



April 19, 2021

The Honorable Cristina Garcia
 State Assembly, District 58
 State Capitol, Room 2013
 Sacramento, CA 95814

RE: AB 1001 (Garcia) - Environmental Permitting and Air Pollution – Oppose

Dear Assemblymember Garcia,

The below listed organizations must respectfully OPPOSE your **AB 1001**, which requires facilities applying for a new or modified permit to prepare a duplicative environmental impact report, as well as requires Air Districts to pass new rules that would apply to a greatly expanded list of facilities. Unfortunately, this new permitting scheme and expansion of regulatory rules just passed a few years ago will greatly impact local businesses in certain areas at the expense of others.

Duplicates Reporting under the California Environmental Quality Act

This bill appears to seek to again expand the authority of local air districts in certain communities, creating authority to deny permits in these communities if the permitting agency finds that approval of the

application would, “together with other environmental or public health stressors,” “cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities.” **AB 1001** would do this by requiring the creation of a broad “environmental justice impact statement.”

As you know, the California Environmental Quality Act (CEQA) contains similar language, requiring a broad evaluation of all environmental impacts and submission of an “environmental impact report.” **AB 1001** is duplicative of CEQA and local permitting regulations, and does not clearly and objectively establish the standards for making such a determination. Because CEQA has broad standards, it has been used as a tool by NIMBY groups and others to oppose development for non-environmental reasons, and tie projects up in court for years. **AB 1001** would likely have the same effect, which should be avoided.

Moreover, agencies already have the ability to evaluate the impacts intended to be addressed by **AB 1001** in environmental justice communities. As then-California Attorney General Kamala Harris explained in a [2012 Analysis](#) on how CEQA addresses environmental justice issues, Environmental Impact Reports under CEQA are already required to consider environmental settings and project impacts, including whether or not any impacts are significant, harm local communities, or create cumulative impacts. CEQA requires extensive project-level and cumulative impact analyses in approximately 20 subject areas, including air quality, noise, greenhouse gas emissions, hazardous materials, water quality, and cultural resources. Where there are significant project-level or cumulative environmental impacts, agencies must impose all feasible mitigation measures to reduce the environmental impacts to “less than significant.”

State government has also taken a proactive role in supporting environmental justice. On June 24, 2020, the Office of Planning and Research (OPR) issued updated General Plan Guidelines for cities and counties in developing land-use planning documents that will be required to address environmental justice concerns.

Because **AB 1001** would create duplicative evaluations and potentially open up development to NIMBY-type lawsuits due to the unspecified nature of many terms used, the bill will only serve to complicate an already robust and comprehensive permitting structure.

A Robust Permitting Process for New and Modified Permits Already Exists

Industrial facilities, including petroleum refineries, hazardous material facilities, and waste agencies must undergo a rigorous environmental permitting process that involves several layers of federal, state, and local government involvement. For example, the U.S. Environmental Protection Agency or, where delegated, the California air districts, will issue Clean Air Act permits, including New Source Review permits, Prevention of Significant Deterioration permits, and Non-attainment Area New Source Review permits.

Water permitting agencies must adhere to antidegradation policies and anti-backsliding provisions for wastewater discharge when issuing permits. Waste permitting agencies are also already implementing SB 673 (Lara, 2015), which strengthens permitting criteria to further address any potential health risks to nearby populations. In addition, certain local governments may require zoning actions, land use permits, or coastal development permits before certain business operations may be constructed or commence.

AB 1001 would require that air districts, in a nonattainment area, review existing emissions sources and mandate that each source is subject to a regulation employing BARCT or now, BACT. However, stationary

sources, including major emitting facilities in non-attainment areas, are already mandated to provide an annual inventory of ALL existing emission sources in a facility on an annual basis. These regularly updated inventories are required by air district regulations and CARB's Criteria Pollutant and Toxics Reporting regulation, and inform key programs that regulate emissions from existing sources, including the air districts' Air Quality Management Plan process and the Air Hot Spots Program.

The Air Quality Management Plan (AQMP) process at the air districts already requires periodic review (every 4-5 years) of existing emissions relative to attainment status to set goals for further reductions based on advancements in control technology. This amounts to an existing practice of regularly updating BARCT to ensure industry emissions are controlled utilizing the latest technology. Despite this, air districts are already underway in accelerating the adoption of BARCT regulations pursuant to HSC § 40920.6(c). The Air Toxics Hot Spots Program includes provisions for Health Risk Assessment, public notification, and, as required, a Risk Reduction Plan to reduce the health risk to the communities near facilities to low levels.

Due to the extensive regulations over the past half-century, all non-attainment pollutants, including precursors, are already covered in a comprehensive environmental permitting process that requires application of BACT, as determined at the time of permitting, when existing sources increase emissions. This means BACT is always up-to-date when permits are issued to increase emissions from existing sources.

AB 1001 would require unnecessary and overlapping regulations for criteria pollutants that are already regulated and managed at the Federal, State and local level, creating administrative hurdles and substantial costs on the small businesses that the legislature sought to exclude when it listed which facilities would be required to meet expedited timelines in AB 617.

For these reasons and others, we must respectfully oppose **AB 1001**.

African American Farmers of California
American Forest & Paper Association
American Pistachio Growers
Building Owners and Managers Association of California
California Business Properties Association
California Chamber of Commerce
California Cement Manufacturers Environmental Coalition
California Cotton Ginners and Growers Association
California Construction And Industrial Materials Association
California Farm Bureau Federation
California Fresh Fruit Association
California Fuels & Convenience Alliance
California League of Food Producers
California Manufacturers & Technology Association
California Metals Coalition
California Walnut Commission
Far West Equipment Dealers Association
Industrial Environmental Association
International Council of Shopping Centers
NAIOP of California, the Commercial Real Estate Development Association
Nisei Farmers League

Western Agricultural Processors Association
Western Independent Refiners Association
Western States Petroleum Association
Western Wood Preservers Institute

cc: The Honorable Luz Rivas, Chair, Assembly Natural Resources Committee
The Honorable Heath Flora, Vice-Chair, Assembly Natural Resources Committee
Members, Assembly Natural Resources Committee
Lawrence Lingbloom, Chief Consultant, Assembly Natural Resources Committee
Kirstin Kolpitcke, Assembly Republican Caucus