

September 25, 2018

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Public Comments for AB 617

AB 617 is Set for Disaster:

BARCT restrictions are misguided, emissions reduction strategies are vague, & community monitoring is insufficient

To the California Air Resource Board;

Upon reviewing the proposed policy, we would like to respectfully submit our comments today on behalf of the numerous at-risk communities in California, particularly those in the Bay Area that have long been disadvantaged and underserved. While we are pleased that AB 617 is attempting to relieve the environmental burdens felt by low-income communities, it is still not enough on its own. To be more effective, AB 617 needs to close loopholes that highly polluting industries are able to exploit. Though AB 617 has innovative, far-reaching implications, under its current proposed mandates it will fail to deliver the protection and relief that impacted communities desperately need.

Recommendation #1: More Specific Requirements for BARCT Implementation

A fundamental issue with AB 617 is that the proposed BARCT restrictions and guidelines are vaguely written and far too broad in scope. CARB's current proposal is to focus BARCT efforts on sites with *industrial sources* that are subject to the Cap-and-Trade requirements. The problem with the proposal as written is that the current definition of "industrial sources" in the Cap-and-Trade regulations is nebulous enough that it allows for loopholes, and makes it easy for sites to skirt the requirements. As long as sites began to implement *any* BARCT retrofits on at least a *portion* of the sources at their site prior to 2007, they won't

trigger further BARCT requirements per AB 617. Also, if local air districts determine that it is not cost-effective for sites to initiate BARCT, then they will also not be subject to the requirements per AB 617 as it currently stands. Finally, BARCT's applicability under the Cap-and-Trade program only pertains to sites that emit criteria air pollutants, and excludes sites that emit toxic air contaminants. This means that the AB 617 programs are destined to underdeliver, and will counteract the promises made to disadvantaged communities and the public.

Recommendation #2: CARB Should Rethink BARCT Implementation and Trigger Guidelines

During this final review period, CARB should enact policies under AB 617 that would require highly polluting sites under Title V of the Clean Air Act (Title V) to be subject to BARCT requirements, particularly if they fall within a designated target community. Instead of focusing on the current industrial sources subject to the Cap-and-Trade threshold, CARB needs to focus on initiating BARCT at all Title V facilities *within the city* of the proposed at-risk community.

Currently, there are six Title V sites in Oakland and three in Richmond. All Title V sources would be a more manageable task for staff at local AQMDs to evaluate and achieve compliance with BARCT requirements. This would also ensure that the most overburdened communities are helped first. Alternatively, there are 80 sites in the Bay Area that are subject to the Cap-and-Trade program, but only 19 sites that would actually be regulated for BARCT under AB 617. While this number may appear low, it still places a heavy burden on local air districts to regulate them. The time and effort it would take for engineers and various staff at the air districts to perform the evaluations and cost benefit analysis on over 3,000 sources for the entirety of the Bay Area's sites would be extremely burdensome and would strain already limited resources. Thus, it makes more sense for CARB to formulate more relevant and realistic requirements for technology standards that will be implemented immediately in communities already designated under AB 617.

Recommendation #3: Targeting Title V Facilities and Formulating Next Steps

Focusing on Title V facilities that are within the targeted community under AB 617 would ensure that the surrounding populations also benefit from the efforts of the bill. Title V facilities are the highest polluters and have the highest risk of toxic emissions. Many of

these Title V facilities are in close proximity to sensitive receptors such as schools, hospitals, and parks. In Oakland specifically, there are six Title V facilities. Most of these facilities are located in low-income communities and in close proximity to West Oakland, which has been designated as a first-year targeted community under AB 617. A nearby neighborhood, East Oakland, was not selected for the first-year program though it was a close runner-up for the designation. CalEnviroScreen 3.0 results, published by Communities for a Better Environment, have shown that East Oakland is one of the two major air quality “red zones” in the Bay Area¹. East Oakland would also benefit from increased regulation of the Title V facilities present in West Oakland, and the impact of the emissions reduction program would be more significant by reducing exposures in both communities.

What is equally as troubling is the heavy burden that AB 617 places on local air districts to propose compliance schedules and new regulations over unprecedented time scales. This will spread the agency’s staff too thin, making their efforts less productive and slow the progress of emissions reductions. CARB should take the lead in determining the program’s goals and how the targets will be achieved. It is not enough to state a deadline of 2023 and expect local districts to make all the other determinations on their own without any additional guidance. We urge CARB to revisit this requirement prior to the publication of the statewide strategy and monitoring plan.

Closing Remarks

We take issue with AB 617 for creating a divide within the city of Oakland by addressing only the West Oakland community and creating competition between two at-risk populations that both desperately need intervention to stem environmental pollution. Targeting the six Title V facilities in Oakland would help all those within the city limits and their surrounding communities. At-risk populations should not have to wait for CARB and local air districts to decide when it is politically advantageous enough to take action, or for the day when it’s finally their turn for clean, healthy air. If CARB directed local air districts, via a mandate under AB 617, to focus on emissions reductions strategies on these highly

¹ “Is It Worth It for Communities to Take Part in the AB617 Process?” *Communities for a Better Environment*, 19 Sept. 2018, www.cbecal.org/wp-content/uploads/2018/09/Final-CBE-factsheet-091818-COME-TO-CARB-HEARING.pdf.

polluting sites, they would be able to generate healthier environments in a much more orderly, targeted, and effective manner.

Many of these underserved, oppressed, and overburdened communities don't have the resources to wait another year in the hopes that they may be the next selected community under AB 617. Members of these communities often don't have the luxury of free time to attend meetings to have their voices heard. While we are pleased and cautiously optimistic about the progress which AB 617 is set to make, we think a few final adjustments are crucial to its success.

Sincerely,

Graduate Students in Environmental Management at the University of San Francisco