



October 13, 2023

Ms. Deldi Reyes, Director
Office of Community Air Protection
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Subject: Business stakeholder comments on the California Air Resources Board's Final Draft Community Air Protection Program Statewide Strategy and Implementation Guidance (Blueprint 2.0).

Dear Ms. Reyes:

The undersigned organizations appreciate this opportunity to comment on the California Air Resources Board's (CARB) final draft of the Community Air Protection Program Statewide Strategy and Implementation Guidance (Blueprint 2.0). We have reviewed the changes made by CARB staff in the final draft and note some useful clarifications and additional context for certain program requirements, which we touch on below in our comments on the proposed changes. However, we find the majority of the changes in the final draft to be largely cosmetic and not responsive to the many substantive procedural, technical and resource management challenges articulated in our July 31, 2023 letter, including in particular the need for more explicit guidance on:

1. Regulatory oversight of program implementation in Consistently Nominated Communities, consistent with statutory requirements.
2. Allocation of limited program resources to both existing and Consistently Nominated Communities, and mechanisms to limit open-ended resource commitments.
3. How to use available and emerging technical assessment tools in developing community air monitoring and emissions reduction plans that are consistent with statutory requirements.
4. Developing and implementing local CERPs (L-CERPs).

Since CARB intends to adopt an incomplete Blueprint update during the October 26, 2023 Board meeting, and to move forward immediately with vaguely defined alternative pathways in dozens of vaguely defined communities, we reiterate our prior request that CARB develop a separate, comprehensive plan of the several additional actions that will be necessary to ensure consistent, collaborative and data-driven implementation of AB 617 over the next five-year phase of the program. These actions should include post-adoption revisions to Blueprint 2.0, which are addressed in our July 31, 2023 comments on the first draft of Blueprint 2.0, and in the following comments on the revised draft. We further request that this plan be presented to the Board during the October 26, 2023 Board meeting in the form of a resolution committing staff to completing these actions at the earliest possible date.

Blueprint 2.0's description of statutory requirements is incomplete and inconsistent and must be revised to minimize confusion and promote trust and collaboration among stakeholders.

The statutory provisions that enable the Community Air Protection Program are critical to ensure plans and actions to reduce emissions in communities are feasible, effective, and durable. Since there is no regulation that implements every statutory requirement for the Program, citing and reiterating key statutory provisions in Blueprint 2.0 is vital for the public to have a common understanding of the requirements the Legislature mandated for the program. Blueprint 2.0 attempts to do this, but in some instances either leaves out key statutory requirements or the narrative summary actually conflicts with the applicable statutory requirements. For example, in the context of reviewing a final CERP, Blueprint 2.0 "recognizes that the CSC may formulate actions that are not focused on emissions or exposure reductions" and that "not all CERP Actions will result in quantifiable emission reduction targets." These statements conflict with the statutory requirement for CERPs to achieve emission reductions that are based on emission reduction targets, as specified in Health and Safety Code sections 44391.2(c)(2)(A), 44391.2(c)(3), and 44391.2(c)(5)). These mixed messages increase the potential for confusion among program stakeholders about what the law requires, which will undermine trust and collaboration among communities, agencies and regulated entities.

To address this concern, we recommend that all of the core statutory provisions should be grouped and summarized in a prominent location in Blueprint 2.0. This approach is particularly important for the section on CERPs (starting on page 79) which are the key program deliverable and are subject to prescriptive statutory requirements. We recommend that CARB subdivide these requirements into three sections: 1) CERP development, 2) CERP adoption, and 3) CERP implementation, as indicated in the attachment to these comments. The underlined text denotes important statutory provisions that are omitted from the final draft of Blueprint 2.0, but which should be included in the final Blueprint 2.0.

CARB's proposed reliance on L-CERPs for Consistently Nominated Communities risks increasing community dissatisfaction with the program.

The applicable statutes - AB 617, AB 197, and AB 1749 - provide no authority for L-CERPs and the process and expectations for L-CERPs remain unclear. We recommend that CARB consider streamlining the current CERP process in lieu of transitioning to L-CERPs, or at a minimum, specify how L-CERPs should be developed and implemented pursuant to the statutory requirements for CERPs.

1. The Community Air Protection Program statutes do not authorize the proposed L-CERP approach.

Blueprint 2.0 envisions that recipients of Community Air Grants will have the flexibility to develop L-CERPs. This vision is inconsistent with the stated purpose of Community Air Grants (CAGs). CAGs are intended for "technical assistance and to support community participation in the implementation of this section (H&SC § 44391.2) and section 42705.5" (H&SC § 44391.2(d)). The proposed L-CERP pathway reaches well beyond "technical assistance," and the L-CERP concept described in the final draft of Blueprint 2.0 would conflict with the requirements of H&SC § 44391.2 or H&SC § 42705.5. H&SC § 44391.2 describes the requirements for CARB to develop the statewide strategy, to annually select communities for CERP development, and to develop, approve, and implement CERPs. It does

not define L-CERPs, nor does it define the minimum requirements of an L-CERP. The lack of statutory foundation for L-CERPs is acknowledged in Blueprint 2.0 by virtue of the language on page 68 differentiating an L-CERP from a statutory CERP. H&SC § 42705.5 establishes the requirements for developing a community air monitoring plan and the annual selection of communities to deploy community air monitoring systems. It does not define L-CERPs, nor does it define the minimum requirements of an L-CERP. We see nothing in the relevant statutes that explicitly or implicitly authorizes the use of CAGs to develop L-CERPs.

2. The L-CERP process lacks transparency and accountability.

Notwithstanding the lack of statutory authority for L-CERPs described above, the process for developing, approving, and implementing L-CERPs remains unclear. The final draft of Blueprint 2.0 provides only the following limited description of L-CERPs.

- L-CERPs are a set of priority actions to improve local air quality.
- L-CERPs are developed and implemented by a Community Air Grantee.
- L-CERPs are not required to be adopted or approved by an air district board or the CARB Board.
- CAG recipients are strongly encouraged, but not required, to partner and coordinate with local air districts to support L-CERP implementation and evaluate the feasibility of proposed L-CERP actions.

This description does not provide sufficient clarity on how the L-CERP approach will be implemented and raises multiple questions and concerns. For example, unlike statutory CERPs, L-CERPs lack specific stakeholder engagement requirements, which may result in the exclusion of other stakeholder perspectives, including segments of the subject community, and increase disagreement among stakeholders on priority actions. It is also unclear how CARB and air districts would respond to multiple applications for CAGs seeking to develop L-CERPs for the same community. If CARB intends to extend program resources to all communities on the Consistently Nominated Communities list, then it will be necessary to limit the number and type of CAGs that can be funded for individual communities. CARB must have an objective basis for making these decisions. Otherwise, it invites new criticisms and accusations of bias from both existing and candidate communities, which will sow further discontent with the program.

Air Districts and CARB, which have rulemaking authority, play a prominent role in developing, adopting, and implementing statutory CERPs, but the L-CERP concept only “encourages” air district involvement. L-CERPs hold grant recipients, who have no rulemaking authority, responsible for developing and implementing L-CERP actions. While we appreciate the project examples provided by CARB on pages 68 and 69, the type and scope of emission reduction actions envisioned for L-CERPs remains largely undefined. Presumably, in the absence of direct involvement by the relevant regulatory authorities, any potential actions implemented under an L-CERP would need to be voluntary in nature. If this is the intention, then Blueprint 2.0 should clarify this expectation. Alternatively, if CARB intends for L-CERPs to include actions that would otherwise require discretionary decisions by government bodies, then it is encouraging the misuse of L-CERPs to bypass statutory requirements for development, adoption, and implementation of CERPs, including but not limited to how sources are identified and prioritized for emissions reduction measures, the

range of stakeholders that need to be consulted, and selection of cost-effective emission reduction measures.

CERPs are required to be developed along specified timelines, but we see no such requirement for L-CERPs. We understand that timelines and other requirements may be included as conditions for CAG applications, but the process for enforcing such grant conditions is not defined. Furthermore, the final draft of Blueprint 2.0 does not propose any mechanisms to ensure public transparency and accountability regarding the use of grant funds.

3. Streamlining the current CERP process in lieu of L-CERPs.

Blueprint 2.0 deviates from the framework envisioned in statute by proposing new pathways for emission reductions, including L-CERPs, for the stated reasons of “relatively flat funding levels and the resource-intensive approach of multi-year CAMP and CERP called for in the 2018 Program Blueprint.” We maintain that this approach is misguided. While L-CERPs may be one way to address resource limitations and empower communities, it lacks statutory authority and transparency and is not defined in terms of process or stakeholder expectations, all of which jeopardizes the fundamental purpose of the AB 617 program – to achieve emissions reductions in overburdened communities.

Rather than deviating from the approach envisioned in statute, Blueprint 2.0 should focus on addressing the resource problem. The 19 existing communities continue to draw heavily on program resources, regardless of progress to date, and despite the fact that the statute does not envision perpetual commitments to selected communities. The purpose of requiring CERPs to have emission reduction targets, specific emissions reduction measures, an implementation schedule, and measures for tracking and evaluating progress is to move communities through the program so that resources can be transferred from completed programs to additional communities. Blueprint 2.0 can substantially reduce the program resource burden by emphasizing existing statutory requirements that serve to correctly identify and prioritize sources of emissions (e.g., source apportionment, H&SC § 44391.2(b)(2)) and removing pathways to open-ended commitments, such as opportunities to identify new air quality issues late in the CERP implementation process. While further exploratory efforts may be beneficial for these communities, they do not need to be funded and administered through the Community Air Protection program. Finally, Community Air Protection Program stakeholders should work together to secure adequate and sustainable funding for the next five-year phase of program implementation.

The success of the Community Air Protection Program hinges on a transparent and community-centric process that achieves meaningful and durable emissions reductions. Streamlining the existing approach established under the 2018 Program Blueprint and securing adequate program funding would achieve these goals without violating the intent or the specific requirements of the applicable statutes.

Additional Comments on Proposed Changes in the Final Draft

- **Goal 5 - Online Dashboard (page 16)** - We support increased transparency in all aspects of program implementation, including the proposed addition of an online dashboard to track Program and CERP progress.
- **Statewide Mobile Monitoring initiative (page 17)** - Ambient monitoring, including both fixed location monitors and mobile monitors, can be influenced by factors unrelated to target sources, including but not limited to emissions from other stationary, mobile and transitory sources, changes in local meteorology, and the precision and accuracy of the selected technology. For these reasons, the mobile monitoring initiative should only be used as a screening tool to identify areas or sources that may merit further investigation.
- **Goal 7 - L-CERP Case Study (page 19)** - The proposed case study should help inform whether the L-CERP concept is viable as a statewide strategy for the Consistently Nominated Communities. Thus, it is premature for CARB to establish L-CERPs as a cornerstone pathway for the next phase of the program.
- **Consistently Nominated Communities List (page 35)** - This language indicates that nominations by community-based organizations and community nominations are part of the basis for the Consistently Nominated Communities List, but it is unclear whether these self-nominations are subject to the same level of scrutiny as communities nominated by air districts. In particular, proposed Appendix C requires air districts to develop a detailed community profile to support a new community nomination but does not specify such requirements for community self-nominations. As noted above, CARB must have an objective and transparent basis for allocating resources to candidate communities, starting with a consistent means of defining preliminary community boundaries and characterizing community air quality burdens.
- **Example of Air District, CSC and Business Collaboration (page 42)** – We appreciate the inclusion of an example that involves collaboration with business representatives, which is consistent with the intent of the statute and the shared interest in achieving meaningful, sustainable emissions reductions in impacted communities.
- **Collaboration with OEHHA (page 43)** – This section is misleading in several respects and should be either clarified or redrafted. First, OEHHA partners with the Department of Public Health to implement the biomonitoring program, not the Department of Toxic Substances Control (unless CARB is referring to specific biomonitoring projects involving DTSC, which it does not specify). Second, CalEnviroScreen is not a quantitative cumulative impacts assessment tool. At best, it might have some utility as a means of prioritizing allocation of program resources among communities that are otherwise eligible by virtue of their air quality burdens. Third, CARB should provide additional information and opportunities for public engagement on development of the "comprehensive guide for implementing community science projects." As has been repeatedly acknowledged during AB 617 Consultation Group discussions, linking specific emissions and exposure reduction measures to changes in public health outcomes at the community level is a long-term goal that is likely to reach well beyond the timeframes CARB envisions for completing CERPs. This prospect is even more nebulous for one-time projects funded through CAP incentives. Finally, CARB does not discuss OEHHA's ability to provide the services envisioned in this section relative to its existing budget and resource commitments.

- **Purpose of Incentives and Potential Applicants (page 64)** - Consistent with the bifurcated program implementation scheme in Blueprint 2.0, CARB should differentiate eligibility requirements for various incentive funding sources between conventionally designated AB 617 communities and the communities on the Consistently Nominated Communities list. This information would help inform the availability of AB 617 funding or other sources of funding for projects in both community categories.
- **Community Boundaries (page 66)** – We agree with CARB's statement that "approximating the locations of these communities is essential so that other programs and potential partners can more easily identify a geographic area as a starting point to direct resources and support local communities."
- **L-CERPs (page 68)** - We appreciate the additional clarification on how an L-CERP differs from a conventional CERP, and examples of the types of projects that CARB envisions being undertaken through an L-CERP. Consistent with the Legal Foundation section, we recommend that CARB include additional language in this section that more clearly differentiates the example projects, which are voluntary in nature, from regulatory measures affecting specific sources and emphasizing that the latter must be developed and implemented by the appropriate regulatory authority.
- **Environmental Compliants (page 70)** - Complaints may not always relate to actual air quality violations. This new section should also state that CARB and air districts will evaluate and validate complaints before allocating program resources to enforcement or regulatory actions.
- **Removal of References to 2018 Blueprint (page 79)** - Removing all references to the 2018 Blueprint and substituting new appendices that provide skeletal checklists in lieu of the more detailed guidance provided in the 2018 appendices reduces transparency and increases the likelihood of inconsistent program implementation across all existing and newly added communities.
- **CERP Revisions and Realignment (page 88)** – We appreciate the additional clarification regarding the role of monitoring data in informing refinements to CERPs, especially in cases where CERPs were developed in tandem with CAMPs. Among other possibilities, focused community monitoring data may indicate the need for refinement of CERP measures that were based on regional and sector-level emissions inventory data.
- **CERP Fifth Annual Report (page 95)** – We support the newly added language stating that any new air quality issues arising in the community should be addressed through a separate process. This messaging will help reduce the likelihood of open-ended timeframes for CERPs and allow CARB and the air districts to transition resources to other deserving communities.
- **Transition of Air District Role After Five Years (page 96)** - It is unclear how this language will help expedite completion of CERPs. On the contrary, the example provided suggests limiting air district and CARB participation in the CERP implementation process, which would sacrifice transparency, agency oversight, and potentially business participation. As we discuss above, a

more effective means of extending the reach of program resources is to streamline the existing CERP process to achieve target emissions reductions in the shortest possible timeframe.

Thank you for considering our comments, and we look forward to working with CARB to develop the several program guidance elements that are lacking in the final draft of Blueprint 2.0. If you have any questions, please contact Rob Spiegel, Vice President of Government Affairs, California Manufacturers & Technology Association at (916) 498-3340 or rspiegel@cmta.net.

Sincerely,

African American Farmers of California
Agricultural Council of California
American Pistachio Growers
California Alliance of Small Business Associations
California Asphalt Pavement Association
California Association of Winegrape Growers
California Business Properties Association
California Chamber of Commerce
California Construction and Industrial Materials Association
California Cotton Ginners and Growers Association
California Fuels & Convenience Alliance
California Manufacturers & Technology Association
California Metals Coalition
Central Valley BizFed
Coastal Energy Alliance
Construction Industry Air Quality Coalition
Council of Business and Industry West Contra Costa County
Greater Coachella Valley Chamber
Industrial Association of Contra Costa County
Industrial Environmental Association
Industrial Warehouse Logistics Association
Inland Empire Economic Partnership
Kern Citizens for Energy
Kern Tax
Long Beach Area Chamber of Commerce
Los Angeles County Business Federation
Manufacturers Council of the Central Valley
Milk Producers Council
NAIOP California
Nisei Farmers League
San Gabriel Valley Economic Partnership
Valley Industry & Commerce Association
Western Agricultural Processors Association
Western Independent Refiners Association
Western States Petroleum Association

cc: Liane Randolph – CARB Chair
CARB Board Members
Steve Cliff – Executive Officer, CARB
Chanel Fletcher – Deputy Executive Officer, CARB
Leah Asay – OCAP

Appendix

Statutory Requirements for CERPs

The discussion of statutory requirements for Community Emission Reduction Plans (CERPs) in Blueprint 2.0 should be subdivided in the following manner and placed in the relevant section of the document (starting at page 79). The underlined text denotes important statutory provisions that the final draft of Blueprint 2.0 does not discuss, but which should be included in the final Blueprint 2.0.

1. Developing CERPs:

- CERPs shall achieve emissions reductions for the selected community using cost-effective measures (Health and Safety Code section 44391.2(c)(2)(A))
- CERPs shall be consistent with the statewide strategy (H&SC §44391.2(c)(3)), including criteria for developing CERPs:
 - Assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants that prioritizes disadvantaged communities and sensitive receptor locations (H&SC § 44391.2(b)(1)).
 - A methodology for assessing and identifying the contributing sources or categories of sources and an estimate of their relative contribution (H&SC § 44391.2(b)(2)).
 - An assessment of whether a district should update and implement the risk reduction audit and emissions reduction plan developed for any facility to achieve emissions reductions commensurate with its relative contribution, if the facility's emissions either cause or significantly contribute to a material impact on a sensitive receptor location or disadvantaged community. (H&SC § 44391.2(b)(3)).
 - An assessment of the existing and available measures for reducing emissions from the contributing sources or categories of sources identified pursuant to paragraph (2), including, but not limited to, BACT, BARCT, and TBACT. (H&SC § 44391.2(b)(4)).
- CERPs shall include emission reduction targets, specific reduction measures, a schedule for implementation of measures, and an enforcement plan (H&SC § 44391.2(c)(3)).
- CERPs shall result in emissions reductions in the community, based on monitoring or other data (H&SC § 44931.2(c)(5)).

2. Adopting CERPs:

- Districts shall adopt a CERP within one year of state board selecting the community (H&SC § 44391.2(c)(2)(A)).
 - Districts, with the agreement of the state board and a majority of the persons who are designated by the district to participate in the development and adoption of the CERP, may take up to one additional year (H&SC § 44391.2(c)(2)(B)).
- Districts shall consult with the state board, individuals, community-based organizations, affected sources, and local governmental bodies in the affected community (H&SC § 44391.2(c)(2)(A)).

3. Implementing CERPs:

- The district and the state board shall be responsible for measures consistent with their respective authorities (H&SC § 44391.2(c)(6)).
- The district shall prepare an annual report summarize results and actions to further reduce emission pursuant to the CERP and updates to the CERP to ensure consistency with the Blueprint (H&SC § 44391.2(c)(7)).
- The CERP shall be enforceable by the district and state board, as applicable (H&SC § 44391.2(c)(8)).