



July 31, 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 draft Community Air Protection Program (AB 617) Blueprint 2.0 documents.**

Dear Ms. Reyes:

The undersigned organizations appreciate this opportunity to comment on the California Air Resources Board’s (CARB) draft Blueprint 2.0 documents: Part One - Statewide Strategy, dated May 31, 2023, and Part Two - Implementation Guidance, dated June 23, 2023. We recognize the challenge facing CARB and

the air districts in responding to the pent-up demand for expansion of the program into new communities, which will be more difficult in the next five-year cycle given state budget projections, and we welcome certain aspects of these documents that improve on the program foundation established in the 2018 Blueprint.

In particular, we appreciate CARB's inclusion in the Legal Foundation section of the draft Part Two document the direct references to statutory language in text boxes alongside its summary of AB 617 program elements. This approach will help to align stakeholder expectations with statutory requirements and improve the consistency of program implementation in different communities. There are some notable departures from this approach, including specific statutory provisions that are relegated to footnotes, which downplays the significance of those requirements relative to others.<sup>1</sup> We support the discussion of regulatory authority and responsibilities among CARB, air districts, land use, and transportation agencies, which should inform the membership of Community Steering Committees (CSC), the design of Community Emissions Reduction Plans (CERP), and stakeholder expectations of each participating regulatory entity.<sup>2</sup> We also support the several references to the need for engagement with "affected sources" in various aspects of program implementation.<sup>3</sup> We also note that the role of business and industry groups was diminished in the People's Blueprint in a manner that is inconsistent with the role described in the statute. That deficiency appears to be at least partially corrected in this document. However we question whether the examples listed on page 23 are, in fact, examples of "effective partnerships" in the spirit of collaboration envisioned in the statute since some are limited to partnerships between community representatives and regulatory agencies to the exclusion of business and industry.<sup>4</sup> We also support expanding these references into other sections of Blueprint 2.0, including a description of the role of affected industry in the discussion of stakeholder roles in the Part Two document starting on page 24, and in the discussion on development of Community Air Monitoring Plans (CAMP) starting on page 54.

We have several concerns with the feasibility of the program transition concepts articulated in the draft documents, several of which are addressed in the following comments. These include:

1. The tension between CARB's vision for self-directed implementation in the 65-plus communities and maintaining the rigorous regulatory oversight mechanisms established for the 19 existing communities, while simultaneously diluting program resources across a much larger population of communities;

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<sup>1</sup> See for example the reference to requirements for facility risk reduction audits, including the statutory language specifying emissions reductions commensurate with a facility's "relative contribution," and facility emissions either causing or contributing to a "material impact," are placed in footnote 22 on page 37, instead of being highlighted in a text box adjacent to CARB's summary in the main text.

<sup>2</sup> For example, CARB states on page 38 of the Part Two document that "neither CARB nor air districts have direct authority over the functions that ... land-use and transportation agencies perform."

<sup>3</sup> See for example references to the value of "incorporating industry and business perspectives to find practical solutions" on page 23; consultation with "affected sources" on pages 62 and 63; and the brief paragraph on "Engaging with Business and Industry" on page 68.

<sup>4</sup> See for example the first bullet ("Rural CSCs and air districts work with local agricultural commissioners and the California Department of Pesticide Regulation to address agricultural-related emissions and pesticide use.") and the sixth bullet ("CARB has worked with CalGEM and the California Natural Resources Agency to focus inspections on oil and gas wells in communities that have identified these concerns as a priority, in coordination with air districts.").

2. The lack of definition, guidance and authority for the Local Community Emission Reduction Plan (L-CERP) pathway, which appears to be the focus of several pending project grant awards starting this year;
3. CARB's proposed reliance on several new web-based tools that are still under development and existing tools in various stages of revision with no indication of opportunities for stakeholder input, and
4. Sporadic, inconsistent and vague references to the 2018 Blueprint as the baseline procedural and technical foundation for the next five-year phase of AB 617 implementation.

Finally, we are concerned that CARB has not allowed enough time in the public engagement phase of the Blueprint 2.0 development process to resolve the many information gaps in the current draft documents. If CARB still intends to adhere to its currently proposed adoption schedule and submit a final version of Blueprint 2.0 to the Board for approval in late September, then it should include in that version a complete and detailed plan of the many future 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.

## **Reinventing the Program**

### *Community Selection*

CARB references its assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria pollutants, developed pursuant to Health and Safety Code section 44391.2 (b)(1) and last updated November 2021<sup>5</sup>. CARB states that based on this assessment, “hundreds of communities are disproportionately affected by air pollution.”<sup>6</sup> The statute positions this assessment as a mechanism for screening communities to identify *candidates* for future development of community air monitoring or emission reduction plans, or both. It is not intended to serve as a mechanism for community “selection,” as evidenced by the more rigorous statutory requirements that apply to these decisions (e.g., CARB, in consultation with the air districts, “shall select the highest priority locations around the state to deploy community air monitoring systems”<sup>7</sup>).

A rigorous prioritization and selection process is critical in the context of CARB's vision to accelerate the program's expansion into additional communities – it is a necessary tool to manage limited staff and budgetary resources. Absent this step, it is unclear how CARB and the air districts will be able to satisfy competing demands for technical support, targeted enforcement, and expenditure of program grant funding in the 19 existing communities and the additional 65-plus communities that are the focus of the proposed program transition. It is also possible that program resources will be misdirected. For example, some communities on the “Priority List of the 65-Plus Places” (Priority List) appear to encompass entire cities, and some are relatively affluent compared to others (e.g., San Jose, Redwood City, and Santa Rosa). Investing program resources in these communities, especially absent further delineation of community boundaries and a determination that the designated areas meet the statutory criteria for

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<sup>5</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 42, footnote 25, “Table of Metrics”).

<sup>6</sup> Id., page 42.

<sup>7</sup> Health and Safety Code section 42705.5(c).

selection, would be inconsistent with CARB’s statutory mandate to prioritize disadvantaged communities.<sup>8</sup> We agree that defining the approximate geographic area of target communities is an essential starting point to direct resources and support local communities<sup>9</sup>, but CARB must include information in the Part Two document describing its methodology or what it predicts for the 65 Priority List communities.

CARB also anticipates updating the Priority List annually in response to community self-nominations.<sup>10</sup> However, it is unclear how CARB would justify spending program resources on self-nominated communities, or how it would objectively allocate resources among the communities on the Priority List until it independently evaluates these submissions against the relevant statutory criteria for community selection. Moreover, this continuous expansion of the Priority List will rapidly dilute available resources, diminishing program benefits in all communities. This latter concern warrants further investigation. The draft Part Two document needs to disclose the total staff and budget resources already committed to the first 19 communities, or the remaining balance that would be available for the Priority List communities, in the 2023-24 budget cycle. It seems likely that the limited availability of funding for Community Air Grants (CAG), coupled with new staffing commitments (CARB proposes to dedicate a staff liaison to each CAG<sup>11</sup>), the complexities of the grant application process, and an ever-expanding list of communities, is likely to intensify competition for resources among the existing and Priority List communities.

#### *Local CERPs*

The Part Two document identifies local community emission reduction programs (L-CERPs), funded and developed through the use of Community Air Grants, as one of three primary mechanisms for delivering benefits to the Priority List communities. The proposed L-CERP will not achieve durable emission reduction measures or other stated objectives because the proposal lacks clarity and statutory authority as described below. In the interest of clarifying the operation of the L-CERP program, future revisions to Blueprint 2.0 should include guidelines for the Community Air Grant applications that will be used to develop L-CERPs and those guidelines should be released in draft form for public review and comment. The following discussion includes recommended conditions for grant funding that should be included in L-CERP guidelines.

Apart from providing some examples of activities and projects that could be part of an L-CERP, the document does not define the L-CERP process or distinguish it from the conventional CERP process in any meaningful way except by stating that an L-CERP does not require approval by an air district board or by CARB.<sup>12</sup> It provides no guidance on how a community would develop an L-CERP, except indirectly by reference to a San Joaquin Valley project “model,” which is not described in any detail in the document. The discussion of L-CERPs is limited to less than a page-and-a-half of text in a 78-page

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<sup>8</sup> Health and Safety Code section 44391.2 (b)(1) requires CARB's assessment of communities with high cumulative exposure burdens to prioritize “disadvantaged communities” as defined in H&SC section 39711.

<sup>9</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 44.

<sup>10</sup> Id., page 42.

<sup>11</sup> Id., page 50: “Each funded L-CERP will be supported by a dedicated CARB liaison who will act as both project officer and ambassador for the project with other CARB programs and as a partner on L-CERP development and implementation.”

<sup>12</sup> Id., page 50.

document. By comparison, the CERP process established in the 2018 Blueprint has a dedicated appendix<sup>13</sup> that spans 47 pages.

The statutory basis for the L-CERP approach is similarly vague and inadequately described in the draft documents. The Part One document identifies Health and Safety Code sections 44391.2(c)(2) and 44391.2(d) as the statutory authority for L-CERPs.<sup>14</sup> The first code section pertains to CERPs adopted by air districts, which the Part Two document indicates are not L-CERPs.<sup>15</sup> The second code section addresses grants “for technical assistance and to support community participation in the implementation of this section [H&SC §44391.2] and section 42705.” Section 42705 is related to community air monitoring and is not relevant to L-CERPs. Section 44391.2 requires the development of the statewide strategy (the Program Blueprint), the selection of communities for CERPs, and criteria for CERPs to be adopted by air districts, none of which are explicitly required for L-CERPs in the Part Two document. If the authority for L-CERPs is derived from the cited code sections, then the balance of the requirements for CERPs specified in section 44391.2 should also apply as conditions for grant fund applications and development of L-CERPs, including but not limited to the source apportionment criteria specified in section 44391.2(b)(2) and stakeholder engagement requirements in 44391.2(c)(2)(A).

Given the extent to which CARB envisions deploying L-CERPs in the next phase of the program – CARB states on page 50 that “a number of additional awards for this type of project are expected to be made in 2023” – it cannot rely on the Request for Applications (RFA) process for the next CAG cycle as the sole mechanism for L-CERP guidance.<sup>16</sup> The RFA process is aimed at grant applicants to the exclusion of other stakeholders who may be subject to the measures in an L-CERP, and the 2022 RFA would have to be substantially expanded to provide functional guidance on how to develop and implement an L-CERP. Rather, Blueprint 2.0 should either include detailed guidance describing the process and criteria for developing L-CERPs or specify that L-CERPs must be based on the guidance in Appendix C of the 2018 Blueprint.

Blueprint 2.0 should also discuss whether and how CARB and the air districts would enforce L-CERP requirements if the regulatory agencies are limited to an advisory role in the L-CERP development and implementation process. While we support CARB’s statement that L-CERPs must involve a range of partners in the community, including affected industry,<sup>17</sup> it is unclear how this requirement will be implemented in a consistent and transparent manner and what actions CARB would take if grantees fail to engage the relevant stakeholders. We recommend that CARB require as a condition of grant fund application and expenditure that grant recipients employ open and transparent procedures in developing an L-CERP, including but not limited to, public notice of L-CERP development activities, publicly accessible meetings, and posting of meeting agendas, materials, and minutes on a publicly accessible website. Grants should also require use of neutral third-party facilitators to coordinate

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<sup>13</sup> California Air Resources Board, Final Community Air Protection Blueprint, Appendix C, Criteria for Community Emission Reduction Programs, October, 2018.

<sup>14</sup> California Air Resources Board, Draft Blueprint 2.0, Part One – Statewide Strategy, May 31, 2023, page 16.

<sup>15</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 49.

<sup>16</sup> Id., page 50: CARB states that the L-CERP approach “will be further refined in the development of the Request for Applications for the next cycle of Community Air Grants.”

<sup>17</sup> Id., page 49.

meetings, moderate stakeholder discussions, and ensure the views of all stakeholders are fully and fairly considered.

The Part Two document includes some statements indicating a continued clear delineation of authority for regulatory measures, with CARB and the air districts determining whether and how to act on community recommendations. For example, in the “Facility-Specific Risk Reduction” section, CARB states that “communities working on an L-CERP with air district partners may also include a facility risk reduction audit or action in their local plan “as a request to be made of the air district.”<sup>18</sup> However, it is unclear how this process would work in the context of an L-CERP if neither regulatory authority is responsible for approving L-CERPs. This section also contains conflicting messages, such as the statement that air districts “would take responsibility for implementing priorities established through the L-CERP for which they have jurisdiction.”<sup>19</sup> This language suggests that communities can develop and require air districts to impose emission reduction measures on emission sources without air district approval. This language amounts to a false promise of emissions reductions that could be achieved through the L-CERP mechanism, especially where the L-CERP promises emission reduction measures the air district or other governing body does not consider feasible or within its statutory authority. Blueprint 2.0 must clarify what types of emission reduction measures are permissible in an L-CERP (i.e., implementable by an agency without agency adoption) and what types of measures can only be implemented in the context of a conventional CERP. At a minimum, it must provide clear direction that the selection, development, and implementation of regulatory measures are the sole province of CARB, the air districts, and any other state or local regulatory agencies whose authority extends to measures recommended by community representatives. Otherwise, the L-CERP would be vulnerable to challenge as an underground regulation.

If L-CERPs are intended to include measures that require action by the decision-making body of a government agency to implement, then Blueprint 2.0 should require engagement with the relevant agencies during the development of the L-CERP. Further, when finalized, the L-CERP should be brought before the decision-making bodies of those agencies for review and approval pursuant to the rulemaking processes established for those agencies.

#### *Increased Flexibility in Use of CAP Incentive Funds*

The Part One document’s framing of the program resource challenge is incomplete. CARB asserts that a new model of engagement is necessary due to flat funding and the current approach being resource intensive.<sup>20</sup> However, the document fails to recognize that the 2018 Blueprint made open-ended commitments to selected communities and does not include mechanisms for determining when local programs have satisfied statutory objectives such that program and agency resources previously dedicated to those communities can be transferred to other communities. Blueprint 2.0 must address program elements that lead to open-ended commitments to existing and newly added communities.

The language in the Part Two document describing this second core element of the proposed program transition illustrates the conflict inherent in CARB’s proposal to continue to implement the current program framework for the 19 existing communities alongside the largely undefined concepts for the

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<sup>18</sup> Id., pages 37-38.

<sup>19</sup> Id., page 50.

<sup>20</sup> California Air Resources Board, Draft Blueprint 2.0, Part One – Statewide Strategy, May 31, 2023, page 3.

Priority List communities. This section states that “while air districts will prioritize CAP incentives on AB 617 selected communities ... CAP incentives can be applied to any disadvantaged and low-income communities across the state.”<sup>21</sup> First, it is unclear whether the statute authorizes an expenditure of CAP incentive funds in communities that are not “selected” by CARB for development of AB 617 CAMPs or CERPs.<sup>22</sup> Second, the above-quoted statement indicates an expectation that the majority of available CAP incentive funds will be directed to the 19 existing communities, leaving a relatively small balance to distribute among the 65-plus Priority List communities. This dynamic will likely intensify competition among communities for available CAP incentive funding, which would be a significant step backward, given consistent objections from community representatives about current program design features that foster competition among communities for limited program resources.

This section further states that “Community-identified projects must align with a specific community’s CERP,”<sup>23</sup> which we interpret to mean that a conventional CERP or an L-CERP are prerequisites for a CAP incentive project. If our interpretation is correct, then apart from targeted enforcement efforts, the yet-to-be-defined L-CERP model is the only viable pathway for Priority List communities to enter the AB 617 program, thereby reinforcing the need for robust L-CERP guidance in Blueprint 2.0.

#### *Community-Focused Enforcement*

This section mentions the “sheer volume” of sources that may be causing cumulative impacts not adequately addressed by current regulations<sup>24</sup> as a rationale for more targeted enforcement. This statement disregards the many climate and air quality policies and regulations that operate independently of AB 617 and are already driving aggressively toward lower emissions from transportation, stationary, and area sources. While we appreciate the need to achieve high rates of compliance in AB 617 communities, it is equally important to reinforce the message that AB 617 does not exist in a vacuum and that CERP measures targeting localized air toxics and fine particulate emissions seek incremental air quality improvements within a much more comprehensive air quality regulatory framework.

### **Regulatory Foundation**

#### *Overview of CARB and Air District Regulatory Roles*

Blueprint 2.0 should be expanded to discuss the extent to which existing air quality regulatory programs have achieved air quality improvements over the past several decades, including in communities with high cumulative exposure burdens.

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<sup>21</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 51.

<sup>22</sup> Health and Safety Code section 44391.2(d): “The state board shall provide grants to community-based organizations for technical assistance and to support community participation in the implementation of this section and Section 42705.5.”

<sup>23</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 52.

<sup>24</sup> Id., page 51.

Between 1970 and 2019, the Clean Air Act alone reduced criteria pollutants in the US by 77% while the gross domestic product grew by 285%.<sup>25</sup> The Clean Air Act programs that led to this success continue to improve air quality today, including but not limited to the National Ambient Air Quality Standards and State/Federal Implementation Plans, which work in tandem with New Source Review and New Source Performance Standards to drive emission reductions toward achievement of health-protective ambient air quality standards in every region. Blueprint 2.0 should present a similar synopsis of state and regional air quality regulatory programs that operate independently of AB 617. One example of additional information that would provide important context for community stakeholders and a baseline for the local programs established under AB 617 is in the introduction section of the CARB and California Air Pollution Control Officers Association Risk Management Guidance for Stationary Sources of Air Toxics (July 23, 2015), which estimates a 75% reduction in health risk from regulation of toxic air contaminants at the state and regional levels between 1990 and 2015.<sup>26</sup>

It is also important to clarify that air pollution disparities can exist in myriad forms as diverse as the communities in which they occur - across pollutants, at different emission levels, and across geographic boundaries. Air pollution disparities are driven by many factors beyond just the proximity of industrial, mobile and area sources to community receptors. Other influencing factors include population density, topography, meteorology, foreign sources, and natural sources such as wind-blown dust. Blueprint 2.0 should also cite other non-air quality factors that contribute to the health disparities and quality of life impacts noted in the problem definition in the Part One document.<sup>27</sup> CARB should emphasize that many of the factors that contributed to the noted outcomes are beyond the reach of local, state and even federal air quality regulations, let alone AB 617.

All future phases of AB 617 implementation should be considered in this context.

## Technical Foundation

There are several references in the draft Blueprint 2.0 documents to additional technical support tools CARB intends to use to implement the concepts it is proposing for the next phase of the program, including but not limited to the following:

- CARB mentions developing a methodology to define an approximate geographic area for the 65-plus communities<sup>28</sup>, but there is no link to, nor presentation of, that methodology in either document.
- As noted above, CARB forecasts “further refinements” to the L-CERP approach in the development of the Request for Applications for the next cycle of Community Air Grants.
- CARB is developing a “pollution mapping tool,” and acknowledges that the current iteration only includes emissions data for criteria air pollutants, toxic air contaminants and greenhouse gases

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<sup>25</sup> Our Nation's Air 2020 (epa.gov) [https://gispub.epa.gov/air/trendsreport/2020/#growth\\_w\\_cleaner\\_air](https://gispub.epa.gov/air/trendsreport/2020/#growth_w_cleaner_air)

<sup>26</sup> Section 1.D - What is California’s Air Toxics Program and what progress have we made?

<sup>27</sup> California Air Resources Board, Draft Blueprint 2.0, Part One – Statewide Strategy, May 31, 2023, page 9.

<sup>28</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 44.



from large facilities.<sup>29</sup> This narrow focus is likely to bias public perception in many communities about the sources driving high cumulative exposure burdens.

- CARB proposes to conduct a case study beginning in 2023 to understand how best to replicate the L-CERP approach in future Requests for Applications.<sup>30</sup>
- CARB proposes to “launch” the Technology Clearinghouse in 2024, which will include a searchable database of CERP strategies.<sup>31</sup> Presumably, this will be a re-launch of updates to the existing Technology Clearinghouse; however, the full scope of those updates are not disclosed in either document.
- CARB also proposes to launch a uniform statewide system to annually report emissions of criteria pollutants and toxic air contaminants by the end of 2024.<sup>32</sup> Presumably, this is the Integrated Multi-Pollutant Emission Inventory (IMPEI) System mentioned in the Part Two document.

These tools are in various stages of development, but the mechanisms for stakeholders to engage in those activities are undefined. It is also unclear whether CARB is updating other technical support tools that date back to the adoption of the 2018 Blueprint and are part of the existing Technology Clearinghouse, such as the guidance on source attribution. Blueprint 2.0 should include a complete list of the technical support tools CARB is developing or updating, a description of their intended purpose and use, and identify specific opportunities for stakeholders to provide input on each.

#### *Air Monitoring Resources and Tools*

CARB briefly discusses its new data portal, AQview, which is the web-based platform it will use to publish air quality monitoring data reported by air districts.<sup>33</sup> Under the AQview “Lab Data & Reports” link, CARB provides the following disclaimer: “Files available for download here may contain preliminary data that have not been verified or extensively quality assured. These data should not be used for regulatory purposes.”<sup>34</sup> This language is directionally helpful in qualifying the reliability and applicability of the data for local program development and implementation. However, it raises the question of whether such data should be included in AQview because, despite the disclaimer, it will influence community perceptions about the extent and sources of local air quality problems and create expectations for CERP measures that may not be justified based on validated data.

#### **Role of the 2018 Blueprint**

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<sup>29</sup> Id., Table 3, page 32.

<sup>30</sup> California Air Resources Board, Draft Blueprint 2.0, Part One – Statewide Strategy, May 31, 2023, page 17.

<sup>31</sup> Id., page 19.

<sup>32</sup> Id., page 19.

<sup>33</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 61.

<sup>34</sup> <https://aqview.arb.ca.gov/additional-monitoring-data>

There are multiple direct and indirect references to the 2018 Blueprint in the Part Two document, and these references are not confined to the discussion of program implementation in the 19 existing communities. Some examples include:

- Figure 3 outlines a process for “participatory budgeting” that would be administered by Community Steering Committees (CSCs), which are a construct of the 2018 Blueprint.<sup>35</sup>
- The first paragraph in the section titled “Facility-Specific Risk Reduction” refers to the “technical assessment,” which is a core element of the 2018 Blueprint.<sup>36</sup>
- In the discussion on L-CERPs, CARB states: “L-CERP eligible activities include the development of a charter to support governance and decision-making, boundary-setting, recruitment and engagement of impacted residents and potential partners in the community, review of air quality data, prioritization of concerns, and the development of actions to address those concerns.”<sup>37</sup> The only available guidelines for these programmatic steps exist in the 2018 Blueprint and its appendices.
- The section on Community Air Monitoring Plans includes a link to CARB’s community air monitoring planning criteria, established in Appendix E of the 2018 Blueprint.<sup>38</sup>
- The Community Emissions Reduction Programs section states, “... the guidance outlined in the 2018 Program Blueprint for CERP development remains relevant and unchanged.”<sup>39</sup>

These references and placement throughout the draft Part Two document imply that CARB intends the 2018 Blueprint and its appendices to inform future program implementation, including in the Priority List communities. This approach makes sense, especially without any new guidance on developing program elements CARB envisions for the Priority List communities. If our interpretation is correct, we request that CARB state that the 2018 Blueprint remains the primary technical foundation for AB 617 implementation in all existing and future communities. If CARB intends a different interpretation, the agency should more clearly define the circumstances under which the 2018 Blueprint would continue to serve as the primary implementation guidance and how it will develop similarly comprehensive guidance with opportunities for stakeholder engagement for all other circumstances.

#### *Community Emissions Reduction Programs*

Blueprint 2.0 encourages air districts “to focus any resources not dedicated to the 19 communities currently in the program to communities on the [Priority List], particularly as CERPs from the early years of selection are completed and more air district capacity becomes available.”<sup>40</sup> It is unclear how air districts will be able to justify shifting resources to Priority List communities absent some guidance in

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<sup>35</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 30.

<sup>36</sup> Id., page 37.

<sup>37</sup> Id., page 50.

<sup>38</sup> Id., page 54.

<sup>39</sup> Id., page 61.

<sup>40</sup> Id., page 43.

Blueprint 2.0 as to what constitutes a “complete” CERP. We note that the draft Part Two document introduces the concept of a 10-year “CERP lifetime,”<sup>41</sup> though CARB has separately stated that CERPs may take more than ten years to complete.<sup>42</sup> Air districts will understandably face continued pressure from community representatives to keep resources flowing into the 19 existing communities to support the ongoing implementation of CERP measures, emissions monitoring, and tracking and reporting progress against CERP performance metrics. Thus, the continued lack of direction regarding what constitutes a “complete” CERP will impede district efforts to invest resources in Priority List communities. As noted above, Blueprint 2.0 should include projections for allocating funding and staff resources to the existing 19 communities and the Priority List communities, so all Priority List communities know what to expect regarding the number and size of CAGs likely to be issued in a given fiscal cycle.

To realize and sustain emission reductions, Blueprint 2.0 should establish processes consistent with the enabling statute and guardrails that promote durable emission reduction measures. One point of frustration with the program to date is that CERP measures sought by the community either are not technologically or economically feasible or are not within the ability of the relevant government agency to implement. To avoid this dynamic, Blueprint 2.0 should discuss what constitutes a feasible CERP measure and how feasibility is to be evaluated in the context of CERP development. This information can be presented on pages 64-65 of the Part Two document, where CARB discussed the role of the community, the air district, and its role in approving a CERP.

Among the core statutory criteria for CERPs is to conduct source apportionment.<sup>43</sup> The purpose of proper source apportionment is to correctly identify the relative contributions of various sources to the local air quality challenges identified by the community. Incorrectly identifying sources wastes precious time and stakeholder resources, and unnecessarily prolongs program commitments in the selected communities. Blueprint 2.0 must emphasize this requirement in developing CERP measures, including in the summary of statutory requirements for CERPs starting on page 61 and in Recommended Implementation Practices for CERPs starting on page 68.

CARB continues to recommend development of CAMPs and CERPs in tandem.<sup>44</sup> To date, this approach has been problematic because it relies heavily on existing data which in many cases precludes meaningful source attribution and because it did not include specific mechanisms to update CERP measures based on new data from CAMPs that are more focused on the pollutants driving high cumulative exposure burdens in selected communities. While we appreciate the strong desire to expedite the current implementation process, continuing to develop CAMPs and CERPs in tandem increases the risk of misallocating program resources to measures that localized monitoring data may later indicate are not the drivers of local air quality problems.

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<sup>41</sup> Id., page 75.

<sup>42</sup> Id., page 42: “[The current process] generally requires a multi-year commitment by the district for each community, which could potentially be up to 12 years in some instances.”

<sup>43</sup> Health and Safety Code section 44391.2(b)(2).

<sup>44</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 55.

In this regard, we support CARB's acknowledgment of the need to make adjustments to CERPs after they have been adopted in response to new information and unforeseen or changing circumstances.<sup>45</sup> This section and other references to CERPs being "dynamic plans" for which changes are expected, lay the foundation for modifications to CERP measures and other plan elements based on more targeted local monitoring data. We support the application of this concept both to the development of conventional CERPs using the framework in the 2018 Blueprint, and to the development of L-CERPs, to the extent those actions will be subject to different, yet-to-be-defined guidance.

## **Collaboration, Transparency, and Accountability**

### *Delegation of Board Authority*

CARB is proposing to have the Board delegate its CERP approval authority to the Executive Officer.<sup>46</sup> During the June 28, 2023 Consultation Group meeting, co-chair Dr. John Balmes stated that staff and the Board are making a conscious decision to sacrifice some program oversight in the interest of deploying more program resources in the 65-plus communities. However, the Board's oversight role will be more important moving forward given the shift in focus to community-driven L-CERPs, which are not yet defined and do not have an established track record relative to the conventional CERP process. While we appreciate CARB's statements that the L-CERP requires the same breadth of stakeholder participation and is "eligible" for the same programmatic elements as a conventional CERP, we question CARB's ability to enforce any standards in an L-CERP if the Board vacates its regulatory oversight role and staff is relegated to an advisory role.<sup>47</sup>

### *Alignment with Community Priorities*

This theme appears in several places in the draft Part Two document, including in the context of "developing innovative, effective and equitable air pollution reduction actions,"<sup>48</sup> and in the discussion of Community Air Monitoring Plan Criteria for the 19 existing communities.<sup>49</sup> In the latter section, CARB states that the CSC should help make decisions about logistics and resource investments, such as "types of monitoring approaches" and "when/where monitoring should occur." We understand that some community representatives have developed considerable expertise in air monitoring plan design and technologies, but that same level of sophistication will not exist in every community-based organization. Furthermore, some community representatives may be committed to certain monitoring strategies or methods (e.g., fence line monitoring) that may not be necessary or appropriate for a given facility because other monitoring methods are already required (e.g., continuous emissions monitoring) or because the proposed approach will not provide information that is useful for purposes of tracking progress on community-level emissions reductions. Accordingly, there is an ongoing need for CARB and the air districts to provide training for community representatives and to guide monitoring decisions and

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<sup>45</sup> Id., page 69.

<sup>46</sup> Id., page 65.

<sup>47</sup> Id., pages 49-50.

<sup>48</sup> Id., page 21.

<sup>49</sup> Id., page 58.

plan implementation. Blueprint 2.0 should also clarify that data-driven actions informed by data from community air monitoring programs may not always align with initial community priorities.

### *Participatory Budgeting*

The draft Part Two document offers a definition and a figure (3) describing what a participatory budgeting process “may look like.”<sup>50</sup> There is a reference in Figure 3 to CSC members developing “feasible” proposals, but it is unclear who would determine feasibility – the CSC members or the “government.” CARB separately states that it supports participatory budgeting principles “within the limits of discretion allowed by the Legislature in the allocation of public funds.” However, CARB seems to be taking the position that air districts can modify this model process as they see fit, underscored by the examples provided on page 31. The summary for the Bay Area AQMD describes a sweeping process that appears to reach into other air district regulatory programs. CARB should clarify that the scope of participatory budgeting described in Blueprint 2.0 is limited to AB 617 implementation.

### **Tracking Results and Progress**

We support the requirement to include emission reduction targets in CERPs.<sup>51</sup> Emission reduction targets are mandated by statute and are consistent with the program’s primary objective to reduce emissions in selected communities. However, the form of the target, how it is measured, and the target benchmark are important considerations to avoid open-ended resource commitments. The target should be rate-based and validated against operational or monitoring data obtained from the affected source. Other approaches are prone to open-ended commitments. For example, the Part Two document on page 75 discusses lifetime total emission reductions and emission reductions on a rate basis. Using the lifetime (total tons) metric as the emission reduction target means a CERP may not achieve its target for decades, depending on the target value. We also support the focus on achieving emission reduction targets in the discussion on transitioning communities after five years of implementation,<sup>52</sup> but Blueprint 2.0 should avoid pathways to additional commitments, such as the identification of new air quality issues that could become the focus of new or expanded CERP measures.

We agree with CARB’s statement that “ambient air quality monitoring data may take many years and/or extensive analysis to demonstrate local emissions reductions.”<sup>53</sup> Ambient data will also capture emissions from sources that were not the target of the CERP emission reduction measure. For these reasons, it should not be used to verify local emission reductions.

This section states that “Some CERP actions may result in emission benefits.”<sup>54</sup> This statement implies that emissions benefits are a secondary purpose of CERPs, which is inconsistent with the statutory mandate that CERPs achieve emission reductions in CARB-selected communities.<sup>55</sup> The same code section further requires CERPs to include “emissions reduction targets, specific reduction measures,

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<sup>50</sup> Id., page 30.

<sup>51</sup> Id., pages 71-73.

<sup>52</sup> Id., page 75.

<sup>53</sup> Id., page 71.

<sup>54</sup> Id., page 74.

<sup>55</sup> Health and Safety Code section 44391.2(c)(2).

[and] a schedule for the implementation of measures ...” The statute does not contemplate any other purpose for a CERP, thus Blueprint 2.0 should clarify that program resources committed to the development of CERPs must be focused on achieving emissions reductions of pollutants impacting local air quality.

Figure 9 provides examples of CERP “action metrics” that can be used to measure progress on CERP implementation.<sup>56</sup> We recommend that CARB remove “amount of funding spent” and “amount of staff time allocated” from this figure and from the discussion of action metrics. These criteria may not be correlated to air quality improvements, especially if program resources are not tied to actions that will result in emissions reductions or are deployed inefficiently or ineffectively.

## **Additional Specific Comments**

### *Part One*

- One of the priority actions under Goal 1 is to reinvigorate the AB 617 Consultation Group, in part by establishing term lengths and expanding membership to include representatives of communities not selected into the program.<sup>57</sup> The document is silent on what term limits are being contemplated, the process by which new candidate members would be identified, vetted and seated, how CARB would manage the number of additional community representatives that might be interested in a seat on the Consultation Group, and what steps it would take to ensure that the new membership is representative of all affected program stakeholders.
- The priority actions for Goal 2 include several specific regulatory actions.<sup>58</sup> We suggest that CARB conform this list to the more generalized, programmatic priority actions listed for other goals.
- Goal 4 should address how CARB and the air districts will manage community expectations regarding CERP measures that neither CARB nor the air districts have the authority to implement or enforce.<sup>59</sup>
- Health and Safety Code section 44391.2(d) does not appear to provide the authority for Community Air Grants to be used to develop L-CERPs.<sup>60</sup> The statute specifies that these grants are for the “technical assistance and to support community participation in the implementation of this section.” The “section” referenced here is section 44391.2, which requires development of the statewide strategy (the program blueprint), selection of AB 617 communities by CARB, and adoption of CERPs by districts.

### *Part Two*

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<sup>56</sup> Id., page 73.

<sup>57</sup> California Air Resources Board, Draft Blueprint 2.0, Part One – Statewide Strategy, May 31, 2023, page 12.

<sup>58</sup> Id., page 13.

<sup>59</sup> Id., page 14.

<sup>60</sup> Id., page 16.

- Consistent with its presentation of relevant statutory requirements in other sections of the document, CARB should include a text box with the complete statutory text corresponding to the list of criteria for developing CERPs.<sup>61</sup>
- The statement “Authority for increased penalties for violations of CARB regulations related to stationary sources of criteria pollutants, greenhouse gas emissions, and toxic air contaminants ...” is misleading.<sup>62</sup> Apart from what was authorized in the statute in 2017, there is no new authority for CARB to increase penalties. This language should be rephrased to properly state the current status of CARB’s AB 617 penalty authority.
- CARB’s summary of the purpose of the Technology Clearinghouse conflicts with the cited statutory language.<sup>63</sup> The statute requires CARB to establish and maintain a clearinghouse that identifies best available control technology (BACT) and best available retrofit control technology (BARCT) for criteria pollutants, and best available control technology for toxic air contaminants (T-BACT) – it does not require CARB to use the clearinghouse to ensure that the most stringent technologies are required for stationary sources.
- CARB’s discussion of stakeholder roles is limited to CARB, the air districts and communities.<sup>64</sup> It should also include language describing the role of “affected sources.”
- The sections on Community Role in Finalizing a CERP, and a District’s Role and Responsibility to Act on the Final CERP, should address circumstances where community-proposed measures conflict with CARB and air district regulatory authorities.<sup>65</sup>
- The section on Statutory Requirements to Implement a CERP should also specify source apportionment criteria required pursuant to Health and Safety Code section 44391.2(b)(2).<sup>66</sup>
- The brief paragraph on Engaging with Business and Industry should be placed in the discussion of CERP development, not just CERP implementation.<sup>67</sup>
- The section on Recommended Implementation Practices should include source apportionment criteria with the corresponding statutory reference.<sup>68</sup>
- The discussion on Transitioning after Five Years of CERP Implementation lays out a vague pathway to determine when the program has fulfilled its statutory objectives for the

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<sup>61</sup> California Air Resources Board, Draft Blueprint 2.0, Part Two – Implementation Guidance, June 23, 2023, page 6.

<sup>62</sup> Id., page 7.

<sup>63</sup> Id., page 14.

<sup>64</sup> Id., page 23.

<sup>65</sup> Id., pages 65-66.

<sup>66</sup> Id., page 67.

<sup>67</sup> Id., page 68.

<sup>68</sup> Id., page 68.

communities, which invites prolonged commitments to selected communities.<sup>69</sup> As noted in the body of our comments, this is a recipe for program gridlock. We recommend CARB define objective criteria and timeframes for completion of CERPs and transition of program resources to other deserving communities.

Thank you for considering our comments, and we look forward to further clarification regarding how CARB intends to fill the many information gaps in the current draft Blueprint 2.0 documents to ensure consistent, transparent, effective, and sustainable implementation of AB 617 over the next 5-year phase of the program. If you have any questions, please contact Rob Spiegel, Senior Policy Director, California Manufacturers and Technology Association at (916) 498-3340 or [rspiegel@cmta.net](mailto:rspiegel@cmta.net).

Sincerely,

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 Manufacturing & 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  
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

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<sup>69</sup> Id., pages 77-78.



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