

November 16, 2020

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, California 95814

Re: Proposed Amendments to the Emission Inventory Criteria and Guidelines Report for the AB 2588 Air Toxics “Hot Spots” Program (EICG Report) and to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR Regulation)

Dear Chair Nichols and Members of the Board,

Santa Barbara County Air Pollution Control District (District) is thankful for the opportunity and is pleased to submit the following comments related to proposed amendments to the EICG Report and the CTR Regulation.

Over the last 3 years, District staff have met with California Air Resources Board (CARB) staff on multiple occasions, participated in workshops, calls and webinars related to the regulations, and provided review and input to CARB staff regarding these regulations. Many of our comments and feedback have been incorporated into the packages that are proposed for the November 19, 2020 CARB Board meeting, and we very much appreciate CARB’s collaborative approach to develop these regulations. CARB staff was accessible and willing to meet with us, listen, and gain an understanding of our perspective. However, several important concerns are still outstanding, and are detailed in our comments below.

The proposed regulatory amendments will impact the local sources that we regulate in our community for many years to come. It is very important to us that our Air Toxics and Emission Inventory work is done accurately and consistently, leading to successful program implementation. Both of these regulatory efforts are large undertakings, with important goals. However, finalizing the regulations before resolving areas of concern may lead to regulatory ambiguity and confusion, which air districts will then need to address as we work with the regulated community.

Cost to Implement

The proposed regulatory changes will cost California air districts and the businesses they regulate many millions of dollars to implement. Many of the affected parties are small, independently owned businesses and organizations that are already experiencing financial hardships beyond their control. These regulatory changes add to their ongoing operational costs for the foreseen future.

As part of the CTR Regulation amendment process, District staff were asked to review and comment on CARB staff’s quantification of implementation costs. Consistent with our prior comments, the cost to air districts to implement these regulations are significant and ongoing. Although our air district currently implements emission inventory reporting requirements, the proposed amendments will require a new effort to bring in more facilities and equipment, and to provide more detailed information. Some examples include reporting

and tracking of exempt equipment, reporting of detailed facility stack data, and the addition of over 900 new substances. The regulatory changes will also require additional programming to customize the District's existing databases and database management programs, and to "crosswalk" the data to CARB's database. The expectation that local government agencies can simply raise fees to cover the costs to implement a new state mandate is unrealistic, especially considering the economic challenges facing local agencies and businesses due to the COVID-19 pandemic. The District requests CARB's assistance to secure long-term funding for the District's efforts to implement these regulations.

Outreach to Affected Businesses

As these regulations were developed and revised over time, the applicability of the requirements has expanded to the point where they now impact tens of thousands of businesses and organizations throughout the state. Air districts have continually emphasized the importance of conducting outreach to all the affected businesses as part of the regulatory development process. Outreach to affected industry is an essential first step in any air district regulatory process. Importantly, the smaller businesses that are impacted by this rulemaking proposal may not be aware of the regulations, or the costs they will incur to comply with the requirements.

The package before you today does not demonstrate that all affected sources have been notified and given an opportunity to weigh in on these regulations. The Initial Statement of Reasons (ISOR) for the CTR Regulation at Page 30 states that CARB staff sent letters to over 1,000 facilities prior to conducting workshops, and emails to 20,000 individuals or companies that were already on one of CARB's email lists. However, Table 1 in the ISOR indicates that the regulation will eventually impact approximately 60,900 facilities, many of which may not subscribe to CARB's email lists. Thus, the burden will fall to air districts to provide outreach, training, and assistance to these affected businesses to help them meet the requirements. If the proposed amendments are approved, the District requests assistance from CARB staff to share the burden and conduct outreach to affected businesses, and in particular to small businesses, during rule implementation.

Assessing Cumulative Risk

The EICG Report amendments include language that allows districts to consider a population-wide impact assessment, as well as an individual facility's risk in combination with other facilities' risk. While the wording of the text does not require air districts to consider these factors, the frequency that the text appears throughout Sections I to V of the EICG Report is concerning. The District agrees that assessing the cumulative risk is important in determining the total community risk impacts. However, the AB 2588 Air Toxics "Hot Spots" Program has not historically addressed cumulative risk and air districts' adopted health risk thresholds for public notification and risk reduction are based on an individual facility's risk.

In the Office of Environmental Health Hazard Assessment's (OEHHA) 2015 HRA Guidelines, OEHHA acknowledged that there are several factors that influence population risk but noted that, "*the Hot Spots program is designed to address the impacts of single facilities and not aggregate or cumulative impacts*".¹ The AB 2588 Air Toxics "Hot Spots" Program has not historically and is not currently managed in a way to address cumulative risk. For example, if a facility is required to submit an Air Toxics Emission Inventory Plan

¹ Office of Environmental Health Hazard Assessment 2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, Section 8.2.9.3.

and Report (ATEIP/R) in year 2022 but two neighboring facilities' ATEIP/R submittals aren't due until 2024 and 2025, then the combined risk from the facilities cannot easily be determined. Requiring the neighboring facilities to prepare an ATEIP/R early would not only be unfair to the neighboring facilities, but could also create significant workload impacts for the District. Most importantly, it is unclear how risk management decisions would be made if the combined facilities' health risk assessment shows a risk exceeding the District's threshold, but each individual facility risk is below the District's threshold. Requiring a facility to reduce their risk below a combined risk threshold would be unfeasible as the combined risk would be ever-changing and an individual facility would have no control over other facilities' operations. For these reasons, we believe cumulative risk should be addressed outside of the AB 2588 Air Toxics "Hot Spots" Program. We request that the language referencing multi-facility risk be removed and that it be addressed in a separate program or rulemaking.

Additional Technical Comments

While the District appreciates CARB's initial willingness to work with air districts on the proposed amendments to the EICG Report, we are concerned with the timing and speed at which CARB has finalized the rulemaking, as well as the lack of opportunity for air districts to provide input on the final proposed documents. CARB released the proposed documents on September 29, 2020, just one day prior to the public workshop and three days prior to the start of the 45-day public review period. Additionally, the 45-day public review period ends on November 16, 2020, just three days prior to the scheduled CARB Board Hearing on the regulation. In the initial stages of the rulemaking process, CARB staff participated in many meetings with the California Air Pollution Control Officers Association (CAPCOA) EICG Workgroup as well as one-on-one meetings with individual air district staff. During those meetings, District staff outlined many technical questions and concerns on the concepts and proposals that CARB staff presented. While many of these concerns were verbally addressed by CARB during the meetings, the final proposed EICG Report documents have not, in many cases, been updated to reflect the feedback provided by air districts, nor has CARB provided responses in writing to the comments and concerns expressed by air districts during the early stages of review. These specific technical concerns are listed in Attachment 1 to this letter, and our District staff looks forward to working with CARB staff on reaching resolutions to these concerns. If the proposed amendments to the EICG Report are approved, please include a response to these concerns in the 15-day changes to the rulemaking.

The District looks forward to more work with CARB staff to develop a program that successfully meets the goals of CARB, the public, and legislation.

Sincerely,



Aeron Arlin Genet
Air Pollution Control Officer

Attachment

cc: Richard Corey, CARB
Dave Edwards, CARB
Gabe Ruiz, CARB

Attachment 1

The Santa Barbara County Air Pollution Control District provides the following technical comments on the proposed amendments to the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report (EICG Report) posted on September 29, 2020 to CARB's website at: <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>.

1. The table in Section I.A. of the EICG Report, *Summary of Proposed Regulatory Amendments to EICG and Appendices*, lists that one of the amendments is to "Clarify scenarios that the districts may determine as routine operations for emissions reporting." However, no scenarios were found in the EICG Report. It would be useful to include specific scenarios for types of usage that historically may have been considered as emergency usage by districts, but should be considered routine and predictable. For example, a hospital in our District historically (year after year) has high emergency usage hours for their diesel generators due to the frequent interruptions of Southern California Edison grid power in that area. The District would like to include these hours in AB 2588 for the public right-to-know aspect and because these emissions may have important risk impacts to the surrounding community. However, based on the proposed amendments to the EICG Report, it is unclear that the District has the authority to include these emissions in AB 2588. Please clarify if these emissions may be included in AB 2588, and provide similar scenarios to assist districts in determining routine and predictable operations.
2. The EICG Report requires source testing for specific industries/processes. Health and Safety Code (H&SC) Section 44365 (b) and the EICG Report implies that the district has the authority to require a source test beyond what is explicitly stated in Appendix D of the EICG Report. We request that language is added to the EICG Report that specifically allows districts to require source testing of any process/device when there are no adequate emission factors, existing source test results or other method available to determine emissions.
3. Section II.J.(3)(a)(vii) lists the persistence and/or bioaccumulative properties as a consideration for determining reinstatement into the AB 2588 program. We do not currently have a method to quantify risk from persistence and/or bioaccumulative properties. Please clarify how to use this criterion in evaluating the reinstatement of a facility into AB 2588.
4. Section IV.A.(1)(d)(iii) states that one acceptable significance threshold of cancer burden could be 0.5 or greater. CARB's *Staff Report: Initial Statement of Reasons* (ISOR) for the EICG Report notes that this statement "allows a district to consider a cancer burden of greater than 0.5 in a million as significant." The AB 2588 Air Toxics "Hot Spots" Act does not provide a definition for "significant risk" and specifies that the district makes this determination [H&SC Section 44362(b) and 44391(a)]. The District went through a public workshop process to include input from the public at a local level to determine our significant risk thresholds. The statement in Section IV.A.(1)(d)(iii) seems out of place and inappropriate. Because significance thresholds are developed and adopted by individual districts, the range can vary greatly. The District is concerned that specifying one acceptable threshold may undermine or bring into question other cancer burden thresholds. Please remove the statement from Section IV.A.(1)(d)(iii): "One acceptable indication of significant population exposure could be a cancer burden of 0.5 or greater."

5. The ISOR for Section IV.A.(3)(a) states that part of the updates to this section were made to subsection (i) and (iii), which are similar to the changes made for Section II.J.(3)(a). However, the proposed regulation for Section IV.A.(3)(a) does not show any changes for subsection (i) and (iii). Please clarify if the intention was to revise Section IV.A.(3)(a) (i) and (iii).

Purpose of Section IV.A.(3)(a)
 This section is revised to include additional factors for district consideration in determining the reinstatement of "low-level" facilities exempted from update reporting under section IV.A(1)

Updates to subsections (i) through (viii) are designed to specifically delineate types of emissions, exposures or health risks that could lead to a reinstatement. In subsection (i), chemical functional groups of certain classes were added to Appendix A. In subsection (iii), it was clarified that new or updated health risk values would trigger a reinstatement. New subsections (iv)-(vi) indicate that significant changes in emissions, risk or air dispersion or related exposure modeling could trigger reinstatement. Subsection (vii) indicates that reinstatement can also occur due to the presence of persistent and bioaccumulative chemical emissions. Lastly, subsection (viii) was added to address multipathway exposures.

Section IV	[26]
<p>(i) The facility emits a substance which has been added to the list of substances in accordance with Health and Safety Code section 44321 and for which there is an appropriate health effects value as specified in section (E)(7) of Appendix F; or</p> <p>(ii) The district determines that a sensitive receptor has been established or constructed within 500 meters of the facility after the facility became exempt; or</p> <p>(iii) The facility emits a substance for which there is an appropriate health effects value as specified in section (E)(7) of Appendix F and the district determines the health effects value indicates the facility no longer qualifies as a "low level" facility under section IV.A.(1); or</p> <p>(iv) <u>A significant change has occurred in the emission measurement or emission quantification methodology applicable to the facility; or</u></p>	

6. Section V allows for updates to emission inventory plans and reports by revising only risk-driving devices or devices with significant increases in activity. The District requires that the entire plan and report be updated and self-contained (i.e., not referencing/relying upon past plans). We request that language is added to the EICG Report that specifically allows districts to require the entire plan and report be updated.

7. Section VIII.G.(2) provides clarification of non-motor vehicles included in AB 2588. The examples listed include all examples from the 1989 regulatory interpretation letter from CARB except for ships. The District has included emissions from ships and other marine vessels associated with stationary sources in AB 2588 inventories and HRAs based on the direction from the 1989 letter. Please include ships in the example list in Section VIII.G.(2).
8. Note 13 of Appendix A states that reporting individual PAHs is required and refers the reader to Appendix B Emission Information Form (6)(d) for details. However, Appendix B Emission Information Form (6)(d)(ii) appears to allow for reporting grouped PAHs. Please clarify if reporting only grouped PAH emissions will still be acceptable. If reporting is required for individual PAHs, then existing emission factors for grouped PAHs (e.g., *Ventura County Air Pollution Control District AB 2588 Combustion Emission Factors*) may no longer be used. Therefore, additional and costly speciated PAH source testing may be required for many combustion sources. Please clarify the intention of Note 13.
9. In the ISOR, the Rationale for Modification of Sector No. 25, sterilization using ethylene oxide, indicates that the activity level has not changed from the 2007 threshold, which is based on annual ethylene oxide usage. However, Table E-3 of Appendix E and Purpose of Sector No. 25: Use of ethylene oxide for sterilization in the ISOR show the threshold as any activity level. Clarify if the intention is for the Sector No. 25 activity level is to be consistent with the 2007 threshold or set at any activity level.

Purpose of Sector No. 25: Use of ethylene oxide for sterilization
 This sector was modified to include the permitted process "use of ethylene oxide for sterilization" at any activity level and at facilities classified with any SIC or NAICS code. This sector is included under Sector Phase 2.

Rationale for Modification of Sector No. 25
 This sector is consistent with the equivalent class of facilities listed in the 2007 version of Appendix E. The process or activity description was modified slightly to clarify the definition of the sector. Ethylene oxide is a toxic air contaminant and a carcinogen. The activity level is similar to the 2007 threshold, which is consistent with the ethylene oxide ATCM, and serves to screen out facilities with *de minimis* risk. Facilities equal to or exceeding the activity level reporting threshold are subject and include those listed in the permitted process description.

10. Based on the ISOR, it is unclear if a Sector No. 29 facility that also performs sterilization, but uses less than 4 pounds ethylene oxide per year is subject to Hot Spots (assuming no other thresholds are triggered). Based solely on Appendix E, it appears that any facility performing ethylene oxide sterilization would be subject to Hot Spots, regardless of the amount of ethylene oxide used. However, based on the Rationale for Modification of Sector No. 29 in the ISOR, it appears that facilities with SIC Codes 8011 through 8099 may use up to 4 pounds ethylene oxide per year without being subject the Hot Spots (i.e., these facilities are not subject to Sector No. 25). Please clarify if the facilities in Sector No. 29 are also subject to Sector No. 25 if they perform ethylene oxide sterilization.

Purpose of Sector No. 29: Medical services, hospitals, and related facilities which use formaldehyde (or formalin), glutaraldehyde, ethylene oxide, or diesel engines
This sector was revised to include the permitted process "medical services, hospitals, and related facilities which use formaldehyde (or formalin), glutaraldehyde, ethylene oxide, or diesel engines" at an activity level of 110 pounds of formaldehyde emitted per year, or 110 pounds of glutaraldehyde emitted per year, or 4 pounds of ethylene oxide used per year, or 30 gallons of diesel fuel burned per year, or 5 hours of engine operation per at facilities classified with SIC code(s) 8011 through 8099; or NAICS code(s) 62xxxx. This sector is included under Sector Phase 2.

Rationale for Modification of Sector No. 29

This sector was modified from the 2007 version of Appendix E to include formalin, formaldehyde, glutaraldehyde, and diesel fuel combusted. Additionally, the sector now includes an activity level reporting threshold for sterilization using ethylene oxide instead of relying on the separate class listing of "Facilities using ethylene oxide for sterilization."

Formaldehyde, glutaraldehyde, ethylene oxide, and diesel particulate matter are toxic air contaminants, and formaldehyde, ethylene oxide, and diesel particulate matter are carcinogens. Medical services, hospitals, and related facilities are sensitive receptors, and therefore require its own specific category. The activity level reporting thresholds are based on health risk and serve to screen out facilities with *de minimis* risk.

Facilities equal to or exceeding any of the activity level reporting thresholds are subject and include those listed in the permitted process description and classified in one of the SIC or NAICS codes listed.

11. The Rationale for Modification of Sector No. 47 in the ISOR notes that "all coating operations performed using handheld non-refillable aerosol cans only are excluded". However, while the 2007 version of Appendix E included this exemption, the proposed Appendix E does not. Table E-3 shows the threshold is 1 gallon of coating per year. Please clarify if the intention is to exempt the use of handheld non-refillable aerosol cans.

Purpose of Sector No. 47: Boat and ship building and repair

This sector was revised to include "boat and ship building and repair" at an activity level of 1 gallon of coatings used per year at facilities classified with SIC code(s) 3731 or 3732; or NAICS code(s) 336611, 336612, 488390, or 811490. This sector is included under Sector Phase 3.

Rationale for Modification of Sector No. 47

This sector was modified to decrease the reporting threshold from 20 gallons to 1 gallon per year of coatings. Additionally, all coating operations performed using handheld non-refillable aerosol cans only are excluded.

Boat and ship building and repair has the potential to release toxic air contaminants, including styrene, methylene chloride, toluene, xylene, and methyl chloroform.

Facilities equal to or exceeding the activity level reporting threshold are subject. This sector applies to only those SIC and NAICS codes listed, which are expected to cover the majority of the emissions from this process.

12. The activity level for Sector No. 49 (composters) and Sector No. 50 (recycling facilities and material recovery facilities) in Appendix E is listed at one ton per year of particulate matter or total organic gases. Please clarify if the one ton per year threshold includes fugitive dust such as unpaved roadway dust.