



August 1, 2019

VIA ELECTRONIC MAIL

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: CEJA Comments on the July 17, 2019 Proposed Regulations for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, and Request to Bring Rule Back to Board

To the California Air Resources Board:

The California Environmental Justice Alliance (“CEJA”) respectfully submits these comments describing our concerns related to the most recent July 17, 2019 Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants. CEJA represents grassroots community-based organizations and members working to advance environmental justice in state policy. Our members work across California in low-income communities and communities of color that are disproportionately burdened by air pollution and suffer from severe negative health impacts. Transparency and information is a critical step for communities like ours that overburdened by pollution to receive the help that they need.

The July 17, 2019, amendments proposed removal of an entire category of sources from the regulation. This proposal is inconsistent with the direction from the Board and with the purpose of AB 617. As such, we urge CARB to not remove an entire category of sources, but rather to work to develop an inventory to more comprehensively include all sources consistent with the intent of AB 617.

AB 197 required increased availability of toxic air contaminant emission information by requiring CARB to add toxic air contaminant information to its emission visualization tool.¹ The purpose of this increased transparency was in part based on the Legislature’s recognition that “[t]ransparency and accountability... are essential to ensuring the state’s actions are done in a

¹ Cal. Health & Safety Code § 38531(a)(2).

fashion that is protective and mindful of the effects on the state’s most disadvantaged communities.”²

AB 617 enhanced those mandates by requiring CARB to develop a uniform system for reporting toxic air contaminants and criteria pollutants.³ AB 617 further requires “[a]n assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants.”⁴ This assessment is not limited to only large stationary sources. Rather, AB 617 explicitly requires an evaluation of *all* contributing sources, stating that the state strategy shall include: “[a] methodology for assessing and identifying the contributing sources or categories of sources, including, but not limited to, stationary and mobile sources, and an estimate of their relative contribution.”⁵ In other words, in AB 617, the Legislature required CARB to develop a methodology to consider toxic air emissions from sources beyond those that qualify under the definition of stationary sources. This broad language is consistent with the overall purpose of AB 617, which is to reduce emissions in the most overburdened communities. Visibility and transparency about what sources are emitting the pollutants is a critical step for any plan for reducing emissions.

Last year, CARB’s proposed emission reporting rule pursuant to AB 617 included a fourth reporting criterion for emissions from sources in communities selected for the Community Emission Reduction Program. The CARB Board recognized that the actual structure of the Fourth Criterion may need to be refined. As such, CARB Board Resolution 18-57 stated:

To better satisfy the public health and air-quality reporting objectives of AB 197 and AB 617, and CARB’s other air quality mandates, further analysis and refinement of the structure and scope of the Fourth Applicability Criterion by CARB staff may be warranted, potentially including an emissions or toxicity-based threshold for reporting, and/or sources beyond immediate community boundaries emitting above this threshold, and CARB staff should explore this issue with stakeholders.

The Board’s Resolution directed CARB to consider “modifications” to the Fourth Applicability Criterion “in order to best satisfy the public health and air-quality reporting objectives of AB 197 and AB 617.” The Board’s Resolution further required CARB “in the future, to pursue expansion of the applicability requirements of the proposed CTR Regulation to include all permitted stationary sources statewide to support AB 197 and AB 617 mandates.” In other words, the Board’s Resolution gave permission for CARB to *expand* the scope of the Fourth Applicability Criterion and specifically required CARB to expand the scope of the regulation in the future.

The Staff’s July 17, 2019 proposal to completely remove the Fourth Applicability Criterion is directly inconsistent with the Board’s Resolution. CARB acts under the “direction and control” of the Board,⁶ and therefore, CARB does not have the authority to act inconsistent

² AB 197, Section 1.

³ Cal. Health & Safety Code § 39607.1.

⁴ Cal. Health & Safety Code § 44391.2(b)(1).

⁵ Cal. Health & Safety Code § 44391.2(b)(2).

⁶ Cal. Health & Safety Code § 39515(b).

with the Board's direction. CARB should not make such a significant change in a 15-day Rulemaking, and CARB should not act beyond the authority it was delegated in the Board's Resolution. In addition, removing the Fourth Criterion is inconsistent with AB 617's requirement for a state strategy to assess the contribution from all sources, not limited to a subset of stationary sources.

For these reasons, we request CARB to take the following steps:

1. Develop a regulation consistent with the intent of AB 617; and
2. Bring this issue back before the Board with a description of how it intends to comply with the Board's Resolution to expand the regulation to include more sources.

Thank you for your attention to this important issue. If you have any questions about this letter, please contact Mad Stano at mad@caleja.org.

Sincerely,

Mad Stano,
Program Director
California Environmental Justice Alliance