conflicting guidance as much as possible.
- **ARB should be strategic as it develops its community monitoring program** so as to ensure the technical foundation is scalable, can evolve to meet future needs of all stakeholders, and results in transparent, actionable, and valid data. The Board and the public should be mindful of the significant technical and resource challenges involved in this effort.
- **Ongoing efforts to develop technical guidance must include a public process** so that stakeholders have an opportunity to review and comment on critical elements of AB 617 programs. This would include, but is not limited to, guidance on conducting community assessments and establishing baseline conditions, guidance for doing source apportionment using monitoring data, the ARB process for vetting control strategies in the Clearinghouse, and technical requirements and quality assurance-quality control (QAQC) protocols for third-party air monitoring.
- **Community Steering Committees must be inclusive and open advisory bodies that support decision making** at the air districts and ARB. The public consultation requirements mandated in AB 617 apply to these committees, as do open meeting and public notification laws that govern state agency proceedings.

What follows is a more detailed discussion of these key points. We also include additional comments and requests for clarification related to Appendix C of the Blueprint.

## Community Selections

CCEEB recognizes the significant scale and breadth of AB 617, which will grow and evolve into one of the largest air pollution programs ever undertaken by California, its communities, and its businesses. Given the legislatively mandated deadlines for key milestones, we also understand that initial year implementation will involve some degree of experimentation and “best guesses” as ARB, the air districts, and agency partners continue to develop program details and technical guidance. For example, the ten recommended communities for initial-year implementation are considered “communities of no regret” where the cumulative exposure burden is as much assumed as it is documented. Going forward, however, more must be done on the objective and transparent evaluation of communities, as well as demonstration that proposed communities experience a relatively high exposure burden as compared to other areas in the state. This helps ensure that communities are being selected based on exposure burden and not for expediency or political reasons.

Similarly, seven of the ten recommended communities in the initial year are proposed for both emissions reduction plans, or “Clean Air Plans” (CAPs), as well as community monitoring. As such, ARB presumes the exposure burden in these communities warrants priority action to reduce emissions, even before conducting community inventories and air monitoring. Section 44391.2 (b)(1) of the Health and Safety Code (H.&S.C.) describes the data to be used in prioritizing communities, and includes AB 617 “monitoring results.” CCEEB takes this to mean that, ideally, air districts would deploy community monitoring and develop community-level inventories *before* moving into the emissions reductions phase, so that further prioritization and development of CAPs could be informed by an assessment of community conditions. While initial-year communities will forge ahead without full benefit of technical assessments, CCEEB believes the process in later-year communities should be staged so that communities and agency decision makers have access to monitoring data and inventories *before* planning emissions reduction goals and objectives.

## ARB and Air District Coordination and Partnership

As AB 617 moves from the state planning stage to local implementation by the air districts in selected communities, ARB should increase its efforts to partner with the local air districts and the California Air Pollution Control Officers Association (CAPCOA). In particular, ARB staff should fully leverage the expertise and resources available through the air districts and CAPCOA and help coordinate efforts among the many agencies, organizations, and entities involved in AB 617 programs. For example, some of the areas appropriate for partnership include:

- Training and technical assistance for community-based organizations (CBOs) – ARB staff is in the process of developing online resources to support CBOs interested in community monitoring, and has a contract with outside researchers

to assist with CBO training. We recommend that ARB coordinate this work closely with similar efforts underway at the air districts, including work in the Bay Area to develop a community monitoring resource center and work in the South Coast on community monitoring, particularly efforts at the South Coast Air Quality Management District (SCAQMD) AQ-SPEC laboratory. AQ-SPEC is leading a large-scale community monitoring pilot, funded by EPA and in partnership with UCLA and others, which will deploy over four hundred low-cost sensors to CBOs across California. Lessons learned from this pilot are directly relevant to AB 617, and materials and other resources being developed by AQ-SPEC and its partners could quickly be leveraged for AB 617 purposes. Moreover, this team is internationally recognized by technology developers, environmental agencies, and public health researchers, and is at the forefront of evaluating emerging monitoring technologies and techniques.

- Emissions databases and online data portals for community monitoring – just as the air districts and CAPCOA are working to support community air monitoring, some are also working to develop regional databases and online data portals that can aggregate district-managed data and other data streams. This allows the air districts to put emissions into a local and regional context, and supplement AB 617 monitoring data with relevant information for communities. As ARB works towards a statewide data system, it should partner with technical staffs at the air districts so that the various systems can be integrated, to the extent feasible, and work towards common data standards and platforms.
- Air Grants and Community Capacity Building – CCEEB is a strong supporter of community capacity building through AB 617 Air Grants, and believes that communities should have the technical resources needed to engage in program development and implementation. Local air districts have direct knowledge of and, often, existing relationships with many of the entities likely to participate in AB 617. Moreover, the air districts are primarily responsible for identifying communities for AB 617 selection and are the key points of contact for those wishing to engage in program implementation. As such, we believe the air districts can provide valuable perspective and should help inform funding decisions for the ARB Air Grant program.

### **Building a Sound Technical Foundation for Community Monitoring**

ARB's efforts to build the data management foundation for its community monitoring program is one of the most technically challenging aspects of AB 617. The scale of this effort – which has no equivalent anywhere in the world – is made even more complicated by the legislative deadline to get the system in place by July 2019. However, given that the state and the regulated community will be investing hundreds of millions of dollars in community monitoring over time, and given the intense public and academic interest in air monitoring data, CCEEB believes this work must be done

with care and attention so that the system we build today supports our needs for tomorrow – this means it must be adaptable and scalable even as sensor and monitoring technologies and techniques quickly evolve.

CCEEB recommends that ARB adopt a phased approach to building its data management system, so as to meet legislative requirements while also ensuring that it is technically robust enough to meet future needs. The initial phase should focus on aggregating data from district-managed networks, which we anticipate will be built using reference grade and other sophisticated monitoring equipment, and will include rigorous quality assurance-quality control (QAQC) protocols. We note that AB 617 only requires the air districts to conduct community monitoring, with ARB publishing district data online so that it is publicly available. As such, the July 2019 deadline only applies to that portion of the program.

ARB staff has chosen to expand the monitoring program beyond AB 617, and seeks to incorporate third-party data into its public database. This means that many millions of additional data points from an unknown number of monitoring networks will need to be incorporated into the ARB system, with various study objectives, monitoring methods, duration, and QAQC procedures. Third-party monitoring should be the focus of a second and subsequent phase of work, informed by lessons learned and outreach to CBOs and others as they develop monitoring networks. Most of the Air Grant recipients, for example, are still in the early planning stage and may not yet have defined technical specifications to inform ARB's work.

A sound technical foundation relies not just on data inputs, but also data access and uses. While ARB has been appropriately focused on engaging community stakeholders in terms of their needs and ideas, many other types of entities should be involved, such as technology developers, researchers and academics, "big data" and data aggregator specialists, affected industry, and other agencies that are working with ARB and the air districts to understand what real-time localized emissions data means in terms of air quality and public health. Most if not all of these potential system users would agree that data needs to be valid and transparent, and that the system should work towards an open platform and standardized data protocols. However, each will have specific needs and parameters for data format and access to ARB's database. CCEEB recommends that ARB develop a robust process to work with the various data users on design of the system, possibly convening technical working groups or workshops organized around specific areas or objectives, such as data quality objectives, QAQC protocols, and data formats, to name a few.

CCEEB will continue to consider issues related to the ARB data system and commits to engaging staff in support of this important work.

## **Public Input Can Benefit Development of ARB Technical Guidance**

The final Blueprint document establishes a high-level policy framework for AB 617 programs. However, much of the technical guidance needed to implement these policies is still under development, and public review opportunities are not well defined. For example, we understand that ARB is working on guidance for how air districts should conduct community assessments, which include community-level emissions inventories, source identification and source apportionment, and a method to establish baseline conditions for ambient air pollution, public health, and socioeconomic factors. These community assessments are critically important and will inform community planning efforts as well as the tracking of progress under AB 617. CCEEB believes that public stakeholders should have an opportunity to review and comment on these technical documents, and that ARB staff should define its public participation process, keeping in mind the public consultation requirements of AB 617.

Another technical document appropriate for public input would be guidelines for third-party community monitoring. Additionally, CCEEB asks that ARB staff convene technical workshops or working groups on the process by which control strategies will be evaluated and added to the AB 617 Clearinghouse.

## **Community Steering Committees Must Be Inclusive and Open**

ARB's proposal to convene community steering committees (CSCs) for each of the selected AB 617 communities is grounded in environmental justice principles that support meaningful community participation in regulatory decision making. To reflect the consultative requirements of AB 617, the CSCs must be inclusive and operate according to state laws regarding open public meetings. To this end, efforts must be made to include *affected* industry, local government bodies, and interested individuals, in addition to community-based organizations. CSCs should be as inclusive as possible, avoiding any appearance of imbalance or favoritism of some groups or types of participants over others.

Public discourse around environmental justice is often politically charged. One of the key benefits of AB 617 is that it provides the state and local air districts with an opportunity to change the nature of community partnerships and interaction among residents, affected industry, regulatory agencies, and local government decision makers. CCEEB has long been a proponent of dialogue among diverse stakeholders, and our experience has shown that, while dialogue can be difficult and time intensive, it results in better public processes and sound policy decisions. CCEEB believes that affected industry can and should play a positive role in AB 617, and that including the perspective of the regulated community can lead to more innovative and credible emissions reduction strategies. To the extent possible, ARB and the air districts should work towards the greatest level of "buy-in" across all stakeholders, and, with the assistance of strong, neutral facilitation, seek shared understanding of community issues.

While it is beneficial to work towards consensus as much as possible at the CSCs, these are advisory bodies. Ultimate decision making authority rests first with the boards of each affected air district, and then with the ARB board, as part of plan adoption hearings. The distinct roles and responsibilities of the air districts, ARB, and the CSCs should be made explicit upfront and early in the process, along with a discussion of agency authorities.

### **Additional Comments and Requests for Clarification on Appendix C**

Appendix C: Criteria for Community Emissions Reduction Programs contains additional guidance for developing Community Air Plans (CAPs), supplementing the Blueprint discussion in Section IX. While the Blueprint allows for sufficient flexibility in tailoring the CAPs to meet individual community needs, parts of Appendix C are either ambiguous and in need of clarification, or overly prescriptive and seem to predetermine what should be in the CAPs before the community planning process can play out. To address this, we make the following suggestions:

- Proximity-Based Goals (starting page C-18): this section appropriately recognizes that “in many cases, the authority for implementing these goals will reside with local government agencies.” It then states that ARB will seek to “obtain these goals” through engagement with local government agencies. This language seems overly prescriptive, in that it seems to suggest that the role of ARB and the CAPs would be to dictate or predetermine what requirements local agencies should or should not adopt. We believe this would be beyond the scope of AB 617, which provides no new authority to ARB or the air districts, and does nothing to change the statutory relationship between the air agencies and local government authorities. CCEEB recommends that ARB instead pursue a process of early engagement and partnership with local government agencies, allowing them to bring forward actions as appropriate.

This same section states that one such action or “goal” could be to require “changes to facility design to reduce exposure.” CCEEB asks staff to clarify what is meant by this phrase, noting that it could be interpreted in various ways. We further suggest that ARB consider expanding its approach – existing law provides limited and specific regulatory authority to mandate or “require” physical changes at an existing site, and any requirement would need to follow administrative law and all applicable regulatory procedures. Another approach (and possibly more effective) would be to partner with affected industry and provide incentives to encourage desired actions.

- Missing “cost effectiveness” and technological feasibility (page C-4): AB 617 directs the CAPs to achieve emissions reductions “using cost-effective measures” that are based on an assessment of Best Available Control Technology (BACT)

and Best Available Retrofit Control Technology (BARCT) and other available measures.<sup>1</sup> AB 617 does not mandate that “most stringent approaches” must be used. Moreover, BACT and BARCT require technical determinations, based in part on evaluation of cost effectiveness and technological feasibility. CCEEB suggests that page C-4 be revised to read “...implement new actions and approaches for reducing the maximum amount of emissions and exposures, taking into account cost effectiveness and technological feasibility, as required by law.”

Similarly, page C-6 should be revised to read, “Efforts to significantly reduce exposure to toxic air contaminants therefore rely on identifying technologies and practices that offer the maximum level of emissions reductions achievable *while being cost effective and technologically feasible*.” As currently written, this language is inconsistent with state law for adopting air toxics control measures.

- Sound science and regulatory processes (page C-19, text box): we assume that the “immediate implementation of any feasible activities” during the community planning process is not meant to bypass standard and legally required public rulemaking procedures, although this is not entirely clear by the language as written. This should be clarified. Furthermore, CCEEB would be concerned if an action were to be taken before it could even be shown to be effective at reducing emissions in a specific community. The objective of expediency should not short circuit proper technical review and sound science.
- Regulatory authority (page C-21): CCEEB asks staff to clarify by what authority a CAP could impose “activity limits and other operational requirements” to existing sources, particularly those with current permits to operate. The extent to which local air districts already have authority seems adequately covered in the general review of air district rules and regulations.

---

<sup>1</sup> H.&S.C. Section 44391.2 (c)(2).

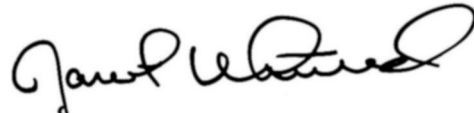


We appreciate the opportunity to comment on the Blueprint and AB 617 implementation. Should you, your staff, or members of the Board have questions or wish to discuss our comments in greater detail, please contact Bill Quinn ([billq@cceb.org](mailto:billq@cceb.org) or 415-512-7890 ext. 115) or Janet Whittick ([janetw@cceb.org](mailto:janetw@cceb.org) or ext. 111) at CCEEB.

Sincerely,



Bill Quinn,  
CCEEB Chief Operating Officer and Project  
Manager of the South Coast and Bay Area  
Air Projects



Janet Whittick,  
CCEEB Policy Director and  
ARB Consultation Group Member

cc: Veronica Eady, ARB  
Jack Broadbent, BAAQMD  
Wayne Nastri, SCAQMD  
Samir Sheikh, SJVAPCD  
Alan Abbs, CAPCOA