



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

June 22, 2023

City of Oakland Planning Department
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

RE: Comments on the City of Oakland’s Draft Environmental Justice Element

Dear Lakshmi Rajagopalan, Khalilha Haynes, and the Oakland General Plan Update Team,

On behalf of the Bay Area Air Quality Management District (BAAQMD), we are pleased to submit the following comments based on our review of the City of Oakland’s draft environmental justice element and pursuant to our involvement as part of the City’s General Plan Update Technical Advisory Committee. Overall, we applaud the effort of the City of Oakland staff, consultants, and the community stakeholders for the serious consideration of robust environmental justice policies to address inequitable burdens, including air quality impacts.

We appreciate this opportunity to comment specifically on actions related to air quality as well as other policy areas that directly or indirectly impact air pollution and community health in Oakland’s most vulnerable communities. The suggestions below offer recommendations to refine and strengthen these policies and actions. We have also recommended additional policies or actions that might be considered. Many of these recommendations echo similar policies the Air District and our Oakland community partners have been advocating in the ongoing AB617 efforts in West and East Oakland.

We look forward to engaging further with the City of Oakland in the development and finalization of this important and innovative plan. Please reach out to our Planning and Climate Protection Division’s Senior Policy Advisor David Ralston (dralston@baaqmd.gov) for any questions on these comments.

Sincerely,

Greg Nudd
Deputy Executive Officer of Science & Policy
Bay Area Air Quality Management District

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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
COMMENTS ON THE CITY OF OAKLAND DRAFT ENVIRONMENTAL JUSTICE ELEMENT**

The Air District’s comments below address several of the Element’s environmental justice (EJ) goal areas focusing on Goal Area 1, improving air quality. Several additional policies and actions are suggested based on ongoing AB 617 work in West and East Oakland. Comments are also provided for safe, healthy, affordable homes (Goal 4); equitable public facilities (Goal 6); promoting physical activity (Goal 7); and expanding economic development, income equality, and opportunity (Goal 9).

Note: some of the comments are included as strikeout/underline text edit suggestions, while others are provided as comments or suggested new policy/action for a particular EJ policy goal. We also have included several specific comments to the presented air quality and other maps.

GOAL EJ-1. REDUCE POLLUTION, MITIGATE THE IMPACTS OF POLLUTION ON EXISTING SENSITIVE LAND USES, AND ELIMINATE ASSOCIATED PUBLIC HEALTH DISPARITIES

PROPOSED POLICIES	
Draft Text (w/ any proposed edits in red)	Specific Comment/Suggestions
Policy EJ 1.2 – Truck Emissions and Pollution Exposure. Minimize air pollution and exposure of sensitive uses to truck pollution, particularly in EJ Communities and other areas most burdened by air pollution, while recognizing the Port of Oakland’s role as the highest-volume shipping port in Northern California.	Please detail more specifically how minimization of air pollution and exposure from truck emissions will be accomplished. Consider mentioning use of Truck Management Plans (TMP), strengthening development review/development agreement conditions, strengthening policies limiting nonconforming continuances (e.g., code amendments to 17.114.050), and so forth.
EJ 1.3 – Industrial Uses Near Sensitive Land Uses. Ensure that heavy industrial uses are adequately buffered from residential areas, schools, and other sensitive land uses. In new developments, require adequate mitigation of air contaminant exposure and vegetative barriers near large stationary and mobile sources of air pollution.	Provide a definition of “adequately” buffered. The Air District recommends applying a buffer of 1,000 feet, especially downwind from heavy industrial use areas and heavily truck-trafficked roadways. Vegetative buffers should be designed per latest USEPA standards with intention to prevent the dispersion of air pollutants past the fence line (also see vegetative buffer standards cited for policy action EJ A.6 below).
EJ 1.7- Truck-Related Impacts. For new warehouses and truck-related businesses, reduce impacts from truck loading and delivery including noise/vibration, odors, air pollution, and greenhouse gas emissions.	Consider adding specific example measures to address truck attracting businesses. For example, see CA Attorney General’s office guidance: https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf
EJ 1.8 - Air Filtration. Consistent with the State’s Building Energy Efficiency Standards for air filtration in effect as of January 1, 2023,	Consider requiring higher level air filtration systems, e.g. MERV 15 or 16, for any new residential buildings within 1,000 feet of major

<p>require newly constructed buildings of four or more habitable floors to include air filtration systems equal to or greater than Minimum Efficiency Reporting Value (MERV) 13 (ASHRAE Standard 52.2), or a particle size efficiency rating equal to or greater than 50 percent in the 0.3-1.0 µm micrometer range and equal to or greater than 85 percent in the 1.0-3.0 µm micrometer range (AHRI Standard 680).</p>	<p>industrial areas or heavily truck-trafficked roadways (see also EJ 4 below). Additionally, consider including new construction with less than four habitable floors, including “townhouse” style developments (under three stories) and mixed-use developments with first floor retail/commercial uses.</p>
<p>EJ 1.9 - EV Charging. Require industrial and warehouse facilities <u>and truck-attracting businesses</u> to provide electrical connections for electric trucks and transport refrigeration units in support of CARB regulations.</p>	<p>As part of CEQA review and/or land-use entitlements for major projects, require that any new truck-attracting businesses provide EV charging consistent with the most recently adopted version of CalGreen Tier 2. Additionally, see Contra Costa County ordinance for examples of ZEV/clean fleet provisions requiring at the start operations shall have a minimum of a 33% “clean fleet” and a requirement to progress to 100% clean by 2035 for all classes of trucks. This policy should also allow due considerations for independent/small business operators including assistance for operators to secure available fleet change-out incentive funding.</p>
<p>NEW PROPOSED POLICIES</p>	
<p><u>Work with Caltrans and other regional/state/federal agencies to promote the greening of Oakland’s primary goods-movement freeways including equipping the freeways with ZEV truck infrastructure, developing strategic green canopies or lids, as well as installing vegetative buffers alongside freeway corridors.</u></p>	<p>This policy is based upon inter-agency pilot initiatives the Air District is presently supporting along the I-880 freeway for green land bridges as vegetative buffers.</p>
<p>PROPOSED ACTIONS</p>	
<p>EJ-A.1 – Amend the City’s Zoning code to include the following changes:</p>	
<ul style="list-style-type: none"> • Condition the permitting of heavy industrial <u>uses</u> businesses within five hundred (500) feet of a zone that permits residential activities. 	<p>We recommend this is clearly distinguished via a special combining or overlay buffer zone for clarity both for project sponsors and city zoning staff given that there are various types of zones permitting residential (also see also the proposed “IRIZ” policy proposal below A.7).¹</p>

¹ It would be helpful for the City to issue a “study” map of where this might apply given existing zoning. Mapping would also allow study of how this policy would apply to ensuring a buffer with other “sensitive receptor” focused zones such as those intending or including neighborhood-serving commercial, schools, parks, hospitals, and similar.

	<p>In general, we recommend the EJ element contain policies avoiding land use conflicts between heavy industrial and residential (see Appendix A below).</p>
<ul style="list-style-type: none"> • Establish special permit criteria for truck-intensive industrial activities located within five hundred (500) feet of any zone that permits residential activities. 	<p>It would be helpful to provide more details on these “special permits”. We suggest this policy also reference enhanced performance standard and amortization policy action (A.5) below.</p>
<ul style="list-style-type: none"> • Establish special performance standards and standard conditions of approval for Truck-Intensive Industrial Activities located within five hundred (500) feet of any zone that permits residential activities. 	<p>Consider specific performance standards to address truck attracting businesses. For example, see CA Attorney General’s office guidance: https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf</p>
<ul style="list-style-type: none"> • Modify the S-19 Health and Safety Protection Combining Zone to prohibit use of diesel generators as the primary source of power within five hundred (500) feet from any Residential, Open Space, or Institutional Zone boundary. 	<p>Can this policy address existing generators?</p>
<p>EJ-A.2 Adopt more stringent air quality construction and operations requirements for development near or within industrially zoned land as part of standard conditions of approval.</p>	<p>See the Air District’s recently released Dust “White Paper” – https://www.baaqmd.gov/~/media/dotgov/files/rules/regulation-6-particulate-matter---common-definitions-and-test-methods/2023-amendment/documents/20230517_dustwhitepaper_r0601and0606-pdf.pdf?la=en&rev=01adafe25b8546a39a3bb7e1ab977165</p>
<p>EJ-A.3 Work with BAAQMD and other partners in the region to explore creation of a grant program for installation and maintenance of air filtration devices/systems in existing buildings. Develop a list of priority buildings near heavy industrial uses, including schools, nursing homes, and other sensitive uses within EJ Communities, AB617 designated communities, and areas most affected by air quality issues.</p>	
<p>EJ-A.5 As part of a feasibility study implement an amortization pilot in AB617 areas the feasibility of an ordinance, which allows the City to identify and prioritize nonconforming land uses (which could include existing polluting industries, truck-intensive uses,</p>	<p>This policy should not be just for a feasibility study but for implementation of at least a pilot study to help assess longer term feasibility. This suggestion acknowledges the calling for amortization approaches in the West Oakland AB617 plan as well as documented existent case study precedents in</p>

<p><u>autobody uses, recycling uses, etc</u>) to phase out over time <u>prioritizing areas within 1,000 feet of primarily residential impacted areas.</u></p> <p>The study/<u>pilot</u> should <u>include</u> recommend an implementation plan that includes <u>with</u> criteria to determine which industries to amortize. Criteria <u>should</u> could include total cost of land and improvements; cost of moving and reestablishing the use elsewhere in the city; whether the use is significantly non-conforming; compatibility with existing land use patterns and densities; and possible threat to public health, safety, or welfare.</p>	<p>National City (see BAAQMD policy library - Strategy B).</p> <p>This policy approach already builds off how the City of Oakland has addresses non-conforming alcohol beverage sales, hotels, and rooming houses (deemed approved, sections 17.156 and 17.157 OMC) with the goal of assessing the levels of non-conformity and willingness of owners to abide by interventions and stricter applied conditions against the threat of amortization.</p> <p>Consideration could also be given for “graduated” Levels of Intervention for the “Good” – work with business as a good neighbor; the “Bad” – notify and hold a public evidentiary hearing with an opportunity to mitigate nuisance within a minimum 1-year period; or the “Ugly” – amortize within a minimum 6-month period with potential extension to 1-year with immediate mitigations put in place).</p>
<p>EJ-A.6 - Prioritize and implement vegetative buffer projects, including those between industrial land and sensitive land uses, <u>and along heavy-duty truck/goods movement corridors and freeways</u> as identified in specific plans and community plans, including EONI and WOCAP, <u>and the City’s Priority Conservation Area/Sustainable Communities Plan (PCA).</u></p>	<p>Also reference specific design specifications for such buffers such as a (10) foot minimum, see City of Fontana ordinance 1891 for specific warehouses buffering policy language.</p>
<p>EJ-A.7 - As part of the LUTE update in Phase 2, evaluate residential/industrial conflicts, especially in areas such as West and East Oakland, and evaluate measures, including limiting additional residential development in high pollution areas and ensuring adequate buffering between industrial and residential land uses through land use designations.</p>	<p>Please refer to the Air District’s proposed industrial-residential interface overlay zone “IRIZ” policies and the similar approach for addressing residential/polluting freeway conflicts via an “APEZ” overlay zone.²</p> <p>These overlays could be applied 1,000 feet downwind from the I-880 and along the I-580 in West Oakland and along the boundaries of general industrial/manufacturing residential interface areas across the city. These overlays could include specific land use regulations/standard conditions to reduce AQ impacts that combine with the underlying residential, commercial, or industrial</p>

² For the APEZ, see City/County SF Article 38 APEZ ordinance and collaborate with the County of Alameda who are advocating a similar APEZ approach along the I-880 freeway.

	zones as well as policies for co-benefit investment/incentives (see Appendix A below referencing BAAQMD’s Pioneering Policy 1 and Policy 2).
EJ-A.8 As part of the LUTE update in Phase 2, explore modifications to truck routes and truck management in partnership with the Port of Oakland and WOIEP and Communities for a Better Environment .	Oakland should develop a comprehensive freight management approach and guidelines that build off the 2019 West Oakland Truck Management Plan. For example, see City of Seattle’s Freight Master Plan .
EJ A.11 - Coordinate with public agencies in the Bay Area region to catalyze the development and deployment of zero emission medium- and heavy-duty fleets and support development of shared charging hubs and resources. Support advocacy efforts for significant additional funding for retrofitting or replacing diesel trucks with zero-emission EV trucks, prioritizing a just transition approach by including economic support for independent truckers.	Also consider including these as appropriate CEQA project mitigations and community benefit agreement actions too.

GOAL EJ-4: COORDINATE RESOURCES TO IMPROVE HOUSING QUALITY AND HABITABILITY

PROPOSED POLICIES	
Draft Text	Specific Comment/Suggestions
EJ 4.5 - Improve Indoor Air Quality in Existing Buildings. For new projects and significant rehabilitations of existing buildings, improve indoor air quality and energy efficiency through weatherization and strategies to prevent buildup of mold and mildew.	This should apply also to schools.
PROPOSED ACTION	
EJ A.16 - As part of the LUTE update in Phase 2, explore incentives and strategies to promote health-promoting features in housing projects that are built in EJ Communities	Please describe specific “health-promoting features.” This should include air filters, advanced ventilation and other building specific development features such as green open spaces, enhanced protection from external pollution sources, inclusion of bicycle amenities, and so forth.

GOAL EJ-6: SUPPORT A NETWORK OF WELL-MAINTAINED COMMUNITY FACILITIES THAT ARE EASILY ACCESSIBLE, CULTURALLY SUPPORTIVE, AND RESPONSIVE TO COMMUNITY NEEDS.

PROPOSED POLICIES	
Draft Text	Specific Comments/Suggestions
<p>EJ 6.1 - Public Facilities Distribution. Ensure the equitable distribution of beneficial public, civic, and cultural facilities, and places for public gatherings, prioritizing new facilities and creative spaces in traditionally underserved areas.</p>	<p>Consider community “Air Centers” and “Resiliency Hubs” as essential public facilities – e.g., placed at local schools or community centers – that are accessible in frontline neighborhoods. Further, promote partnerships with local elementary schools and neighborhood groups to identify appropriate locations for such clean air and resiliency centers.</p>

GOAL EJ-7: CREATE ENVIRONMENTS THAT SUPPORT PHYSICAL ACTIVITY, RECREATION, AND HEALTHY LIFESTYLES THROUGH SAFE AND COMFORTABLE, WALKABLE, BIKEABLE NEIGHBORHOODS, WITH ACCESS TO GREEN SPACE, TREES, PATHS, AND PARKS.

PROPOSED POLICIES	
Draft Text	Specific Comments/Suggestions
<p>EJ 7.1 - Complete Neighborhoods. Promote “complete neighborhoods” — where residents have safe and convenient access to goods and services on a daily or regular basis—that address unique neighborhood needs, and support physical activity, including walking, bicycling, active transportation, recreation, and active play.</p>	<p>Prioritize investments (including development mitigations and infrastructure financing mechanisms) to support active transit uses in EJ communities especially where there are existent grey infrastructure and other barriers to realizing “complete neighborhoods.”</p>
<p>EJ 7.15 - Urban Forest. Implement the Urban Forest Plan, a comprehensive, area-wide urban canopy and vegetation plan that identifies locations that trees can be added and maintained, such as parks, streets, Caltrans’ rights-of-way and develop a plan to protect existing trees that provide shade, reduce urban heat island impacts, and reduce exposure to air pollution emissions in communities most affected by air pollution. This includes partnering with local nonprofit groups, encouraging trees on private property, and working with the community on tree maintenance and (as needed) removal. Prioritize tree canopy in EJ communities with the least amount of canopy.</p>	<p>See the City’s adopted 2015 Priority Conservation Area map (part of the City’s formal Sustainable Communities Strategy) which suggest “corridor” areas for focused urban canopies esp. along Caltrans right of way (I-880). This plan also highlighted that Oakland’s EJ communities be a designated “green zone” to prioritize where the City should begin partnering with local residents on tree investments.</p>

PROPOSED ACTIONS	
EJ A.26 - As part of the LUTE update in Phase 2, include policies that promote a fine-grained neighborhood land use pattern that encourages walking, biking, and getting around without a car.	Develop such land use and infrastructure plans in conjunction with frontline neighborhood groups and existing neighborhood empowerment councils as an on-going part of the LUTE's implementation (e.g., 5-year plan updates). Also see Strategy D in the BAAQMD Policy Library as an example of highlighting active transit infrastructure within East Oakland.
EJ A.29 - Prioritize urban greening projects identified in community plans, such as EONI, WOCAP, and others. Implement projects in partnership with community groups in EJ Communities.	Consider identifying a funding stream to support the technical assistance and capital needs for <i>Neighborhood Air Action Zones "NAAZ"</i> as a participatory community-based engagement/neighborhood-scale approaches to mobilize co-beneficial (health, air pollution reduction, climate adaptation) urban greening planning, design, implementation, and stewardship.
NEW PROPOSED ACTION	
Support the development of an urban greening network to ensure equitable access to green spaces and outdoor recreational resources for EJ communities that are currently separated from such resources. For example, expand Oakland's waterfront access connection planning project to prioritize Central and East Oakland communities.	See the priority calls for waterfront connections in the East Oakland Mobility Action Plan and EONI Plan.
Develop community-based stewardship models as part of urban greening capital project budgets and partnerships in collaboration with the Peralta Community College District and regional partners as is being piloted with the San Leandro Creek Urban Greenway and Transformative Climate Community project in East Oakland.	These types of community engagement and greening stewardship initiatives are strategies the Air District helped define in our support of these two state-funded grant projects. Also see Appendix B, attached for examples of stewardship programs that the City has been involved in that served as pilot models for the aforementioned state grant projects.

GOAL EJ-9: EXPAND ECONOMIC DEVELOPMENT, INCOME EQUALITY, AND OPPORTUNITY FOR ALL OAKLANDERS.

PROPOSED POLICIES	
Draft Text	Specific Comments/Suggestions
EJ 9.6 - Labor Force Skills Development. Partner with educational institutions, employers, and community-based organizations to develop a local labor force with skills to meet the needs of the area's businesses and industries. Continue and expand local-hire initiatives, just transition and clean energy training, apprenticeships, and partnerships with employers.	Include a focus on "just transition" and "clean energy" career workforce opportunities which will be increasingly relevant as the region begins full transition to a resilient post fossil-fuel economy in the coming decades.

Other Comments on presented EJ Element Maps

We note that there appear to be some mismatch problems with the titles and legends on the following maps:

1. **Figure EJ-9** – the title should be “Modeled Diesel PM Concentrations” and the legend should say “DPM Concentrations (micrograms/m3)”.
2. **Figure EJ-10** – the title should be “Modeled PM_{2.5} Concentrations” and the legend should say, “PM2.5 Concentrations (micrograms/m3)”.

*Neither of these figures show emissions but instead show the *modeled* concentrations that are estimated to result from DPM and PM_{2.5} emissions.

Finally, we note some possible missing map information:

3. **Figure EJ-132** - depicting high wage jobs by census blocks. The larger Port areas of West Oakland (and the former Army base) as well as the Edgewater/Doolittle areas have no color, why is this? The airport area is shown as grey/light lavender with no corresponding descriptor in the legend.

APPENDIX A - DISCUSSION OF PROPOSED “APEZ” AND “IRIZ” OVERLAYS

The Air District has been a strong and consistent supported of innovative uses of overlay zones and other protective measures to clearly define and separate potential health impacting “conflicts” between designated polluting uses and infrastructure and designated sensitive receptor and/or residential areas. This appendix describes two such overlays we have included as part of our SB1000 **Pioneering Policy Library**: <https://www.baaqmd.gov/plans-and-climate/planning-for-environmental-justice-sb-1000>.

The first such policy we have highlighted ([Policy 1](#)) is based on what has been already enacted in the Bay Area region - San Francisco’s Air Pollution Exposure Zone (APEZ) overlay as part of the City/County Health ordinance Article 38. The APEZ is a focused 500-foot buffer along the freight/goods-movement/freeway corridor of the 101 which conditions both proposed new (and cumulatively impacting) polluting uses as well as new residential uses. We have also sought to define a buffer overlay that could be applied along the interfacing boundaries of general industrial/manufacturing and residential/sensitive receptor areas – an Industrial-Residential Interface Zone (IRIZ, [Policy 2](#)) which has been modeled to some extent off existing buffer combining zones like Oakland’s S-19 Health and Safety Protection Combining Zone.

The policy and regulatory implications of both are similar with specific distinctions on how they would be applied for each (wherein the IRIZ includes being mapped 500 feet over the industrial side of the interface) as well as how they are treated when both overlays are present together. In general, these overlays should include specific land use requirements/standard conditions to reduce air quality impacts that combine with the underlying residential, commercial, or industrial zones as well as inclusions for health improving public investment and development incentives.

For both the APEZ and IRIZ approach, as increased health protection, we recommend that the overlay should be applied up to 1,000 ft downwind of freeways and industrial areas. The science of pollutant dispersal (esp. for PM_{2.5} and DPM) supports this. We have also heard support for these approaches from our AB 617 stakeholder groups in Oakland.