



**LESSONS FROM CALIFORNIA'S
COMMUNITY EMISSIONS
REDUCTION PLANS:**

**AB 617's flawed
implementation must
not be repeated**





ABOUT

The California Environmental Justice Alliance is a statewide, community-led alliance that works to achieve environmental justice by advancing policy solutions. We unite the powerful local organizing of our members in the communities most impacted by environmental hazards low-income communities and communities of color—to create comprehensive opportunities for change at a statewide level. We build the power of communities across California to create policies that will alleviate poverty and pollution. Together, we are growing the statewide movement for environmental health and social justice.

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INTRODUCTION

THE CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE is a statewide, community-led alliance that works to achieve environmental justice by advancing policy solutions for a more equitable California. CEJA member and partner organizations represent some of the most environmentally disadvantaged communities in the state, and CEJA has long advocated for equitable, community-led policies and requirements that lead to real reductions of air pollution and greenhouse gases.

This paper responds to “Climate policy, environmental justice, and local air pollution” by Meredith Fowlie, Reed Walker, and David Wooley for the Brookings Economic Studies program (hereinafter “Brookings Paper”).¹ The Brookings Paper examines California’s greenhouse gas (“GHG”) requirements and policies related to Assembly Bill (“AB”) 617,² which requires the development of community emissions reduction plans (“CERPs”) for overburdened communities throughout the state.³ The Brookings Paper recognizes that “it is too early to tell whether the AB 617 policy experiment will succeed in delivering substantial and durable improvements in local pollution hot spots.”⁴ Nonetheless, it concludes that AB 617 is “demonstrating proof of an essential procedural concept: Community-Driven Regulation.”⁵ The Brookings Paper holds that “California is demonstrating a model of coordinated and complementary efforts to mitigate local and global air pollution issues.”⁶ We cannot agree.

Based on years of experience working directly with impacted communities on AB 617’s process, ***CEJA does not recommend AB 617, as currently implemented, as a model in California or in the United States.***

While AB 617 has increased deliberation of air pollution concerns in 11 communities,⁷ the resource-intensive convenings and overall implementation over the last three years have largely failed to produce material protections from harmful air pollution impacting their health. Communities cannot afford to replicate the deficiencies and errors of AB 617’s implementation on a national level. Rather, given the urgent need to protect public health from dangerous pollution, a national program should focus on developing direct pollution reduction mandates with and in a manner that prioritizes the health and well-being of communities.

I. AB 617 AS IMPLEMENTED IS NOT A NATIONAL SOLUTION

ALTHOUGH CERTAIN COMPONENTS of AB 617 could be explored nationally as ways to increase community-driven approaches to air pollution, California's program has not delivered meaningful outcomes to give cause for elevating it as a model. Rather, the protracted implementation and substantial resources invested, weighed against the thin results, underscores the need to build true community-driven policy solutions and programmatic frameworks.

Given the evidence and experiences to date, CEJA fundamentally disagrees with the Brookings Paper's conclusion that the CERPs "developed under the AB 617 process constitute a powerful step toward reduced exposure to local pollution."⁸ The participatory process of AB 617's program has had community members spend hundreds of hours engaging in meetings and working on plans; the resulting plans, however, are mostly unenforceable, and thus may have little impact to the harmful air they breathe.

1. Context of AB 617—AB 617 was a response to problematic GHG legislation not requested by EJ communities

Ironically, AB 617 was not "community-driven" legislation. In its current implementation, it is also not "community-driven regulation," despite the Brookings Paper's characterization.⁹ We begin with contextualizing AB 617 within the highly contested extension of California's cap-and-trade program, because its emergence and passage are consistent with the state's historical disregard and de-prioritization of community-driven air pollution priorities.

Environmental justice communities have consistently objected to cap-and-trade as an inherently flawed program that neglects local air pollution, and depends on the continuation of GHG emissions through a duplicitous pollution trading scheme, which then funds climate programs. At its essence, California's GHG cap-and-trade program has many flaws, including that the program as designed has no clear "cap," and the prices fail to reflect the

social cost of carbon. Thus, the program's design and its corresponding prices are set too low to incentivize market-level changes of regulated entities and drive the innovations needed to achieve the 2030 targets.¹⁰ In addition, the program has too many credits in the primary and secondary market, which created a windfall for industry and lack of purchase demand for credits. Thus, California's cap-and-trade program represents incrementalism, prioritizes causing least disruption to emitting industries, and commodifies climate pollution to provide a new "product" to those same industries to be bought and sold.

The cap-and-trade program is not only an ineffective mechanism for reducing climate pollution, but it also fails to deliver benefits to BIPOC communities. GHG emissions, fine particulate matter, and toxic air contaminants are strongly correlated.¹¹ In discussions related

to cap-and-trade, CEJA repeatedly raised that it exacerbated long-standing air quality hot spots, and advocated for policy solutions that address the inextricably intertwined issues of local air pollution and the climate crises.

A key report titled “Carbon trading, co-pollutants, and environmental equity,” authored by Lara Cushing, Dan Blaustein-Rejto, Madeline Wander, Manuel Pastor, James Sadd, Allen Zhu, and Rachel Morello-Frosch, examines how polluters using the cap-and-trade system during its first three years adversely impacted environmental justice communities (“Cushing Report”).¹² The Cushing Report analyzed cap-and-trade data from 2013 to 2015 and found that it did not deliver public health or air quality benefits, did not achieve local emissions reductions, and that the program exported our climate benefits out of state.¹³ The report summarized: “California’s cap-and-trade program has not yielded improvements in environmental equity with respect to health-damaging co-pollutant emissions.”¹⁴

Nevertheless, the Brookings Paper claims that “the weight of the evidence suggests that emissions trading programs have delivered equal or greater air quality benefits to disadvantaged communities.”¹⁵ This conclusion, however, is not well supported for many reasons. Initially, as described above, this conclusion is at odds with the Cushing Report, which found that emissions trading had not resulted in equitable air quality benefits to disadvantaged communities.¹⁶ In addition, the Brookings Paper only directly cites three articles, all of which examine the South Coast Air Quality Management District’s Regional Clean Air Incentives Market (“RECLAIM”) program.¹⁷ RECLAIM is a very different program from cap-and-trade because it regulates different pollutants and is confined to the South Coast

Air Quality Management District (SCAQMD). Second, even while examining this different market-based approach, the sources cited by the Brookings Paper raise questions as to whether market-based mechanisms result in equitable emissions reductions. For example, one of the research papers finds that air quality benefits were not well distributed, stating that “[u]pper-income and white demographics had more desirable [emission] distributions relative to low-income and some minority groups under the RECLAIM trading program[.]”¹⁸ Another article finds differences in reductions based on race and that “higher-income areas receive larger reductions in pollution under cap-and-trade.”¹⁹ Thus, the Brookings Paper is wrong, and in fact, the weight of the evidence shows that the distribution of air quality benefits from market-based programs has *not* been equal.²⁰

The Brookings Paper’s claim is also notably inconsistent with analysis by California’s Legislative Analyst’s Office, which concluded that “[t]he cap is likely not having much, if any, effect on overall emissions in the first several years of the program.”²¹ Rather, the Legislative Analyst’s Office found that other factors, such as the state’s Renewables Portfolio Standard, caused emissions to decrease. A closer look at data from the California Air Resources Board (CARB) confirms the failure of cap-and-trade to reduce GHG emissions, showing that many sectors that significantly impact EJ communities, other than the electricity sector, have not decreased their GHG emissions.

The table on the following page shows GHG emissions increases in California between 2012 and 2018 from total industrial emissions, refineries and hydrogen production emissions, oil and gas production and processing emissions, cement emissions, landfill emissions, and compost emissions.

Table 1: CARB Values for GHG Emissions, 2012–2018 (MMT CO₂)²³

INDUSTRY	2012	2013	2014	2015	2016	2017	2018
Total Industrial Emissions	88.9	91.6	92.4	90.1	88.9	88.7	89.2
Refineries and Hydrogen Production	29.8	29.4	29.8	28.4	29.8	30.1	30.1
Oil and Gas: Production and Processing	16.8	18.9	19.2	19.3	16.8	16.9	16.7
Cement	6.9	7.2	7.7	7.5	7.6	7.7	7.9
Livestock Manure Management	12.4	11.7	12.0	11.7	11.6	11.7	11.7
Livestock Enteric Fermentation	11.5	11.2	11.3	11.0	10.9	11.1	11.1
Landfill Emissions	8.4	8.4	8.4	8.5	8.6	8.6	8.7
Landfilled Solid Waste	30.2	32.0	32.4	34.4	36.3	39.0	40.5
Degradable Carbon Deposited	2.0	2.1	2.1	2.3	2.4	2.6	2.7
Composting Feedstock Processed	4.4	4.6	4.8	5.0	5.2	5.4	5.6

Many of these emissions sources are located in and impact low-income and BIPOC communities. As these polluters increase GHG emissions, they simultaneously increase emissions of toxic co-pollutants, exacerbating the harm to communities in California breathing some of the worst air in the country.

A statistical analysis of California's cap-and-trade data found that "co-pollutant emissions from regulated facilities were temporally correlated with GHG emissions" and that "co-pollutant emissions overall tended to be the most tightly correlated with GHG emissions . . . among cement plants and refineries."²⁴ Thus, cap-and-trade has not led to emissions reductions that EJ communities need, and data instead show it has permitted increased levels of harmful and toxic air pollution in these communities.

Because California's cap-and-trade program was authorized only through 2020, AB 398²⁵ was introduced in 2017 to extend it through 2030. One year prior, CEJA helped to pass two bills, SB 32,²⁶ which set stronger GHG targets by 2030, and AB 197,²⁷ which required the state to prioritize direct emissions reductions, and not just rely on market-based mechanisms. Those two laws set a pathway to ambitiously reduce GHGs while simultaneously ensuring local emissions reductions that improve air quality in

disadvantaged communities. CEJA's analysis of the 2017 cap-and-trade extension bill, however, revealed a host of continued fundamental design flaws that would both prevent the state from reaching its GHG reduction goals and perpetuate harms onto communities disproportionately impacted by air pollution.²⁸ For example, AB 398 failed to include measures to prevent large GHG emitters sited in or near communities from increasing air pollution, as they continued and even intensified emissions of GHGs through "allowances" and buying or trading credits.²⁹

Alarming, in addition to not requiring lowering emissions from some of the most problematic sources, California's 2017 AB 398 also included a concession to the oil and gas industry that prohibited local air districts from adopting GHG emissions reduction rules for petroleum refineries and oil and gas production facilities subject to AB 398.³⁰ That prohibition was a direct attack on a successful yearslong organizing

effort in the Bay Area to win a GHG cap on refinery emissions,³¹ and could potentially allow refineries and oil drilling to instead expand in severely impacted communities of color and low-income communities. Thus, the provision preempting local actions to directly limit GHGs from refineries represented a significant step backward in protecting disproportionately impacted communities from air pollution.

For these and other reasons, CEJA and dozens of other environmental and public interest organizations staunchly objected to AB 398.³² While former Governor Brown intended to hail AB 398 as a “climate victory,” he and the oil industry faced this opposition and needed to overcome the hurdle in the legislature requiring two-thirds vote.³³ Rather than address localized air pollution from GHG emitters, decision-makers artificially bifurcated climate pollution and other air pollution into two bills. AB 617 was presented as “companion” air pollution legislation to allay opposition and lay claim to being responsive to criticism from the EJ community. It was characterized as a promise to make up for some of the failures of California’s GHG regime that would lead to emissions reductions for frontline communities.³⁴

The Brown administration aggressively sought support from environmental justice communities for AB 617 after the fact, although the majority of communities and community-based organizations did not support the bill, and some outright protested it.³⁵ The “compromise” referred to by the Brookings Paper, therefore, was a political ploy to advance the cap-and-trade agenda.

AB 617 also has a fundamental flaw as drafted—it ties funding to the market-based GHG carbon credits.³⁶ This means that the implementation of the program is dependent on the continued pollution in communities. These funds are highly variable, and in fact were greatly reduced this year.³⁷ This type of uncertainty in program funding creates uncertainty in every element of the program, and problematically raises questions if even the limited measures in the CERPs will happen. The legislation also lacks specificity and enforceability needed to ensure that it will lead to improved health and air quality in our communities.

Unlike in California, any interest to model a national program after AB 617 should first and foremost ensure that it is actually community-driven.

2. AB 617 has largely failed to produce the promised quantifiable, permanent, and enforceable emissions reductions

California communities suffer some of the worst air quality in the nation.³⁸ AB 617's purpose was to reduce emissions beyond what is already required by existing law, requiring that the program "shall result in emissions reductions in the community, based on monitoring or other data."³⁹ So, beyond a community-oriented process, the success of AB 617 can be measured only by its substantive protections achieved.

CEJA members actively engaged in five of seven initial communities selected for CERPs.⁴⁰ As described in detail below, the vast majority of the measures in these CERPs do not require or propose to require the development of quantifiable, permanent, and enforceable emissions reductions beyond what is already required by existing law. In order for emissions reductions to be considered creditable for State Implementation Plans under the Clean Air Act, they need to be quantifiable, surplus, enforceable, and permanent.⁴¹ Permanent, enforceable emissions reductions are essential for communities so that they can count on and enforce the intended emissions reductions. While other types of measures may also be worthwhile, a lack of enforceable and permanent measures may mean that communities' air will not improve in a significant way as a result of these plans.

Community members dedicated significant time and effort to identify local problems and develop the CERPs. The state and the air districts failed, however, to propose and develop permanent and enforceable solutions to those problems. The CERPs thus do not reflect the thoughtful community-by-community evaluation and plans that many were hoping to see. Rather, the majority of CERPs rely on measures such as enforcement, incentives, and outreach, rather than actual and concrete regulatory requirements. Potential targeting of enforcement, outreach, and incentives, while important, does not provide communities with assurances that emissions will decrease. As a report conducted by

researchers at the University of California, Davis on AB 617's community engagement found, "Most CERPs lack mechanisms to enforce specific mandatory emissions reductions in addition to existing air district actions."⁴²

Many measures in the AB 617 CERPs are vague and refer only to potential future actions—not real actions that will lead to emissions decreases. For example, despite the fact that the rendering plants in the East Los Angeles/Boyle Heights/West Commerce area have a history of odor complaints, the CERP merely focuses on continuing to monitor these facilities, and fails to provide enforceable emissions reductions. These vague measures fail to meet CARB's requirement to "maximize reductions" of emissions, and the vast majority of strategies in the CERPs that CEJA members participated in could and should have been required without AB 617.

In addition, most communities suffer from significant mobile source pollution, and as AB 617 requires, CARB should be developing mobile source elements concurrent with the CERPs.⁴³ Several CERPs identify mobile source concerns, but it is not clear that CARB is meeting the requirement to develop and implement those elements. Further, the mobile source rules referenced in the CERPs were already being planned, and thus do not reflect any additional assurance of emissions reductions to these communities. Similarly, several CERPs identified significant concerns about pesticides, yet CARB does not appear to be taking the initiative to reduce pesticides with permanent and enforceable reductions.

The lack of quantifiable, permanent, enforceable emissions reductions is seen in the five CERPs where CEJA members participated. While a few measures could lead to enforceable ones, the fact that these measures are so few in the majority of the CERPs from the first year points to a significant problem with the program.

This report provides a deep dive analysis into the five CERPs where CEJA members participated—the South Central Fresno; San Bernardino/Muscoy; Boyle Heights/East Los Angeles/West Commerce; Shafter; and Wilmington/Carson/West Long Beach communities—to illustrate the significant issues with AB 617 implementation. Following are community- and CERP-specific examples of these issues.

South Central Fresno CERP⁴⁴

Community members living in South Central Fresno breathe some of the most polluted air in the country. According to the rankings by the American Lung Association, the Fresno area is the most polluted city in the country for short-term particle pollution (24-hour PM_{2.5}), the second most polluted city in the country for year-round particle pollution, and the fourth most polluted city in the country for ozone pollution.⁴⁵ CEJA partner Leadership Counsel for Justice and Accountability⁴⁶ represented local community members during the development of the South Central Fresno CERP. The community profile is as follows:

The South Central Fresno community is approximately 29 square miles and has a population of approximately 97,000 people. The community is composed of the downtown core and a mix of residential single-family homes. The industrial area is located in the southwest portion of the community, and includes a fossil fuel electric power generation facility along with several other industrial sources. The community is also traversed by Highways 99, 41, and 180. The sensitive receptors in the community include 36 schools, 31 licensed daycare facilities, and five hospitals. The community has high asthma rates and cardiovascular disease impacts, along with high rates of poverty, unemployment, and linguistic isolation.⁴⁷

Table 2: Summary of Sectors and Strategies from South Central Fresno CERP⁴⁸

SECTOR	STRATEGIES	QUANTIFIABLE, PERMANENT, AND ENFORCEABLE EMISSIONS REDUCTIONS?
Heavy-duty mobile sources	Incentives; financial assistance for repairs and replacement; advocacy; enforcement; partnership; outreach	No
High-polluting and idling cars	Incentives; outreach; exposure reduction	No
Residential wood burning	Incentives; enforcement; outreach and education; partnership	No
Agricultural operations	Incentives; partnership	No
Land use / Industrial development / Commercial cooking / Dust in community / Lawn and garden equipment / Public fleets	Incentives; outreach; enforcement; compliance assistance; partnership	No
Sensitive receptors and schools and reduction of idling	Incentives; outreach; exposure reduction	No
Urban greening and vegetative barriers	Incentives; partnerships	No
Illegal burning	Outreach; enforcement	No
Industrial processes	Incentives; outreach; regulatory enforcement; compliance assistance	CARB's potential update to the toxic control measures for chrome plating will likely be enforceable, but that update appears to have been planned to occur regardless of the CERP. ⁴⁹ The district also stated that it will reexamine Best Available Retrofit Control Technology (BARCT) requirements, but an examination of BARCT requirements was already required regardless of the CERP. ⁵⁰ The CERP did not initiate or cause the regulatory actions.

As Table 2 demonstrates, the Fresno CERP fails to include enforceable, permanent emissions reduction targets for several emissions sources, including heavy-duty mobile sources, older/high-polluting cars, residential burning, agricultural open burning, industrial sources, land use and

urban sources, exposure reduction measures, and health protective targets. The Fresno CERP also does not review current rules and regulations for potential strengthening, expansion, or adoption of more health protective rules and regulations.

San Bernardino/Muscoy CERP⁵¹

Community members living in the San Bernardino/Muscoy community breathe air polluted from many different mobile and stationary sources, including warehouses, rail yards, and concrete facilities. CEJA member Center for Community Action and Environmental Justice⁵² represented local community members during the development of the San Bernardino/Muscoy CERP. The community profile is as follows:

The community of San Bernardino and Muscoy is 31 square miles with a population of approximately 152,000. The community is bisected by several major freeways,

including Highways 215 and 210 and Interstate 10. There are six rail yards and clusters of warehouses throughout the community. The sensitive receptors in the area include 68 schools, 38 licensed daycare facilities, and 11 hospitals. The community has high poverty and unemployment burdens, as well as high impacts related to asthma and cardiovascular disease. Furthermore, there are schools in close proximity to air pollution sources in some portions of the community.⁵³

The San Bernardino/Muscoy CERP targeted several emissions sectors with the strategies described below.

Table 3: Summary of Sectors and Strategies from the San Bernardino/Muscoy CERP⁵⁴

SECTOR	STRATEGIES	QUANTIFIABLE, PERMANENT, AND ENFORCEABLE EMISSIONS REDUCTIONS?
Neighborhood truck traffic	Enforcement; collaboration; public information and outreach; incentives; rules and regulations; monitoring	The potential development of CARB's rules and the SCAQMD indirect source rule is likely to be enforceable, but these rules appear to have been planned before the CERP. The CERP did not initiate or cause the regulatory actions.
Warehouse on-site emissions	Collaboration; public information and outreach; exposure reduction; regulation	The development of an indirect source rule would be enforceable, but it appears that this rule was discussed for potential development before the CERP. The CERP did not initiate or cause the regulatory actions.
Omnitrans bus yard	Air monitoring; enforcement; public information and outreach; collaboration	No
Rail yards	Rules and regulations; incentives; collaboration; air monitoring	The development of CARB rules is likely to be enforceable, but it appears that these rules were planned before the CERP. The CERP did not initiate or cause the regulatory actions.
Concrete batch plants, asphalt batch plants, and aggregate plants	Public information and outreach; air monitoring; enforcement	No
Exposure reduction for sensitive populations in schools, childcare centers, and homes	Public information and outreach; collaboration; air monitoring; exposure reduction; incentives	No

As shown in Table 3, the San Bernardino/Muscoy CERP does not include direct actions or emissions reduction requirements for major sources in the community, including the concrete batch, asphalt batch, and rock/aggregate plants. In the San Bernardino/Muscoy CERP, the only potential action that may require regulation beyond what

the SCAQMD is already doing is the indirect source rule, and this is not specific to the community.⁵⁵ The SCAQMD had authority to do the other actions described in the CERP, such as increased enforcement and monitoring, irrespective of the CERP process.

Boyle Heights/East Los Angeles/West Commerce Community CERP⁵⁶

Community members living in the Boyle Heights/East Los Angeles/West Commerce Community breathe air polluted from many different mobile and stationary sources, including rendering facilities, rail yards, and smelting operations. CEJA member Communities for a Better Environment⁵⁷ and partner Physicians for Social Responsibility–Los Angeles⁵⁸ were involved during the development of the Boyle Heights/East Los Angeles/West Commerce Community CERP. The community profile is as follows:

The community of East Los Angeles neighborhoods and Boyle Heights has an area of 17 square miles and a population of approximately 230,000. The community is impacted by freight activities including six railyards, and

large facilities with activities such as metal coating, smelting and refining, and rendering and meat byproduct processing. Major freeways bisecting the community include Highways 101 and 60, and Interstates 5, 10, and 710, resulting in four freeway junctions. The community's sensitive receptors include 90 schools, 48 licensed daycare facilities, and 14 hospitals. The community has high rates of poverty and unemployment, and schools that are in close proximity to pollution sources.⁵⁹

The Boyle Heights/East Los Angeles/West Commerce Community CERP targeted several emissions sectors with the strategies described below.

Table 4: Summary of Sectors and Strategies from the Boyle Heights/East Los Angeles/West Commerce Community CERP⁶⁰

SECTOR	STRATEGIES	QUANTIFIABLE, PERMANENT, AND ENFORCEABLE EMISSIONS REDUCTIONS?
Neighborhood and freeway traffic	Rule development by U.S. EPA and CARB; enforcement; collaboration; public information and outreach; air monitoring; incentives; traffic data collection	Yes, the rules developed by the U.S. EPA and CARB will likely be enforceable, but they appear to have been already planned before the CERP. The CERP did not initiate or cause the regulatory actions.
Rail yards	CARB rule development; potential SCAQMD rule development; incentives; collaboration; air monitoring	Yes, the CARB rules, if they are promulgated, will likely be enforceable, but these regulatory actions appear to have been in development before the CERP. The indirect source rule, if promulgated, may also lead to enforceable emissions reductions.
Metal processing facilities	Air monitoring; enforcement; public information; incentives; training	No
Rendering facilities	Public information and outreach; enforcement; air monitoring; collaboration	No
Auto body shops	Public information and outreach; air monitoring; enforcement; collaboration	No
Sensitive populations in schools, childcare centers, libraries, and housing projects	Public information and outreach; collaboration; air monitoring; incentives; funding for filtration	No
General concerns about industrial facilities, including waste transfer stations	Public information and outreach; collaboration; enforcement; air monitoring	No

As shown in Table 4, the Boyle Heights/East Los Angeles/West Commerce Community CERP does not include permanent, enforceable emissions reduction requirements for major sources identified by the community, such as rendering or industrial facilities. For many facilities, it appears that the SCAQMD is only planning to monitor the emissions, but there is no clear action of whether to conduct regulatory activities if that monitoring shows an issue. Rendering plants in the area have a history of odor complaints, providing sufficient evidence on the need for

tightening regulations. There is also a need not only for monitoring, but also emissions reductions for rail yards. The only potential action that may require additional regulation beyond what CARB and the district were already doing is the indirect source rule, which is not specific to the community and was in response to a plan adopted in 2016. The SCAQMD had authority to do the other actions described in the CERP, such as increased enforcement and monitoring, even without the CERP process.

Community members living in Shafter breathe air polluted from many different mobile and stationary sources, including pesticides. CEJA member Center on Race, Poverty & the Environment⁶⁴ was involved during the development of Shafter CERP.

Shafter is a small rural community of approximately 15 square miles with a population of about 18,000, in the southern end of the Central Valley. It is surrounded by farmlands, including dairies and agricultural fields. Oil and gas operations, such as hydraulic fracturing, are common

in the area. There are two oil and gas production facilities in Shafter and the major roadways include Highway 43 and the Lerdo Highway. A rail line also runs parallel to Highway 43. Sensitive receptors within the area include nine schools, five licensed daycare facilities, and a hospital. The community is mostly low-income residents, with high levels of unemployment, linguistic isolation, and incidences of cardiovascular disease.⁶⁵

The Shafter CERP targeted several emissions sectors with the strategies described below.

Table 5: Summary of Sectors and Strategies from the Shafter CERP⁶⁶

SECTOR	EMISSIONS REDUCTION STRATEGIES IN THE CERP	QUANTIFIABLE, PERMANENT, AND ENFORCEABLE EMISSIONS REDUCTIONS?
Agriculture	Increased incentives; promote implementation of alternative practices; examining alternative management systems for dairy farms	No
Pesticides	A pilot reduction program	Likely not unless additional work is done to initiate a rulemaking process.
Community emissions	Increased incentives; increased public education; enhanced enforcement; outreach; evaluate street sweeping; paving and sidewalk improvements; increase opportunities for urban greening	No
Heavy-duty mobile	Increased outreach to reduce idling; incentives; enhanced enforcement; support planning and development; coordination to discuss truck rerouting	No
Land use	Provide assistance during the review process; support projects that reduce vehicle miles traveled; communicate setback position; communicate concerns related to railroad construction; increased incentives	No
Light-duty mobile	Host community events; increase incentives; increase education; launch car-sharing program; enhance outreach	No
Mitigation	Increased incentives	No
Outreach	Increased outreach and participation; additional funding	No
Stationary sources	Amend flares rule; evaluate feasibility of reductions; enhanced inspections; pilot training program for self-inspections at gas stations; increase incentives	The flares rule could potentially be enforceable, but it appears that this rule was developed to meet the district's ozone and PM2.5 plans. ⁶⁷

The Shafter CERP does not include permanent, enforceable emissions reductions for the majority of the major sources identified by the community, such as industrial sources. The only potential exception is the flares rule, which the air district committed to work on before the CERP. Although the CERP proposed to evaluate the feasibility of further reductions, it fails to include any commitment. Rather, it relies on actions that could have been undertaken without the CERP, such as incentives, projects and actions it was already undertaking, inspections, increased enforcement, and education.

While the Shafter Steering Committee overwhelmingly highlighted pesticides as a top area of concern, the CERP as originally drafted by the air district included no reductions of pesticide toxic air contaminants (TACs). The air district also disavowed its authority to regulate pesticide TACs even once they volatilize in the air. Under pressure from the Steering Committee and allies, CARB reaffirmed its authority to regulate TACs beyond their pesticidal use, and acknowledged the overlapping jurisdictions. CARB also included a pilot plan to reduce emissions from a single TAC, 1,3-Dichloropropene. There is no across-the-board commitment to reduce pesticide TAC emissions.

Wilmington/Carson/West Long Beach CERP⁶⁸

Community members living in Wilmington/Carson/West Long Beach breathe air polluted from many different mobile and stationary sources, including refineries and oil and gas production. CEJA member Communities for a Better Environment⁶⁹ was involved during the development of the Wilmington/Carson/West Long Beach CERP.

The Wilmington, West Long Beach, and Carson community represents an area of 48 square miles with a population of approximately 261,000. Refineries, seaport activities, nine rail yards, warehouses, and four major freeways surround the community. The Port of Long Beach is located adjacent to the communities of Wilmington and West Long Beach.

Highways 110, 710, and 91 and Interstate 405 run through the community along with the Alameda Corridor, which connects the port to the rail yard near downtown Los Angeles. The community is also impacted by neighborhood oil drilling. The sensitive receptors in the community include 83 schools, 132 licensed daycare facilities, and 15 hospitals. The community has high rates of poverty and unemployment, and in some portions of the community there are schools in close proximity to air pollution sources.⁷⁰

The Wilmington/Carson/West Long Beach CERP targeted several sectors with the strategies described below.

Table 6: Summary of Sectors and Strategies from the Wilmington/Carson/West Long Beach CERP

SECTOR	TYPES OF MEASURES/STRATEGIES	QUANTIFIABLE, PERMANENT, AND ENFORCEABLE EMISSIONS REDUCTIONS?
Refineries and oil drilling and production sites	Initiate rule development related to flares, storage tanks, and additional further reductions; public information and outreach; improve flaring notifications; evaluate feasibility to amend a rule; fugitive emissions measures; air monitoring and enforcement; collaboration	Yes
Ports	Air monitoring; enforcement; collaboration; incentives; public outreach; CARB rule developments	Yes, the CARB rules will likely be enforceable, but these regulatory actions were planned before this CERP. ⁷¹ The CERP did not initiate or cause the regulatory actions.
Neighborhood truck traffic	Enforcement; collaboration; public information and outreach; incentives; CARB rules and regulation	Yes, the CARB rules will likely be enforceable, but these regulatory actions were planned before the CERP. ⁷²
Rail yards	Incentives; collaboration; air monitoring; SCAQMD to consider an indirect source rule; CARB rulemakings	Yes, the CARB rules, if they are promulgated, will likely be enforceable, but these regulatory actions appear to have been in development before the CERP. ⁷³ The indirect source rule, if promulgated, may also lead to enforceable emissions reductions, but that also appears to have been planned before the CERP.
Schools, childcare centers, and homes	Public information and outreach; collaboration; funding for filtration; incentives	No

While the air district greatly improved the oil refinery measures in the CERP due to community input, mobile source measures remain very weak. Community members need the air district to adopt an indirect source rule to cut truck emissions. In addition, it's important to note that no emissions reductions were proposed by the air district for oil refineries, including in late drafts. It was only after heightened opposition by community members and intensive negotiations that emissions reductions were

added for oil refineries at the very end of the process. Thus, this community also came very close to no emissions reductions for these major sources, and it is not clear what the emissions reductions will ultimately be. The ultimate reductions will depend on the regulatory process, which is either underway or has not yet begun. Further, these specific refinery reductions could and should have been adopted by the air district as part of its Air Quality Management Plan without AB 617.

Summary of CERPs' Lack of Enforceable, Permanent Emissions Reductions

After expending considerable time, energy, and resources, these five communities that engaged in the development of CERPs are largely left with a document and a plan that could have been accomplished without AB 617. This is not the fault of the community members, but rather of the state and air districts, which failed and were unwilling to propose permanent, enforceable solutions to the problems that communities identified. Communities must necessarily depend on the technical expertise of air district staff to develop solutions, and the air district and state staff did not propose and design the permanent, enforceable measures that these communities need. The only significant exception in the five CERPs discussed above are the refinery measures in the Wilmington CERP that came only after considerable effort and push by the local

community with the support of a community-based organization's in-house experts.

Thus, these communities were overall denied the development of permanent, enforceable reductions that they asked to be prioritized. They largely cannot enforce their CERPs, many of which have vague measures with questionable reductions, or measures that were already in development independent of the CERPs. The health and safety of the communities have been jeopardized for decades as air pollution is causing chronic respiratory and other illnesses, and causing thousands of premature deaths every year. And yet, despite all the effort that communities dedicated to developing these CERPs, these AB 617 plans do not hold much promise for improving the air.

3. AB 617 failed to deliver a truly community-driven process because the process was hindered by conflicts of interest and language access barriers

In addition to the failure to achieve substantive measures, the process and procedures used to develop the CERPs were riddled with problems. Many CERPs were developed in a process that was largely air district led, not community led.⁷⁴ Although regulators must provide sufficient technical support to the community process to identify emissions reduction options, the prioritization should be led by the community. Instead, the air districts seemed to have predetermined both decision-making and substantive issues.

Although the CERPs included a Steering Committee with community members intended to help lead the process, the inclusion of these committees failed to ensure a community-driven process.⁷⁵ Several communities had serious concerns with conflicts of interests among Steering Committee members, which hindered transparency of the process. Specifically, Community Steering Committee members raised concerns about committee members having potential undisclosed financial interest in issues being discussed by their respective committee. Community stakeholders did not know if and when some committee members had a potential conflict of interest related to an action being discussed, which bred distrust. In some cases, community stakeholders knew with certainty that committee members had an interest, but the air districts refused to address the conflict of interest. This lack of transparency and fair policy resulted in mistrust of the process and decision-making.

In addition, several of the CERPs suffered from process failures, such as difficulties obtaining translated material, an unclear schedule and timeline for decision-making, and a lack of

community-led facilitation. These fundamental process issues contributed to the failure to prioritize community priorities. For example, while community members who participated in the Fresno CERP requested investment in zero emissions technology and infrastructure, the CERP instead promotes biodiesel and renewable diesel fuels. Due to the lack of a transparent and inclusionary process, Steering Committee members were not able to participate in the decision-making process to the extent that was envisioned, and as shown in the tables above, many of the measures lack a commitment for permanent, enforceable emissions reductions in their communities beyond what is already occurring.

In addition, although CERP processes attempted to provide translated materials, there were significant difficulties throughout the process. For example, for the Fresno CERP, the air district failed to allow non-English-speaking residents to fully and intentionally review the final CERP prior to the Governing Board's approval. Several Steering Committee members are monolingual Spanish speakers who requested well in advance that the materials be provided in their primary language.

The final CERP was not mailed by postal service or e-mailed with sufficient time in advance of the approval meeting to allow these members and members of the public the opportunity to review it in their primary language. As the report by UC Davis described, "Many monolingual non-English-speaking CSC [Community Steering Committee] members were marginalized during the process and a number dropped off from their CSCs."⁷⁶

4. AB 617 failed to develop statewide or regional strategies, leaving EJ communities to fight over limited resources

AB 617 failed to produce any solutions for the vast majority of overburdened communities in the state. More than 100 overburdened communities throughout California have been nominated for the program,⁷⁷ but only a small fraction have been selected. Thus, one of the most significant problems with the design of AB 617 is that it leaves many overburdened communities behind.

By its current design and the limitations of funding, only a few communities out of many

overburdened with air pollution are able to be chosen each year for AB 617's program. This has created competition between environmental justice communities, rather than encouraging communities to work together to create regional and statewide solutions.⁷⁸ A better approach, which we encourage to be carefully considered in any national program, is to focus on accomplishing emissions reductions in certain sectors with a regional or statewide approach, as further described on the next page.

II. POTENTIAL MODELS FOR NATIONAL SOLUTIONS

THE LESSONS LEARNED from the implementation of AB 617 can provide valuable insight into priorities for any national solution identified to reduce the disproportionate air burdens faced by environmental justice communities. These lessons also illustrate the significant changes and restructuring that would be necessary to develop AB 617 or a new program into a more successful community-focused air quality program. At bottom, any solution must be improved to truly center community priorities, develop permanent, enforceable emissions reductions, and not leave communities behind.

1. Permanent, enforceable emissions reductions prioritized

While the incentives, outreach, and enforcement strategies employed in the AB 617 CERPs can provide value to local communities, communities need quantifiable, permanent, and enforceable emissions reductions.⁷⁹ Federal and state law already require emissions reductions to be quantifiable, permanent, and enforceable for inclusion within permits, State Implementation Plans, or emissions reduction credits. It follows, then, that these same requirements should serve as a minimum standard for any program designed to address the disproportionate air pollution burden injuring environmental justice communities.

When evaluating measures in State Implementation Plans, the U.S. EPA determines whether the improvement in air quality is due to permanent and enforceable reductions in emissions.⁸⁰ This standard is important in determining whether an area should be designated as either meeting or not meeting the levels for pollution set to protect public health.

The Clean Air Act also requires that operating permits include permanent, enforceable requirements, stating that operating permits must include “limitations, controls, and requirements in the permit in question [that]

are permanent, quantifiable, or otherwise enforceable as a practical manner.”⁸¹ The Clean Air Act further requires that emissions reduction credits be real, surplus, enforceable, quantifiable, and permanent.⁸² These requirements highlight the need for emissions reductions to be enforceable and permanent for regulators to count on them. Communities should not be left only with reductions that do not meet this standard. Any program targeting environmental justice communities must prioritize enforceable and permanent reductions.

The U.S. EPA provides that reductions are considered “enforceable” if:

- They are independently verifiable;
- Violations are defined;
- Those liable for violations can be identified;
- The state and EPA maintain the ability to apply penalties and secure appropriate corrective actions where applicable;
- Citizens have access to all the emissions-related and activity information obtained from the source;
- Citizens can file suits against the source or responsible party for violations; and
- They are practicably enforceable in accordance with EPA guidance.⁸³

Emissions reductions should meet these minimum requirements. Communities without the ability to enforce measures that exist to protect their health have little recourse, and measures can be rendered meaningless.

2. Eliminating competition among environmental justice communities through a sector-based approach to more equitably and justly distribute the benefits

Communities living with high levels of air pollution face severe increased risks to their health. In a time of the coronavirus pandemic, this now means a heightened risk of COVID-19 morbidity.⁸⁴ As such, it is critical to develop a framework to ensure that the valuable lessons learned and information gained through a community-led process can be translated into benefits for all the overburdened communities, not just a select few. This has been a major problem with AB 617 as implemented. Even though hundreds of hours and millions of dollars have been invested in the program, only a small percentage of overburdened communities have been chosen for the development of emissions reduction plans. An approach that targets specific sectors across regions or the state is a better approach.

Initially, a community-driven process should target specific sectors that are identified by communities for rule development either at the air district or the state level. To implement this, states could initiate a community-driven process to first identify which sectors should be prioritized, whether they are larger stationary sources like refineries, smaller stationary sources such as dry cleaners or auto body shops, mobile sources like heavy-duty trucks, or community-wide sources such as agriculture and pesticides. This prioritization should aim, based on this community input, to reduce the cumulative pollution burden across communities.

After identifying which sectors to prioritize based on the community-driven process, this approach should set emissions reduction targets for the toxic and criteria air emissions from the sector based on community input. These reduction targets can be used to develop rules and regulations that meet the desired reduction levels through quantifiable, permanent, enforceable requirements.

The purpose of pursuing a sector-based multi-pollutant approach is to achieve equal or greater emissions reductions of all emissions, particularly of toxic air emissions that can have a greater impact on public health and air quality. This approach can also help transition and transform toxic industries that are overly concentrated in many EJ communities. It can also assist with the development of best practices in emissions reduction strategies, which can then be shared and implemented in all communities, not just the ones selected for emissions reduction plans. A sector-based approach can therefore lead to emissions reductions and health improvements for both workers and communities.

A sector-based, multi-pollutant approach could provide a platform to develop a simpler regulatory system that reduces redundancy across regulations in ways that could significantly reduce emissions in overburdened communities and support overall compliance and enforcement efforts within air districts. A sector-based multi-pollutant approach will vary substantially across industrial sectors, different community profiles, and the air districts. This approach will require a collective effort between states and air districts to enforce and implement already available tools, identify new emissions reduction solutions, best practices, best available control technologies, and environmentally preferable alternatives for specific industries of concern through or added as a mandate. In addition, this approach could support the development, where appropriate, of innovative policies that require mandatory implementation of emissions control strategies in industries of concern throughout the state. Furthermore, the state and air districts should require the cleanest/safer alternatives/least toxic to limit the proliferation of regrettable substitutions.

These reductions are needed as soon as possible due to the increased health risks overburdened communities face.

3. Community-led decision-making to prioritize reductions

The lessons from AB 617 demonstrate that a community-driven process must go well beyond simply convening community meetings. The meetings must be transparent, accessible, and designed to meaningfully impact decision-making. The community must be allowed to provide input early in the process, and that input must be utilized in decision-making.

Environmental justice community members face a number of barriers to engaging in outreach and participating in decision-making processes, including meeting times and locations, language accessibility, resources such as transportation and childcare, time, familiarity with technical energy processes, and a history of exclusion and marginalization in these settings.⁸⁵ These barriers must be addressed to obtain meaningful input from community members.

Outreach and community decision-making convenings should be conducted in the language spoken by the community, and translation services should be made available if other languages are spoken.⁸⁶ Before conducting meetings, the community should be given a clear and transparent timeline with advanced notice, translators and interpreters should be made available, and the meeting should use engaging and diverse modes of communication. Meeting content should also be accessible to all skill levels within the community and build up a baseline knowledge of energy and energy issues. Oftentimes, a barrier to meeting participation is esoteric language that makes decision-making spaces inaccessible to community members. Reducing the use of—and defining—acronyms and technical terms can lower this barrier. In addition, engaging community members through popular education, visual and activity-based learning, and group discussion makes these meetings valuable for the community and makes it more likely that people will re-engage.

Another critical issue is ensuring transparency in decision-making. A key step to ensure this is to require community decision-making bodies to be subject to conflict of interest disclosure and recusal, including the following:

- **Training:** All community decision-makers should receive training describing how conflicts are defined for decision-makers and examples of potential conflicts that may arise.
- **Disclosure Process:** All community decision-makers should be required to fill out a form describing their potential conflicts of interest, similar to the forms required of agency officials. This should be an annual and ongoing requirement.
- **Recusal Process:** If a community decision-maker identifies a potential or actual financial conflict of interest, it should be requested that the member recuse themselves from the particular matter.

These minimum requirements are necessary to ensure integrity of the process.

It is also important to guarantee to community members that their input will be truly considered. In other words, community engagement cannot simply be a check box for a process. Rather, community input should be used to help define priorities and decisions. Community engagement must also be valued and community members should be compensated for their time and expertise. Service on a community board developing a plan “is a significant time commitment and represents a financial hardship for many residents.”⁸⁷ Guidance needs to be given to ensure that these markers are met.⁸⁸

CONCLUSION

CALIFORNIA'S AB 617 as designed and implemented should not be replicated in other jurisdictions. AB 617's program provides valuable lessons for the development and improvement of other pollution emissions reduction programs. It has shown the importance of centering communities in decision-making, prioritizing permanent and enforceable emissions reductions, and developing regional, statewide, and sector-based approaches that do not leave communities behind. These lessons can be utilized to develop future programs that are truly community centered, focus on permanent and enforceable reductions, and do not leave communities behind.



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