



July 23, 2018

California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: CEJA Comments on Draft Community Air Protection Blueprint

To the California Air Resources Board:

The California Environmental Justice Alliance (CEJA) respectfully submits these comments regarding the Draft Community Air Protection Blueprint (Draft Blueprint) released in June 2018.

CEJA is a statewide coalition of grassroots community-based organizations 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 the severe negative health impacts.

Our communities are breathing some of the most polluted air in California and the U.S.¹ and are bearing the health, social, and economic costs. The core purpose and intent of Assembly Bill (AB) 617 is to produce real, significant emissions reductions and better air in our neighborhoods – this is the most important bottomline requirement for the Community Air Protection Program overall. We are committed to engaging collaboratively with California Air Resources Board (CARB) staff and the Governing Board to accomplish this, not just for our communities, but also for the many, many others across the state that share the burdens of dirty, polluted air.

We appreciate the work of CARB staff to develop this Draft Blueprint, and we are pleased to see some of our previous recommendations reflected in it. We offer the following comments to supplement our previous comments submitted in March 2018 and October 2017. In addition, we agree with and support comments submitted by our member and partner organizations.

¹ "California Metropolitan Areas among Top Ten most impacted by air pollution in the US" from American Lung Association 2018 State of the Air report: http://www.lung.org/local-content/california/documents/state-of-the-air/2018/sota-2018_ca_most-polluted.pdf

SUMMARY OF KEY COMMENTS

1. As stated above and throughout our comments, our interest in AB 617 and the Community Air Protection Program (Program) is to achieve substantial emissions reductions and better air quality in communities disproportionately impacted by air pollution. This is the bottomline purpose of the legislation and the Program. In these comments, we discuss and recommend specific regulatory measures to reduce emissions from particular sources because these have been identified by residents in the communities we work with as high priority measures to address the pollution in their neighborhoods. These measures are not intended to constitute a comprehensive list of strategies or actions to be taken, and we strongly urge and support the development of additional rules and regulations by CARB and air districts to reduce emissions.

Further, we point out that the comments in this document are not organized in order of priority, and our comments on aspects of the Program design and processes are aimed at ensuring effective implementation, community participation and decision-making, and CARB oversight authority over the Program and air districts in order to accomplish the ultimate objective of emissions reductions.

2. To ensure that Community Emissions Reduction Programs (CERPs) result in significant emissions reductions, we strongly recommend that CARB **require the following minimum baseline standards for all CERPs:**
 - a. Substantial, quantifiable annual emissions reductions above and beyond what is already required by existing law and regulations and no net increase in total emissions.
 - b. The content of CERPs, especially the strategies to reduce emissions and exposure within them, must reflect priorities identified by community residents, as documented through authentic, meaningful outreach and engagement processes.
 - c. CERPs and the strategies to reduce emissions and exposure within them should assess and address all significant mobile, stationary, indirect and other area emissions sources.
3. CARB must exercise its authority to **provide oversight over CERPs and hold air districts accountable for meeting their specified metrics and timelines.**
 - a. CARB should use our recommended minimum substantive baseline requirements for all CERPs as requirements to be approved.
 - b. For CERP approval, CARB should define the public review and approval process. At minimum, the CERP should be presented and decided on in a public CARB Governing Board meeting, and the public should be given the opportunity to comment. CARB staff should present the recommendation related to approval of the CERP with a written explanation that clearly evaluates how the CERP meets requirements. CARB should consider using a scoring system or rubric to make the decision clear, objective, and transparent.
 - c. For annual review, CARB should provide written evaluation of whether a CERP is meeting its requirements.

- d. If a CERP does not meet its annual metrics, CARB should provide a process to consider what steps to take to ensure that the CERP meets the timeline as soon as possible. CARB should evaluate options in a public process, and the options should include CARB stepping in.² CARB should also consider enforcement and penalty options, including withholding relevant funds from an air district that is not meeting its requirements.
4. Strategies to reduce emissions and exposure should **include statewide actions developed and implemented by CARB, as well as actions prescribed by CARB to be implemented by air districts.**
- a. We recommend additional specific statewide strategies for CARB to act on.
 - b. We also recommend that CARB prescribe specific emission reduction measures for air districts to implement based on the pollution sources in their areas.

I. COMMUNITY SELECTION

- A. We recommend that CARB lay out a **clear and specific process for how the assessment will be used to compare communities and how the decision will be made to recommend communities for selection.** Appendix B of the Draft Blueprint describes a three-step process to identify, assess, and select communities, with six assessment factors and numerous additional considerations to be used in the selection process,³ but the actual method of comparing communities to each other and the rationale for how CARB staff will actually decide which communities to recommend for selection remain unclear. The Draft Blueprint states that “CARB will release [its] assessment [of all identified potential communities] in summer 2018” and that “CARB staff will develop recommendations on the selection of communities.”⁴

To provide clarity and objectivity, we request that CARB lay out a clear and specific process for how the assessment will be used to compare communities and how exactly staff will decide which communities to recommend for selection. As we have stated in our previous comments, the comparison should be based on objective data and be transparent so as to leave no question or doubt as to how and why communities have been selected or will be selected in the future. Potential examples of an objective decision-making process are a simple point system or a weighted scoring rubric such as that in CalEnviroScreen.

- B. We request that CARB **include community representatives and a public process for the research consortium.** We appreciate that “CARB and the Department of Toxic Substances Control (DTSC) are contracting with a consortium of researchers to provide analytical support to

² Consistent with Cal. Health & Safety Code Sec. 39002.

³ Draft Blueprint, Appendix B.

⁴ Draft Blueprint, p. 11-12.

identify appropriate datasets and to develop novel indicators that can be integrated into existing cumulative impacts screening approaches such as CalEnviroScreen.”⁵ We recommend that community representatives be included in this consortium to provide input on research questions and goals and that this research be made available to the public. CARB should hold public meetings to present the research plan and questions and gather input and clearly explain how the results will be used in the community selection process.

- C. We recommend that CARB **clearly identify other communities to be targeted and define actions and timelines**. We appreciate that, in addition to providing the selection of communities for community emissions reduction programs and monitoring, CARB plans to “also include a description of near-term actions to be taken in communities not yet selected, to underscore efforts to reduce emissions and exposure in all heavily impacted communities.”⁶ In this description, the communities to be targeted should be clearly identified, as should the actions to be taken and timelines.
- D. We request that CARB strive to **minimize competition between communities and support community capacity-building and collaboration**. A clear objective process for choosing communities, as described above, will help to better ensure fairness among communities.
- E. **Meaningfully consider rural pollution from agricultural, dairy, and livestock operations**. While we appreciate CARB’s inclusion of rural sources of pollution as additional considerations in recommending communities to be selected in the first year of the program, we request that CARB do more to ensure that emissions from agricultural, dairy and livestock operations are meaningfully assessed and define specific data sources to be included in technical assessments.

In California, agriculture accounts for a significant portion of both greenhouse and air pollution emissions, including from fertilizer use, pesticide use, livestock enteric fermentation and manure⁷ and is of particular concern in rural regions. Agriculture’s contribution to air pollution is, of course, even greater in regions of the state that contain the majority of irrigated agriculture and livestock operations. Agriculture also accounts for the majority of nitrous oxide emissions in California, primarily from fertilizer and manure added to the soil.⁸ Ammonia emissions are also of particular concern due to their propensity to react with other emissions in the atmosphere to create particulate matter (PM).⁹ Some estimates suggest that ammonia may

⁵ Draft Blueprint, Appendix B, p. 7-8.

⁶ Draft Blueprint, Appendix B, p. 10.

⁷ <https://www.arb.ca.gov/cc/inventory/background/ch4.htm>; INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS: 1990–2016, EPA Ch. 5, 5-1 (2018), https://www.epa.gov/sites/production/files/2018-01/documents/2018_chapter_5_agriculture.pdf.; Zifei Liu et al., *Ammonia and Methane Emission Factors from Cattle Operations Expressed as Losses of Dietary Nutrients or Energy*, 3 AGRICULTURE 1, 1 (Feb. 23, 2017).

⁸ <https://www.arb.ca.gov/cc/inventory/background/n2o.htm>

⁹ *Air Emission Sources*, EPA, <https://www.epa.gov/air-emissions-inventories/air-emissions-sources> (last visited Apr. 27, 2018).

increase by 15 percent by 2030.¹⁰ In an estimated Ammonia Emissions Inventory conducted by CARB in 2000, cattle accounted for 32 percent of the state's ammonia emissions. In that same inventory, the San Joaquin Valley accounted for more than half of the state's beef and dairy ammonia emissions.¹¹ The San Joaquin Valley air basin is currently in nonattainment for PM 2.5 and eight-hour Ozone under federal standards.¹²

Rural sources of pollution coupled with additional criteria air pollutants and toxic air contaminants exacerbate public and environmental health hazards in already overburdened communities. In order to uphold the intent of AB 617, CARB must seek to ensure that contributing sources of pollution from irrigated agricultural, dairy, and livestock operations are incorporated in technical assessments by both air district and CARB staff.

II. CRITERIA AND REQUIREMENTS FOR COMMUNITY EMISSIONS REDUCTION PROGRAMS

- A. We appreciate the criteria and requirements for CERPs as described in Appendix C of the Draft Blueprint, and we agree that CERP emissions reduction targets should be "quantitative, specific, and measurable."¹³ As in our previous comments, we strongly recommend adding the following specific minimum baseline metrics as enforceable requirements for all CERPs.
 1. All CERPs should result in **substantial and quantifiable annual reductions that are above and beyond what is already required by existing law and regulations and ensure no net increase** in criteria air pollutant and toxic air contaminant emissions.
 - a. *Substantial, quantifiable annual reductions and no net increase in emissions* - AB 617 clearly states that "[t]he programs shall result in emission reductions in the community, based on monitoring or other data."¹⁴ CERPs must result in substantial emissions below existing levels. In the absence of monitoring data, CERPs should at least ensure no net increase in criteria or toxic emissions.¹⁵
 - b. *Require that CERPs result in emissions reductions each year.* We appreciate the inclusion of the implementation schedule in the CERP criteria and the five-year timeframe with immediate and three-year milestones.¹⁶ To ensure immediate

¹⁰ Alyssa M. McQuilling & Peter J. Adams, *Modeling Livestock ammonia Emissions in the United States: From Farms to Emissions to Particulate Matter*, CTR. FOR ATMOSPHERIC PARTICLE STUDIES 1 (2015), <https://www.epa.gov/sites/production/files/2015-09/documents/mcquilling.pdf>.

¹¹ Dr. Michael T. Benjamin, *Estimating Ammonia Emissions in California*, CARB (Sept. 28, 2000) (PowerPoint presentation).

¹² *Ambient Air Quality Standards & Valley Attainment Status*, SAN JOAQUIN VALLEY AIR POLLUTION CONT. DIST., <http://www.valleyair.org/aqinfo/attainment.htm>

¹³ Draft Blueprint, Appendix C, p. 13.

¹⁴ Cal. Health & Safety Code Sec. 44391.2(c)(5).

¹⁵ This is consistent with the mandates in Cal. Health & Safety Code Sec. 38570(b).

¹⁶ Draft Blueprint Appendix C.

emissions reductions and progress on a strict timeline, CARB should require air districts to demonstrate measurable reductions attributable to CERPs every year in their annual reports on implementation progress.

- c. Emissions reductions attributed to CERPs should be *above and beyond reductions already required by existing law and regulations*. This should be a bare minimum requirement of AB 617 implementation. CARB should clearly state that meeting existing standards and/or maintaining current programs within air districts is not sufficient to meet the mandates of AB 617. Many areas in the state are not in attainment of Clean Air Act standards; AB 617 should provide emissions reductions and improvements in air quality that meet and exceed Clean Air Act standards.
2. CERPs and the measures within them should be **consistent with priorities identified by community residents** through documented outreach and engagement processes.
3. All CERPs should include **actionable metrics and timeframes for reductions from each significant stationary, mobile, indirect, and area source** of criteria or toxic emissions in the selected communities.

These minimum requirements are consistent with AB 617 as well as Senate Bill (SB) 856, which was approved by the Governor on June 27, 2018 and provides incentive funding for early actions to complement the implementation of the Community Air Protection Program. Importantly, SB 856 specifically requires the following:

“As such, the funds shall be allocated for projects that are intended to benefit communities that the State Air Resources Board has selected or is considering for selection in future years pursuant that section.

(a) Funds shall be allocated to projects consistent with priorities identified by the affected community in a transparent, meaningful public process.

(b) Funds shall only be allocated to projects that will provide emission reductions that are in excess of those otherwise required by law or regulation.”¹⁷

SB 856 also ties the incentive funding to “the rules and regulatory requirements that the State Air Resources Board and air districts have established or are in the process of developing to reduce or mitigate emissions from mobile and stationary sources in affected communities pursuant to Section 44391.2 of the Health and Safety Code.”¹⁸

Thus, consistent with the requirements of AB 617 and the language of SB 856, CARB should

¹⁷ SB 856, Section 36 (approved June 27, 2018).

¹⁸ SB 856, Section 36 (approved June 27, 2018).

clearly define these minimum substantive requirements for all CERPs and require that they spell out, through actions to be taken, timelines, and enforcement mechanisms, how they will meet these metrics. This will provide a level of consistency statewide and provide a clear and transparent way to evaluate all CERPs and the Program overall.

B. Add the health-based goals outlined below for all CERPs in addition to the above recommended minimum standards. We appreciate that health-based air quality objectives and community health indicators are discussed in the Draft Blueprint,¹⁹ but we recommend that CARB include more specific health-based goals as minimum baseline criteria for all CERPs. In Appendix C, the Draft Blueprint states two health-based objectives:

- “Reducing exposure caused by local sources to achieve healthful levels of PM2.5 within the community.
- Maximizing progress on reducing exposure to toxic air contaminants that contribute to the cumulative exposure burden.”²⁰

While we agree with these objectives, we recommend stronger, more specific goals, as the core intent of AB 617 is to improve the health of communities impacted by air pollution.²¹

1. **Establish target cancer and noncancer health hazard goals and timelines for all California communities**, such as those listed below. While the target goals would not have regulatory authority, they would provide concrete and measurable criteria for evaluation of the healthfulness of California’s ambient air.
 - a. Cumulative cancer health risk from ambient air no higher than 100/million at any residence, park, or school, by 2025, including cancer risk attributable to diesel exhaust. Define “residence” to include publicly accessible locations where homeless people may sleep or spend time.
 - b. Cumulative cancer health risk from ambient air no higher than 50/million at any residence, park, or school, by 2030.
 - c. Cumulative noncancer health risk from ambient air no higher than 3 at any residence, park or school, by 2025.
 - d. Cumulative noncancer health risk from ambient air no higher than 1 at any residence, park, or school, by 2030.

¹⁹ Draft Blueprint, Appendix C, p. 4-5, and Appendix F, p. 26-27.

²⁰ Draft Blueprint Appendix C, p. 5.

²¹ Assembly Floor Analysis p. 9 (July 14, 2018); Senate Floor Analysis p. 12 (July 13, 2017); Senate Committee on Environmental Quality Analysis p. 11-12 (July 17, 2017).

2. Ensure that CERPs contain **new, additional strategies to meet state and federal ambient air quality standards for criteria pollutants at sensitive receptors.**
 3. Ensure that CERPs contain **new, additional strategies to reduce exposure to toxic air contaminants at sensitive receptors.**
- C. In addition, we recommend that CARB take the following actions to complement and further the health-based goals above:

1. **Track progress towards meeting the above health-based goals** using an emissions inventory and modeling approach similar to the one used by South Coast Air Quality Management District (SCAQMD) in its Multiple Air Toxics Exposure Study IV (MATES IV) of health risks of ambient air in Los Angeles, to be updated at least every three years using the most current Office of Environmental Health Hazard Assessment (OEHHA) methodology for assessing health risks from toxic air contaminants.

Although CEJA recommends a methodology such as the MATES, we do not endorse all aspects of it. For instance, we note that communities such as the Eastern Coachella Valley were not included, and we strongly recommend that all communities be included in the emissions inventory and modeling.

2. **Make data and maps from these analyses available to the public.** The level of detail should allow residents to identify sources of pollution that contribute to health risks in their communities and to identify the magnitude of the health risk from major sources. Do not use population weighting in reporting results.
3. **Use the results to further inform and develop other criteria and requirements for CERPs.**
4. Establish a **statewide advisory group to continue development of health goals, metrics, and timelines and to assess the progress of AB 617 in reducing health risks** related to air quality in California communities. The group should function similarly to the EPA's Clean Air Scientific Advisory Committee (CASAC), and its purpose, role, and responsibilities should be clearly and explicitly defined. It should include individuals and organizational representatives that work directly in and with communities impacted by heavy air pollution, public health experts including researchers and academics, and community health providers. In addition, we suggest including and collaborating with staff from the OEHHA, Department of Public Health, and Office of Health Equity.

- D. **Ensure that rural pollution from agricultural, dairy, and livestock operations are meaningfully assessed and addressed in CERPs.** As discussed earlier in this comment letter, CARB must do more to ensure that pollution from these sources are included and meaningfully considered. The Draft Blueprint merely mentions rural sources of pollution, including those from agricultural

activities and fugitive dust, as additional considerations in the selection of first year communities²² but does not define how these specific sources will be addressed in CERPs and air monitoring plans. In addition to ensuring inclusion of these sources in technical assessments for year one community selections, CARB must require air districts to conduct air quality monitoring of these sources and enforceable strategies in CERPs to ensure reductions and no increases in any criteria or toxic emissions. CARB should also require the establishment of baseline emissions data from agricultural sources.

III. COMMUNITY STEERING COMMITTEES

- A. While we appreciate the intention of establishing Community Steering Committees to provide a structure and mechanism for community members to meaningfully engage in CERP development and implementation processes, ***we believe that communities, rather than CARB or air districts, should define the structure and process for their engagement.***
- B. Community Steering Committees or alternative structures defined by communities should have **real decision-making authority and a clearly defined role and responsibilities.** We agree with CARB that: “Most importantly, underpinning AB 617 is the understanding that community residents must be active partners in envisioning, developing, and implementing actions to clean up the air in their communities.”²³ To that end, community residents should have a genuine decision-making and oversight role over Community Emissions Reduction Plans (CERPs) in their communities rather than being advisory. To ensure that CERPs reflect and are consistent with the priorities that communities have identified, community approval, through Community Steering Committees or alternative structures, should be a required step in the CERP development and approval process.
- C. **A supermajority of Community Steering Committee members or members of an alternative structure defined by the community should reside in the community.** This will help ensure strong, authentic community representation and participation in the CERP development process.
- D. **Allow Community Steering Committees or alternative structures to define their ongoing role and responsibilities after CERP approval and through the implementation process.** If a selected community decides on an alternative to the Community Steering Committee, the alternative body should define their role and responsibilities for developing and approving the CERP as well as their ongoing review of implementation progress.
- E. **Provide financial and other resources to support community engagement and participation.** We agree that: “Building an effective community emissions reduction program will require

²² Draft Blueprint, p. 12.

²³ Draft Blueprint, p. 2.

consistent and frequent engagement with community members.”²⁴ To facilitate community residents’ participation on Community Steering Committees or an alternative structure, they should be compensated for their time and any associated travel, transportation, or other costs of participation. Attending meetings will require a significant commitment of time, resources, and energy, particularly for working people with families. CARB and air districts should provide assistance to minimize these barriers to participation.

- F. **Provide technical assistance to Community Steering Committees or alternative structures.** This will help ensure that community members have adequate and accessible information to participate meaningfully. While air districts should provide community profiles and technical assessments of pollution sources and potential emission reduction measures, community members should have the ability to request additional information and analyses and to have the information presented in accessible formats. Assistance should include language translation and interpretation as needed.

IV. STRATEGIES TO REDUCE EMISSIONS AND EXPOSURE

As the intent and purpose of AB 617 is to reduce emissions in overburdened communities, the specific strategies to achieve that are of utmost importance. We offer the following comments and recommendations on specific emissions reduction measures that residents in some of the communities we work with have identified as priority measures to reduce emissions from the pollution sources in their neighborhoods. These are not meant to be comprehensive; CARB and air districts have the tools and resources to develop many other new rules and regulations not listed here that would further reduce air pollution and benefit our communities, and we strongly and wholeheartedly urge them to do so.

- A. **Speed up timelines for statewide actions in Appendix F and prioritize implementation in highly burdened communities.** We agree that CARB needs to take action on statewide measures in addition to CERPs as a necessary step to ensure emissions reductions and improved air quality across the state, including communities not selected for CERPs. We appreciate and commend CARB for including specific statewide strategies and upcoming actions in Appendix F, and we are pleased to see some that reflect the priorities in our communities. As described below, we recommend that CARB strengthen some of them, revise its timelines for faster action, and identify highly burdened communities for priority implementation.
 - 1. **Commercial Harbor Craft** - We support the strategy to amend the existing Commercial Harbor Craft regulation to include more stringent in-use and new vessel requirements for both freight-related and passenger vessels, and we also support prioritizing implementation in or near communities with high cumulative exposure burdens. We

²⁴ Draft Blueprint, Appendix C, p. 7.

recommend that CARB provide more clarity on what this prioritized implementation will look like and establish aggressive zero emissions targets and timelines for this measure.

2. Cargo handling equipment - We support this measure to transition cargo handling equipment to zero emissions technology. We recommend that CARB include cargo handling equipment that operates at warehouses, logistics facilities, and similar freight-related facilities, in addition to ports. We urge CARB to consider an earlier timeline for this rule, given that the technology for zero emissions equipment is currently close to full commercialization.
3. Drayage trucks at seaports and railyards - We support this measure to transition drayage trucks to zero emissions technology. We urge CARB to include drayage trucks that serve warehouses, logistics centers, and similar freight related facilities, as well as ports. We believe that the timeline for implementation of this measure could be shortened, given that commercialization of this technology is proceeding rapidly. We support prioritizing implementation in or near communities with high cumulative exposure burdens and request clarity from CARB on what this prioritized implementation process will look like.
4. Reducing idling for all railyard sources - CARB states that this regulatory action will begin development in 2020 and implementation in 2023+.²⁵ We recommend that CARB develop and implement a regulation on this immediately, as there is sufficient information to act on.
5. Reducing emissions from locomotives not preempted under the Clean Air Act - We support required “retrofit, repower, remanufacture, or replacement of freight and passenger locomotives” rather than “a voluntary agreement with the major railroads”²⁶ and recommend immediate implementation in the most highly impacted communities.
6. Chrome plating control measure - We support amending and strengthening the current Airborne Toxic Control Measure (ATCM). Hexavalent chromium is a highly toxic substance, and emissions of even small amounts are a threat to public health. A stronger ATCM is urgently needed, and we urge CARB to set a short timeline for development and implementation of this measure. We urge CARB to require maximum pollution prevention, such as alternatives to hexavalent chromium. We also recommend that T-BACT for hexavalent chromium be as strong as possible and include the option of discontinuation of hexavalent chrome plating in locations in close proximity to homes or schools.

²⁵ Draft Blueprint Appendix F, p. 3.

²⁶ Draft Blueprint Appendix F, p. 4.

7. Heavy-duty on-road and off-road engine in-use testing - We recommend that CARB specify the “selected communities”²⁷ where this will be implemented, prioritizing those with high cumulative burdens from concentrations of heavy-duty truck traffic and goods movement activities.
- B. In addition to the actions described above and in Appendix F, we strongly urge CARB to act on the following statewide strategies:
1. Coordinate with relevant implementing agencies such as the California Energy Commission and California Public Utilities Commission to **ensure that electric vehicle and equipment charging infrastructure support the full transition to zero emission technologies, particularly for medium and heavy-duty trucks and cargo handling equipment, and target implementation in highly impacted communities.** We are encouraged by the proposed statewide strategies to transition to zero emission technologies, as described in Appendix F and discussed in our comments above, as well as recent actions to support and prioritize zero emission technologies, including CARB’s own Community Air Protection Funds Supplement to the Carl Moyer Memorial Air Quality Standards Attainment Program 2017 Guidelines approved in April 2018, Governor Brown’s Zero Emission Vehicle Executive Order, and the language of SB 856. To build on these, CARB should ensure that it works to coordinate and collaborate with other agencies to support necessary and adequate electric vehicle charging infrastructure and prioritize implementation in communities with high cumulative burdens from concentrated truck traffic and goods movement activities.
 2. **Ensure that all AB 617 related activities, funding, and regulatory decisions require zero emission solutions, and ensure that relevant permitting reflects this.** Our communities have been clear and consistent in demanding zero emission solutions only. As the purpose and intent of AB 617 are to uplift overburdened communities, and, as quoted earlier in this comment letter, the language of SB 856 reflects that incentive funds for early actions should be “consistent with priorities identified by the affected community,”²⁸ CARB should uphold this. Requiring zero emission solutions builds upon the prioritization of zero emission technologies in recent actions, including, as mentioned above in this comment letter, CARB’s Community Air Protection Funds Supplement to the Carl Moyer Memorial Air Quality Standards Attainment Program 2017 Guidelines approved in April 2018.

Zero emission technologies are increasingly available to replace transportation sources as well as electric generating resources. These types of technologies should be evaluated as alternatives to the continued use of fossil fuels in all permitting and other

²⁷ Draft Blueprint Appendix F, p. 7.

²⁸ SB 856, Section 36 (approved June 27, 2018).

regulatory decisions. Development of zero emission technologies to replace polluting technologies is an important way to provide communities with a just economic and environmental transition to a healthier, more sustainable future.

3. We continue to support comments submitted by the Center on Race, Poverty, and the Environment and related efforts led by our members to urge CARB to implement a **statewide setback of 2,500 feet around all oil and gas wells**. While some California municipalities have local surface setback requirements between oil and gas development and residences, schools, and other sensitive receptors, they are minimal and inadequate, and there are no such regulations at the state level.

For far too long, low income communities and communities of color, primarily in Los Angeles County and Kern County, have borne the severe health burdens of oil and gas extraction and production in our state. Studies have linked proximity to oil and gas wells to a host of health impacts, including increased risk of asthma and other respiratory illnesses, premature births and high-risk pregnancies, and cancer. Oil and gas extraction produces air toxics, including volatile organic compounds (VOCs) like benzene and formaldehyde, particulate matter (PM), and hydrogen sulfide.

CARB must directly regulate oil and gas operations in our state to adequately and meaningfully address the mandates and intent of AB 617 -- to reduce criteria air pollutants and toxic air contaminants in California's most burdened communities. As mentioned in the letter we submitted to CARB in May 2018, the implementation of a statewide setback for all oil and gas wells in the state is within CARB's legal authority.

4. CEJA supports comments submitted by Communities for a Better Environment regarding statewide and district rules to regulate oil refinery technologies and emissions. These include:
 - a. **Prohibit refinery-level emissions increases.**
 - b. **Begin a plan for at least 80 percent phaseout of oil refineries by 2050.**
5. Land Use and Transportation - We appreciate CARB's consideration of land use and transportation strategies to reduce emissions and exposure in Appendix C, and we agree that "air quality officials have an important role to play as they work with city and county governments."²⁹ We commend CARB for recognizing this and for working to compile resources³⁰ as well as encouraging air districts through CERPs to engage with local agencies that implement and have direct authority over land use and transportation planning and permitting decisions.³¹ CEJA members and partners and

²⁹ Draft Blueprint Appendix C, p. 21.

³⁰ Draft Blueprint Appendix F, p. 19.

³¹ Draft Blueprint Appendix C, p. 21-23.

other organizations have worked for years with local authorities and land use processes to address disproportionate burdens in communities and to transform communities into green zones.³² The progress that community groups have made can be replicated in other communities and applied more broadly, and decisions related to air quality play a critical role in these transformations.

To further support and assist local land use planning efforts, we recommend that CARB take the following additional actions:

- a. We request that CARB **update its *Air Quality and Land Use Handbook* to ensure that it reflects the mandates of AB 617 as well as current tools and recommendations for applying cumulative impacts analysis.** CARB should also require air districts to meaningfully consider and include these tools and recommendations in CERPs.

CARB's updated and additional guidance on utilizing and applying cumulative impacts analysis in land use and transportation planning and permitting should make clear that *cumulative impacts analysis should evaluate the true impacts of continuing to allow harmful pollution in overburdened communities.* Rather than assessing the impacts of a single source, CARB and air districts must consider the cumulative pollution burdens of multiple sources and other related factors in a community. For instance, while an individual facility may not violate its permits or other regulations, it is common in many of our communities for there to be a large number of polluting facilities in the area that produce a cumulative pollution burden.

To reduce the disproportionate and inequitable impacts of these high concentrations of local emissions, CARB should provide guidance on specific strategies to utilize and apply analyses of cumulative pollution burdens. Below is a nonexhaustive list of example strategies.³³

- i. Use CalEnviroScreen indicators to provide an analysis of existing environmental burdens in order to set the baseline conditions and metrics to improve.
- ii. Use an analysis of cumulative pollution burdens in a specific community or census tract(s) to set strict emissions thresholds and deny permits when a potential new facility or expansion of an existing facility would

³² CEJA Green Zones report: <https://caleja.org/wp-content/uploads/2015/09/GREENZONES.2015.30MB.pdf>

³³ CEJA has a forthcoming brown paper on CalEnviroScreen that provides an additional resource on cumulative impacts and suggested applications.

increase total emissions and exceed the threshold for the defined area, even if the region as a whole would not become noncompliant.

- iii. Set strict health-based community or census level exposure thresholds and deny permits when a potential new facility or expansion of an existing facility would increase exposure at sensitive receptors.
 - iv. Update criteria for approving or denying permits to facilities that could increase emissions in communities with high cumulative pollution burdens.
 - v. Include pollution burdens caused by indirect sources, such as increased truck traffic to a facility, in cumulative impacts analysis in applicable communities.
 - vi. Prioritize implementation and/or targeted enforcement activities in areas with high cumulative pollution burdens.
 - vii. Limit new facilities and expansion of existing facilities in close proximity to disadvantaged communities.
 - viii. Echoing our March 2018 comments, explore other ways to limit, oppose, or disincentivize projects that would result in increased emissions in a specified community area. For example, CARB should withhold relevant funding to local jurisdictions that continue to allow new siting and permitting or expansions of incompatible land uses.
- b. We request that CARB **require all CERPs to demonstrate consistency with the goals and intent of SB 1000** (Leyva), passed in 2016. We appreciate CARB's reference to SB 1000 and to our CEJA *SB 1000 Toolkit: Planning for Healthy Communities*,³⁴ and we recommend that CARB ensure that CERPs be consistent with the following aspects of SB 1000:

“(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.

(B) Identify objectives and policies to promote civil engagement in the public decision-making process.

³⁴ Draft Blueprint Appendix C, p. 21, and Appendix F, p. 19.

(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities.³⁵

C. **Require air districts to implement prescribed emission reduction measures.** CARB should provide a list of specific prescriptive strategies to reduce emissions and exposure in selected communities and require air districts to implement them based on the sources located in their jurisdictions. These should be the strongest possible, most stringent measures to ensure the highest possible, most ambitious level of reductions. CARB should specify that air districts begin implementation immediately and not wait for CERPs to be developed and approved.

1. As stated previously in this comment letter, CEJA supports the comments submitted by Communities for a Better Environment recommending that CARB direct air districts to develop and implement the following new rules for refineries:
 - a. **Replace low and medium efficiency refinery boilers & heaters, add retrofits, and improve maintenance** (achieves NO_x, SO_x, GHG reductions, more).
 - b. **Require best catalytic cracking unit PM and PM precursor (SO_x, NO_x) control technology (e.g., wet scrubbers) at all refineries.**
 - c. **Prohibit air districts from granting in-basin particulate matter (PM) pollution trading credits and instead require PM emissions limits and reductions.**
2. CARB should **provide guidance and support to air districts to develop and implement new rules to regulate indirect sources.** Our March 2018 comments include examples of indirect source rules.
3. As stated previously, CARB must **ensure that air districts meaningfully incorporate and address emissions from agricultural, dairy, and livestock operations.** CARB should require air districts to include enforceable strategies in CERPs to ensure reductions and no increases in any criteria or toxic emissions from these sources.

D. Technology Clearinghouse - We believe that the Technology Clearinghouse, as CARB has noted, will be a helpful tool in both the development of the CERPs as well as the BARCT determinations. In particular, Phase II will provide important information about zero emission technologies as well as the most stringent technologies. We will continue to follow this process as it moves forward and have a few general comments here.

1. We request that the implementation of **Phase II prioritize refinery equipment and technologies**, as these are the largest emissions sources in the state and would account for

³⁵ Cal. Government Code § 65302(h)(1).

most of the total reductions from control technologies. The information for Phase II should be included in the tool as soon as possible so as not to delay CERP or BARCT decisions. The 2020 timeline may be too late for communities selected in the first and second years of the Program and for facilities that could upgrade equipment or technologies in the meantime.

2. In addition, we request that efforts be made to **ensure that the clearinghouse is as comprehensive as possible** and that it look beyond California to include cleanest available practices and technologies in other states and parts of the world.
3. Finally, we request a **concrete and a specific timeline for when Phase II will be completed for specific source technologies**. This increased transparency will help ensure that communities and regulators are looking at the most up-to-date information.

V. CARB OVERSIGHT: REVIEW AND APPROVAL OF COMMUNITY EMISSIONS REDUCTION PROGRAMS AND ONGOING IMPLEMENTATION PROGRESS

We appreciate the Draft Blueprint's inclusion of ongoing Community Air Protection Program review in Appendix A³⁶ as well as annual review processes and requirements for CERPs for both initial approval and ongoing implementation progress in Appendix C.³⁷ We request that CARB provide more specific details and clarity about the review processes and standards in order to ensure transparency and meaningful oversight.

CARB has a duty under AB 617 to provide oversight and approval of the CERPs. In particular, AB 617 sets forth clear requirements for CARB approval of the program. Specifically, AB 617 requires that:

"The community emissions reduction programs shall be submitted to the state board for review and approval within 60 days of the receipt of the program. Programs that are rejected shall be resubmitted within 30 days. To the extent that a program, in whole or in part, is not approvable, the state board shall initiate a public process to discuss options for achievement of an approvable program. Concurrent with the public process to achieve an approvable program, the state board shall develop and implement the applicable mobile source elements in the draft program to commence achievement of emission reductions."³⁸

AB 617 also details some of the minimum requirements of an approvable plan:

³⁶ Draft Blueprint Appendix A, p. 7.

³⁷ Draft Blueprint Appendix C, p. 31-35.

³⁸ Cal. Health & Safety Code § 44391.2(c)(4)

“The community emissions reduction programs shall be consistent with the state strategy and include emissions reduction targets, specific reduction measures, a schedule for the implementation of measures, and an enforcement plan.”³⁹

The programs shall result in emissions reductions in the community, based on monitoring or other data.”⁴⁰

To ensure that the plans are on track, AB 617 includes a regular reporting requirement: “A district encompassing a location selected pursuant to this subdivision shall prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to the community emissions reduction program.”⁴¹

Consistent with these mandates in the legislation, we recommend the following:

- A. **Include our recommended statewide baseline minimum standards as requirements that CERPs must include to be approved.** We appreciate the Checklist for CERP Evaluation in Appendix C.⁴² This list, however, does not provide clear minimum substantive requirements that a CERP must meet for approval. Rather, the list in Appendix C only requires air districts to specify, describe, and identify what is included within the plan. Without more direction about the minimum threshold that these plans must meet, it is not clear what constitutes an approvable plan. CARB should include the statewide baseline minimum standards recommended above as criteria by which CERPs will be evaluated. The checklist should include the following benchmarks:
1. Emissions reduction targets must include enforceable requirements and health-based goals.
 2. CERP must result in substantial and quantifiable emissions reductions and no net emissions increase in the community.
 3. CERP emissions reductions must be above and beyond existing rules and regulations.
 4. CERP and measures within it must align with community priorities.
 5. CERP must have a plan to document reduced emissions each year and attribute emissions reductions to specific measures, actions, or components of the CERP.
 6. CERP must be designed with specific strategies to meet the health-based goals and requirements.
- B. **Provide clear and specific criteria and processes for both approval and annual review of implementation progress of CERPs.** As these are the main mechanisms for CARB to exercise its oversight authority, we request more specificity to ensure accountability and progress on implementation.

³⁹ Cal. Health & Safety Code § 44391.2(c)(3).

⁴⁰ Cal. Health & Safety Code § 44391.2(c)(5).

⁴¹ Cal. Health & Safety Code § 44391.2(c)(7).

⁴² Draft Blueprint Appendix C, p. 37-42.

Although CARB states that it will conduct an approval process for CERPs and review annual reports of progress on implementation, the Draft Blueprint does not describe the procedures or details of these review processes. We agree that, pursuant to AB 617, “CARB’s responsibility is to ensure that community emissions reduction programs have been designed with sufficient rigor and technical foundation to deliver the needed community benefits.”⁴³ Yet there are no clear requirements of what this approval process will include. The description in Appendix C includes some general ideas of what “may” be required during review, but it does not include a description of what will be required, and there is no specification of when CARB will not approve a CERP.

AB 617 contemplates that the approval review will occur in a public process.⁴⁴ The Draft Blueprint does not describe how this public process will be conducted. Rather, CARB states its commitment to work with air districts and community steering committees, but this does not explain exactly what CARB’s approval process will look like and how the public will be able to participate. This is not consistent with AB 617, which clearly requires plans to be consistent with law and the statewide strategy that CARB sets forth.

In addition, the Draft Blueprint does not describe the procedures for its review of annual progress reports. As CARB correctly notes, AB 617 also specifies that air districts “shall prepare an annual report summarizing the results and actions taken to further reduce emissions pursuant to the community emissions reduction program.”⁴⁵ These reports provide the main mechanism for tracking progress of CERPs. The Draft Blueprint states that “Annual reports must be made available to the public no later than October 1 of every year after community emissions reduction program implementation begins”⁴⁶ and further specifies process requirements for air districts to present annual progress reports, but it does not specify CARB’s review process. Rather, it simply states that “CARB staff will report to CARB’s Governing Board on key community emissions reduction program milestones, including emissions reductions and regulatory action.”⁴⁷

We urge CARB to spell out the details of its review processes to provide transparency and accountability as well as opportunities for public engagement at the statewide level.

1. **For CERP approval, CARB should define the public review and approval process.** At minimum, the CERP should be presented and decided on in a public CARB Governing Board meeting, and the public should be given the opportunity to comment. CARB staff should present the recommendation related to approval of the CERP with a written explanation that clearly evaluates how the CERP meets requirements. CARB should

⁴³ Draft Blueprint, Appendix C, p. 31-32.

⁴⁴ Cal. Health & Safety Code § 44391.2(c)(4).

⁴⁵ Cal. Health & Safety Code § 44391.2(c)(7).

⁴⁶ Draft Blueprint Appendix C, p. 35.

⁴⁷ Draft Blueprint Appendix C, p. 35.

consider using a scoring system or rubric to make the decision clear, objective, and transparent.

2. **For annual review, CARB should provide written evaluation of whether a CERP is meeting its requirements.**
 3. **If a CERP does not meet its annual metrics, CARB should provide a process to consider what steps to take to ensure that the CERP meets the timeline as soon as possible.** CARB should evaluate options in a public process, and the options should include CARB stepping in.⁴⁸ CARB should also consider enforcement and penalty options, including withholding relevant funds from an air district that is not meeting its requirements.
- C. **Provide clear and specific information on additional review and evaluation procedures and include all relevant materials in annual progress reports on CERP implementation.** Appendix A states that “CARB will also conduct outreach to communities to obtain detailed perspectives on [Community Air Protection] Program progress and success. This could include surveys to solicit community perspectives to supplement air district reports, CARB community meetings, and other activities.”⁴⁹ We appreciate this intention and recommend that CARB provide clear and specific steps to be taken. In particular, the results from surveys of community perspectives and community meetings should be well documented and included in annual reports to the CARB Governing Board as part of overall Program and annual CERP review processes.

VI. EMISSIONS REPORTING REQUIREMENTS

CEJA supports the comments submitted by Environmental Health Coalition on Proposed Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting, submitted on June 29, 2018. In addition, we emphasize the following two points.

- A. CARB should **connect emissions reporting requirements to cumulative impacts analysis in CERPs** to support and supplement existing data and tools. A consideration should be that some communities have high concentrations of multiple sources, including small stationary sources and indirect sources, and all of them should be included in emissions reporting data.
- B. We also request **independent review of facility reporting** to ensure that facilities are accurately reporting current baselines. Currently, refineries report their own emissions and can set their own baselines, which has resulted in data manipulation. To ensure accuracy, CARB should require independent analysis.

⁴⁸ Cal. Health & Safety Code § 39002.

⁴⁹ Draft Blueprint Appendix A, p. 7.

CONCLUSION

We appreciate the opportunity to comment and look forward to continuing to work with CARB to ensure significant emissions reductions and improvements in air quality in our communities and many others across California. Please do not hesitate to contact Stephanie Tsai at stephanie@caleja.org with questions or to discuss any of this further.

Sincerely,

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