

State of California
Air Resources Board

Final Statement of Reasons for Rulemaking Including Summary of Comments and Agency Response

Public Hearing to Consider Amendments to the
Regulation for the Reporting of Criteria Air Pollutants and
Toxic Air Contaminants

Public Hearing Date: November 19, 2020
Agenda Item No.: 20-12-3

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I. General

In this rulemaking, the California Air Resources Board (CARB or Board) adopted amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (or CTR), title 17, California Code of Regulations, section 93400 et seq.

Background

The amendments to CTR support CARB's commitment to further integrate racial equity, environmental justice, and social justice throughout our programs, including the comprehensive collection of toxics and other emissions data. Data collected under the amended CTR is necessary to develop policies and programs to better protect all Californians from the harmful effects of air pollution, particularly from facilities in communities of concern.

In addition, a comprehensive understanding of emissions sources is necessary for CARB to meet its obligations under state and federal law. These include California Assembly Bill (AB) 617¹, AB 197², AB 2588³, the California Clean Air Act, the federal Clean Air Act, and CARB's broader obligation to protect public health via an understanding of the causes of, and solutions to, air pollution in the state. The amendments address longstanding deficiencies in California facility emission inventory data, inconsistencies in the data collection processes, and difficulties for the public in transparently accessing the facility data.

Improvements in the accuracy and availability of facility emissions data at the local level will assist in the effective implementation of AB 617 community air protection requirements and AB 2588 regulatory requirements. Data collected under CTR will also inform the development of air toxic control measures; and may be used to enhance the data of CalEnviroScreen, a tool used to identify geographic areas within California that are disproportionately impacted by pollution. Further, AB 197 requires CARB to provide public access on its internet website to graphical summaries of facility emissions at the local and sub-county level, which will be significantly enhanced using data collected under CTR.

The proposed CTR amendments are part of a coordinated effort by CARB to improve inventories of airborne emissions from all sources within California, including stationary sources, on-road and off-road mobile source emissions, and area-wide sources (like consumer product emissions). The emissions data collected under CTR will also support CARB's broader obligations under the California Clean Air Act and the federal

¹ Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

² Assembly Bill 197, Garcia, E., Chapter 250, Statutes of 2016, amending and adding to California Health and Safety Code, Chapter 1.5 of Part 1 of Division 2 of Title 2.

³ Assembly Bill 2588, Connely, 1987, California Health and Safety Code §§ 44300-44394.

Clean Air Act to protect public health via an understanding of the causes of, and solutions to, air pollution in the state.

Under the amended CTR, facilities will also provide updated toxics data to air districts, allowing them to better serve their communities, providing more complete information to better evaluate risks from emissions of toxic contaminants under AB 2588. Also, to minimize redundancy, increase efficiency, and reduce uncertainty regarding emissions reporting, staff closely coordinated the CTR amendments with concurrent amendments to the Emissions Inventory Criteria and Guidelines (EICG) under the AB 2588 Air Toxics “Hot Spots” Program.

Rulemaking Summary

To address the emission inventory needs and concerns previously mentioned, following five public workshops⁴ held during February 2020⁵, and substantial stakeholder outreach and input, the formal public process to amend CTR was initiated with the publication of a notice in the California Notice Register on September 29, 2020, and notice of a CARB public hearing scheduled for November 19, 2020, to consider the amendments.

On September 29, 2020, staff also released the staff report for the CTR rulemaking which includes a comprehensive description of the proposed amendments, rationale for the updates, the amended regulatory text, and additional information. The document, the Staff Report: Initial Statement of Reasons for Rulemaking (staff report or ISOR), entitled Public Hearing to Consider Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, is incorporated by reference herein. On the same date, all references relied upon and identified in the ISOR report were also made available to the public. The ISOR and other materials are available on the CARB CTR regulatory documents page⁶. On September 30, 2020, following release of the regulatory materials, staff also hosted an additional public workshop to provide an overview of the proposed amendments and receive public input for consideration prior to the Board meeting.

Following release of the ISOR and a 45-day public comment period regarding the proposed amendments, on November 19, 2021, the Board held a public hearing to consider the proposed CTR amendments. Written comments were received from 42 individuals or organizations during the 45-day comment period. During the Board hearing, 39 stakeholders provided oral testimony and 4 additional written comments were submitted. At the conclusion of the hearing, the Board adopted Resolution

⁴ Presentation slides and other materials for all CTR workshops are available here: <https://ww2.arb.ca.gov/our-work/programs/criteria-pollutant-and-toxics-emissions-reporting/meetings-workshops>

⁵ Refer to Chapter X of the ISOR, described in the following paragraph, for complete information regarding outreach activities.

⁶ CARB Regulatory Documents for CTR: <https://ww2.arb.ca.gov/rulemaking/2020/proposed-amendments-reporting-criteria-air-pollutants-and-toxic-air-contaminants>

20-31, approving the adoption of the proposed amendments with specified modifications.

However, prior to finalizing the regulation, the Executive Officer was directed by the Board to make modifications to the proposed regulation and any appropriate additional conforming modifications. The Executive Officer was to make any changes available for public comment, with additional supporting documents and information, for a period of at least 15-days. Specifically, the Executive Officer was directed to (1) include revisions to the applicability criteria, (2) incorporate updates to the district phase-in schedule, (3) include refinements to sector phase-in timing, (4) incorporate updates to the toxic substances subject to reporting, and (5) include minor updates to the reporting requirements in the regulation as needed.

As directed by the Board, staff proposed additional modifications to the proposed regulation following further consultation with air districts, community members, industry, and other stakeholders, as well as hosting another public workshop on February 11, 2021. On March 30, 2021, the modified regulatory text reflecting comments received and direction by the Board was published to the California Notice Register and CARB's website for a supplemental public comment period with issuance of a "Notice of Public Availability of Modified Text." In addressing items (1)-(5) in the prior paragraph, the notice describes the modifications and why they were made. The supplemental 15-day comment period started on March 30, 2021, and ended on April 14, 2021. Written comments were received from 24 individuals or organizations during the 15-day comment period. Staff evaluated the comments received and the Executive Officer determined that no further modifications to CTR were necessary.

In addition to the above notifications, per section 44(a), title 1, California Code of Regulations, and Government Code section 11340.85, to ensure extensive outreach, the Notices and revised regulatory text were provided via the CARB list-serve topic "ctr-report," or "Criteria and Toxics Reporting Regulation," which includes, among others, those who testified at the public hearing, submitted comments at the hearing or during comment periods, or requested notification of any proposed changes. For completeness, list-serve notification was also provided to additional lists⁷ for industrial sectors and stakeholders that may potentially be affected by the regulation (approximately 20,000 recipients). Physical letters were also mailed to over 1000

⁷ AB2588 Air Toxics Hot Spots, AB32 Public Health Workgroup, Community Air, Environmental Justice Stakeholders Group, GHG Mandatory Emissions Reporting, "Oil and Natural Gas Production, Processing, and Storage," Refineries Sector, Title V Activities, Manure Management, Semiconductors, Automotive Refinishing Suggested Control Measure, AB179, Incentives for Community Air Protection, Bulk Plant Vapor Recovery, Combined Heat and Power Systems, Portable Equipment Registration Program, Landfill Methane Control Measure, Dry Cleaning Program, Chrome Plating ATCM, Stationary Diesel Engine Risk Reduction, Thermal Spraying Materials, Asbestos - Naturally Occurring, Vapor Recovery Program, Composite Wood Products

recipients including facilities potentially subject to reporting, industry groups, and other interested parties⁸.

This Final Statement of Reasons (FSOR) provides written responses to all comments received during the initial 45-day and 15-day supplemental comment, as well as responses to oral testimony provided at the November 19, 2020, Board hearing.

Summary of Amendments

The following summarizes the primary proposed amendments and 15-day modifications. The CTR updates are discussed more fully in the previously mentioned ISOR and in Section IV of this document, in which we provide the formal comments received during the rulemaking process and staff responses to the comments. The most significant initially proposed amendments and 15-day modifications to CTR include updates to:

- Collect comprehensive and reliable annual emissions data from the majority of permitted facilities in California, and establish uniform applicability criteria, reporting schedules, and data submission requirements for these facilities;
- Provide a foundation to track emissions data and trends over time, and geographically throughout the state, to assist in reducing community exposure to airborne pollutants and associated health risks;
- Require use of scientifically defensible methodologies and provide applicability thresholds that are easy to understand by industry and the public;
- Include updates to minimize resource impacts on facilities and districts by providing abbreviated reporting options.
- Under the 15-day modifications, extend the implementation timeline for sources located in medium and rural air districts, which are subject to reporting under the “sector-based” applicability of 93401(a)(4), provide an additional year before the requirements take effect, changing the start year from 2023 to 2024 in Appendix A, Table A-1, and also reflected in Appendix B, Table B-1;
- Include criteria pollutant applicability thresholds that reflect differences in regional air quality impacts, applying lower thresholds (e.g., 4 tons per year versus 10 tons per year (tpy)) for regions with communities selected for monitoring or emissions reduction plans under AB 617;
 - Specifically, as part of the 15-day modifications, change the originally proposed statewide 4 tpy criteria pollutant applicability threshold for section 93401(a)(4) “additional applicability” sources from 4 tpy to 10 tpy for facilities in District Group B shown in CTR Table A-2 (i.e., districts that do not currently have an AB 617 identified community and are in general smaller or rural air districts).

⁸ Refer to Chapter X of the ISOR for additional information regarding outreach activities.

- Add two appendices to establish a phase-in schedule for specified permitted processes, to identify additional sources subject to reporting, and to specify additional toxics subject to reporting with a phase-in schedule;
 - This includes Tables A-1 and B-1, which specify reporting schedules for the phase-in of facility reporting and toxics reporting, Table A-2 which identifies air district reporting phases, Table A-3, which identifies additional sources subject to reporting, and Tables B-2, B-3, and B-4 which identify specific toxics subject to reporting;
 - The Table B-1 toxics phase-in schedule was added under the 15-day modifications; the updated Table B-2 (initially Table B-1 under the initial proposal) identifies EICG ChemGroup1 substances subject to reporting under CTR; also added under the 15-day modifications are Table B-3 identifying additional toxics with health risk values that are subject to reporting under CTR, and the new Table B-4 showing additional toxics subject to reporting for wastewater treatment facilities;
- Require reporting of emissions for diesel-powered portable equipment, which applies to a small subset of facilities subject to CTR; part of 15-day modifications, include updates and clarifications such as requiring reporting of all emissions, including toxics, and include reporting of equipment registered under CARB's Portable Equipment Registration Program (PERP);
- Under the 15-day modifications, provide additional time for emissions testing for the waste and wastewater sectors, delaying reporting until 2028 data reported in 2029. The affected sources are relocated to the newly established Phase 3B in Table A-3, and the reporting phase-in schedules for the 3B sources are included in Table A-1 and Table B-1.
- For owners or operators of a GHG, Criteria, or Elevated Toxic Facility subject per 93401(a)(1), (2), or (3) under the 15-day modifications to 93401(a)(2)(A), reporting of substances listed in Appendix B, Table B-3, may be deferred until 2026 data reported in 2027;
- Under a 15-day modification to 93403(b)(3)(A), the requirement to report release location (i.e., stack) data was removed for owners or operators of Additional Applicability facilities subject only per 93401(a)(4) and required to provide a "Full Report; however release data may be requested by the CARB Executive Officer or the local air district; sources subject to Abbreviated Reporting are also not subject to release location data reporting;
- Include minor updates to definitions for completeness, and other modifications to clarify the requirements such as including an exemption for permitted open burning, providing a more complete explanation regarding reporting control efficiency data, and providing examples of data that may be submitted when reporting production or use data for toxics;
- Further refine the existing requirements in the regulation for completeness and clarity.

A. Mandates and Fiscal Impacts to Local Governments and School Districts

Because the regulatory requirements apply equally to all reporting categories and unique requirements are not imposed on local agencies, the Executive Officer has determined that the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution. The proposed regulatory action also would not create costs to any school district reimbursable by the state pursuant to Part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

B. Consideration of Alternatives

For the reasons set forth in the previously cited Staff Report, in staff's comments and responses at the hearing, and in this FSOR, the Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the Board. The regulatory action was developed to minimize adverse economic impact on small businesses, by allowing abbreviated reporting, a gradual implementation phase-in, and other provisions. The CTR amendments also increase transparency, by providing new and more complete information to communities directly affected by airborne toxics and other emissions, and data collected under CTR provides a foundation to increase consistency, openness, and transparency in publicly sharing facility emissions data collected by local air districts and the state.

II. Modifications Made to the Original Proposal

A. Modifications Approved at the Board Hearing and Provided for in the 15-Day Comment Period

At the hearing, staff presented, and the Board approved for adoption, updates to the amended regulatory language developed in response to comments received following release of the Staff Report: Initial Statement of Reasons (ISOR) on September 29, 2020. These modifications include revisions to the applicability criteria, updates to the district phase-in schedule, refinements to sector phase-in timing, updates to the toxic substances subject to reporting, and minor updates to the reporting requirements in the regulation.

The Board directed the Executive Officer to make modified regulatory language, and any additional conforming modifications, available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days and present the regulation to the Board for further consideration if warranted or take final action to adopt the regulation after addressing all appropriate modifications.

A Notice of Public Availability of Modified Text (15-day Notice) for the proposed amendments to CTR and modified text was released for a 15-day supplemental comment period on March 30, 2021. The 15-day changes are summarized in the "Summary of Amendments" above. The specific proposed modifications listed by CTR section are detailed in the 15-day Notice and companion underline/strikeout modified regulatory text. The 15-day modifications are also discussed, where appropriate, in the summary of comments and agency responses in Section IV.

B. Non-Substantial Changes

Subsequent to the 15-day public comment period mentioned above, the following non-substantial modifications were made to correct errors:

- Section 93401(d): CARB has decided not to proceed with the proposed amendment "The requestor may grant an extension of up to 60 additional calendar days to collect and submit the required information."
- Section 93402 "Hazardous waste treatment storage, disposal and recycling facility:" The references to 66096 and 66212 are incorrect. The correct reference is to section 66260.10.
- Section 93403(b)(1): The reference to section 93403(b)(4) is incorrect. The correct reference is to section 93403(b)(5).

The non-substantial modifications, described above, do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the amendments as adopted by CARB and approved by OAL. (See Cal. Code Regs., tit. 1, § 40.).

III.

Documents Incorporated by Reference

The amended regulation adopted by the Executive Officer incorporates by reference the following document:

- California Air Resources Board, *Staff Report: Initial Statement of Reasons for the Public Hearing to Consider Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, Appendix B – U.S. EPA Unit Type Codes*. October 2, 2020. Incorporated by reference in section 93402, definition for “Unit Type Code.” Staff Report available at: <https://ww2.arb.ca.gov/rulemaking/2020/proposed-regulation-reporting-criteria-air-pollutants-and-toxic-air-contaminants>

The cited Appendix B to the CTR ISOR was incorporated by reference because it would be cumbersome to publish the data table in California Code of Regulations. Also, distribution to all recipients of the California Code of Regulations is not needed because the interested audience for the data table or emission process look up codes is limited to the technical staff at facilities subject to CTR reporting, most of whom are already familiar with these methods and documents. Also, the incorporated documents were made available by CARB upon request during the rulemaking action and will continue to be readily available in the future on the CARB website at the link shown.

IV. Summary of Comments and Agency Response

Written comments were received during the 45-day comment period in response to the November 19, 2020, public hearing notice, and written and oral comments were presented at the Board Hearing. Listed below are the organizations and individuals that provided comments during the 45-day comment period. A supplemental 15-day comment period was initiated on March 30, 2021. Those comments received are addressed separately in subsection B below.

The CTR rulemaking is unique in that it was closely coordinated with the concurrent and interrelated amendments to the Emissions Inventory Criteria and Guidelines (EICG) under the AB 2588 Air Toxics “Hot Spots” Program rulemaking⁹. Because of this interconnection, sometimes commenters provided feedback on only CTR elements, or only EICG elements, but quite often, comments were provided that applied to both CTR and EICG. These combination comments were sometimes submitted to the CTR docket, sometimes the EICG docket, and sometimes both. Similarly, for the oral testimony, speakers would address CTR, EICG, or both regulations in their comments.

For example, comments related to the list of reportable toxics substances often apply to both regulations, as do certain comments related to the sectors subject to reporting, data transparency, implementation timing, resource requirements, waste sector reporting requirements, and so on. In order to ensure that all comments are responded to in each of the FSOR documents, in identifying and responding to individual comments, staff worked diligently to ensure that any comments associated

⁹ <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>

with the CTR rulemaking have been included and responded to in this FSOR, regardless of whether the comments were submitted to the CTR docket¹⁰, the EICG docket¹¹, or provided in testimony¹² without direct reference to a specific CTR provision. Staff has also confirmed that CTR comments submitted to the EICG docket have been included in the CTR docket.

To be comprehensive and to provide cohesiveness in the overall comments and responses, in this FSOR we include comments and responses for: (1) items only relating to CTR, (2) items that relate to both CTR and EICG, and (3) items that only apply to EICG. The inclusion of item 3 is unusual, because the comments do not directly apply to the CTR rulemaking. But these EICG-only responses are included because in multiple cases, letters were submitted with comments applying to CTR, EICG, or both. By including the EICG-only responses, a commenter can find all their comments and the associated staff responses within this single CTR FSOR document, rather than needing to refer to the separate EICG FSOR to locate their comments and the responses. An additional benefit of this approach is that, in some cases, the EICG-only comments and responses may have tangential relevance or provide useful additional background regarding the CTR rulemaking.

The EICG-only comments are provided in separate subsections of the respective 45-day and 15-day comment and response subsections which follow, under the heading, "*Comments Pertaining Only to the EICG Proposed Amendments.*" The EICG-only responses are shown inside a textbox, to indicate that they do not directly apply to the CTR rulemaking, but again, are provided for completeness.

Note that some written comments were scanned or otherwise electronically converted, so they may include minor typographical errors or formatting that is not consistent with the originally submitted comment letters. However, all content reflects the submitted comments. The individual submitted comment letters for the 45-day and 15-day comment periods are available here:

<https://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=ctr2020>.

The transcript and video recording of oral comments presented during the Board hearing is available here: <https://ww2.arb.ca.gov/2020-board-meetings> (see November 19, 2020).

A. Summary of Comments Received During the 45-Day Comment Period and the Board Meeting with Agency Responses

This section of the FSOR contains all comments submitted regarding the original proposed amendments during the 45-day comment period and during the Board

¹⁰ <https://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=ctr2020>

¹¹ <https://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=hotspots2020>

¹² Transcript: <https://ww3.arb.ca.gov/board/mt/2020/mt111920.pdf>

hearing on November 19, 2020. The 45-day comment period commenced on October 2, 2020, and ended on November 16, 2020.

The CARB comment docket for the CTR rulemaking (web link provided above) includes 42 unique comment letters from individuals or organizations submitted during the 45-day comment period, but as discussed above, we have also included comments submitted to the EICG docket for completeness. An additional 39 oral statements and 4 comment letters were provided at the November Board Hearing. Each comment submitted in writing and oral comments from the meeting transcript pertinent to the CTR rulemaking are responded to in this FSOR. To facilitate the use of this document, comments are categorized into sections and are grouped by responses wherever possible.

Tables A-1 and A-2 below list the commenters that provided written and oral comments on the proposed regulation during the 45-day comment period and at the Board hearing. The tables include the abbreviation assigned to each to help identify commenters in the comments/responses which follow.

Table A-1. Written Comments Received During the 45-Day Comment Period	
Commenter	Affiliation
Sheets, Frank (10/20/2020)	California Cement Manufacturers Environmental Coalition (CCMEC)
Mohan, Neena (10/26/2020)	California Environmental Justice Alliance (CEJA)
De Salvio, Alan (11/5/2020)	Mojave Desert Air Quality Management District (MDAQMD)
Sheets, Frank (11/5/2020)	California Cement Manufacturers Environmental Coalition (CCMEC1)
Brunelle, Christopher (11/8/2020)	Christopher Brunelle (CB)
De Salvio, Alan (11/9/2020)	Antelope Valley Air Quality Management District (AVAQMD)
Gareth, Smythe (11/10/2020)	Department of Defense (DoD)
Stephens, Glen (11/10/2020)	Eastern Kern Air Pollution Control District (EKAPCD)
Lounsbury, Barton (11/11/2020)	University of California (UC)
Clymo, Amy (11/12/2020)	Monterey Bay Air Resources District (MBARD)
Shestek, Tim (11/12/2020)	American Chemistry Council (ACC)
Harper, Adam / Snyder, Russell (11/13/2020)	California Construction and Industrial Materials Association/California Asphalt Pavement Association (CalCIMA/CalAPA)
Ma, Gary (11/13/2020)	Lawrence Livermore National Laboratory (LLNL)
Monger, Jack (11/13/2020)	Industrial Environmental Association (IEA)
Ali, Fariya (11/16/2020)	Pacific Gas & Electric (PG&E)
Ali, Fariya (11/16/2020)	Pacific Gas & Electric (PG&E1)
Bamford, Rob (11/16/2020)	Northern Sierra County Air Pollution Control District (NSCAPCD)
Buchan, Kevin (11/16/2020)	Western States Petroleum Association (WSPA)
Buchan, Kevin (11/16/2020)	Western States Petroleum Association (WSPA1)
Deslauriers, Sarah (11/16/2020)	California Association of Sanitation Agencies (CASA)
Ganapa, Tejasree (11/16/2020)	Los Angeles Department of Water and Power (LADWP)
Goss, Tracy (11/16/2020)	South Coast Air Quality Management District (SCAQMD)
Johnston, Dave (11/16/2020)	El Dorado County Air Quality Management District (EDC AQMD)
Kyle, Amy D (11/16/2020)	Amy D Kyle (AK)
Longmire, Sam (11/16/2020)	Northern Sonoma Air Quality Management District (NSAQMD)

Table A-1. Written Comments Received During the 45-Day Comment Period	
Commenter	Affiliation
Lynch, Kathy (11/16/2020)	California Waste Haulers Council (CWHC)
Noble, Dan (11/16/2020)	Association of Compost Producers (ACP)
Oriol, Heidi (11/16/2020)	Sacramento Regional Sanitation District (RegionalSan)
Pearson, Molly (11/16/2020)	Santa Barbara Air Pollution Control District (SBAPCD)
Pieroni, Cathleen (11/16/2020)	Inland Empire Utilities Agency (IEUA)
Regis, Steve (11/16/2020)	CalPortland Company (CalPortland)
Roberts, Amy (11/16/2020)	Sacramento Metropolitan Air Quality Management District (SMAQMD)
Sheikh, Samir (11/16/2020)	San Joaquin Valley Air Pollution Control District (SJVAPCD)
Simonelli, James (11/16/2020)	California Metals Coalition (CMC)
Simonelli, James (11/16/2020)	California Metals Coalition (CMC1)
Spaethe, Sondra (11/16/2020)	Feather River Air Quality Management District (FRAQMD)
Talavera, James (11/16/2020)	Los Angeles Department of Water and Power (LADWP1)
Tisopulos, Laki (11/16/2020)	Ventura County Air Pollution Control District (VCAPCD)
Torres, Alison (11/16/2020)	Eastern Municipal Water District (EMWD)
Waldrop, John (11/16/2020)	Shasta County Air Quality Management District (Shasta AQMD)
West, Jay (11/16/2020)	Performance Fluoropolymer Partnership (PFP)
Whittick, Janet (11/16/2020)	California Council for Environmental and Economic Balance (CCEEB)

Table A-2. Oral Comments Presented at the Board Hearing	
Commenter	Affiliation
Aird, Sarah (11/19/2020)	Californians for Pesticide Reform (CPR)
Anastasio, Cort (11/19/2020)	Professor UC Davis (CA)
Barrett, Will (11/19/2020)	American Lung Association (ALA)
Betancourt, Sylvia (11/19/2020)	Long Beach Alliance for Children with Asthma (LBACA)

Table A-2. Oral Comments Presented at the Board Hearing	
Commenter	Affiliation
Caponi, Frank (11/19/2020)	Los Angeles County Sanitation District (LACSD)
Caponi, Frank (11/19/2020)	Solid Waste Industry for Climate Solutions (SWICS)
Carr, Steve (11/19/2020)	Los Angeles County Sanitation District (LACSD1)
Cullum, Lauren (11/19/2020)	Sierra Club (SC)
Deshmukh, Shivaji (11/19/2020)	Inland Empire Utilities Agency (IEUA1)
Deslauriers, Sarah (11/19/2020)	California Association of Sanitation Agencies (CASA1)
Garoupa White, Catherine (11/19/2020)	Central Valley Air Quality Coalition (CVAQ)
George, Ranji (11/19/2020)	Ranji George (RG)
Gould, Robert (11/19/2020)	San Francisco Bay Chapter of Physicians for Social Responsibility (SFPSR)
Guzman, Christian (11/19/2020)	Christian Guzman (CG)
Harper, Adam (11/19/2020)	California Construction Industrial Materials Association (CalCIMA1)
Jepsen, Stephen (11/19/2020)	Southern California Alliance of Publicly Owned Treatment Works (SCAP)
Kaspi, Elron (11/19/2020)	Elron Kaspi (EK)
Katz, Jamie (11/19/2020)	Leadership Council for Justice and Accountability (LCJA)
Koons, William (11/19/2020)	Carson Environmental Commission (CEC)
Kyle, Amy D (11/19/2020)	Amy D Kyle (AK1)
Kyle, Amy D (11/19/2020)	Amy D Kyle (AK2)
LaMarr, Bill (11/19/2020)	California Small Business Alliance (CSBA)
Lane, John (11/19/2020)	Teichert (Teichert)
Magavern, Bill (11/19/2020)	Coalition for Clean Air (CCA)
Marquez, Emily (11/19/2020)	Pesticide Action Network (PAN)
Marquez, Jesse (11/19/2020)	Coalition for a Safe Environment (CSE)
May, Julia (11/19/2020)	Citizens for a Better Environment (CBE)
McMullen, Jennifer (11/19/2020)	City of Corona (CC)
Meskal, Natasha (11/19/2020)	Natasha Meskal (NM)

Table A-2. Oral Comments Presented at the Board Hearing	
Commenter	Affiliation
Noble, Dan (11/19/2020)	Association of Compost Producers (ACP1)
Olmedo, Luis (11/19/2020)	Comite Civico del Valle (CCV)
Overmyer-Velazquez, Rebecca (11/19/2020)	Clean Air Coalition of North Whittier and Avocado Heights (CACNWAH)
Plazas, Paula (11/19/2020)	Physicians for Social Responsibility - Los Angeles (PSRLA)
Rivera, Alicia (11/19/2020)	Citizens for a Better Environment (CBE1)
Roberts, Amy (11/19/2020)	Sacramento Metropolitan Air Quality Management District (SMAQMD1)
Rothbart, David (11/19/2020)	Southern California Alliance of Publicly Owned Treatment Works (SCAP1)
Schneer, Katie (11/19/2020)	Environmental Defense Fund (EDF)
Suwol, Robina (11/19/2020)	California Safe Schools (CSS)
Torres, Allison (11/19/2020)	Eastern Municipal Water District (EMWD1)
Whittick, Janet (11/19/2020)	California Council for Environmental and Economic Balance (CCEEB1)
Williams, Jane (11/19/2020)	CA Communities Against Toxics (CCAT)
Zakrasek, Mary (11/19/2020)	Mary Zakrasek (MZ)
Ziegenbein, Jeff (11/19/2020)	Association of Compost Producers (CACP)

A-1. General Comments Regarding CTR Requirements

A-1.1. [Multiple Comments: General Support Toxics and Inventory](#)

Comment: I ask you to consider passing the rules under consideration today to get lists updated with current toxic chemicals and determine localized impacts.

I ask CARB to approve the rules that will accelerate progress in high risk urban environments with an early action process to reduce emissions and head toward zero discharge.

The decisive action you take today with approval of the proposed amendments will begin to improve air quality and change the trajectory of public health. Thank you.
(MZ)

Comment: As stated earlier by staff, we don't know how many air toxic emissions there are in California. And only a small inventory of these sources are even available to the public. And that's why full complete information needs to be made to all members of the public, including organizations like ours, other organizations, and air pollution control entities.

In an era of a pandemic and where air pollution continues to be linked to a host of illnesses that include, but are not limited to, cancer, hormonal and neurological disorders, birth defects, asthma and other respiratory illnesses, now is the time to move forward. So in closing, we want to like thank the staff for their work. And we're respectfully requesting that the Board swiftly adopt the complete list of air toxics, included in the Criteria and Toxics Reporting and Emission Inventory Criteria Document. (CSS)

Comment: For years, CVAQ and our partners have urged the Air Resources Board to exercise its authority over toxic -- toxics to take health protective measures like implementing and enforcing health and safety buffers around sources like major roadways, oil and gas operations, and agricultural operations. As many have spoken to today, air toxics have severe public health and environmental justice impacts and updates to these rules and programs are long overdue. (CVAQ)

Comment: Again -- and I also want to state our support for the improvement of the inventory. (LBACA)

Comment: ...support all of the staff amendments to both reports. (SFPSR)

Comment: Our member support CARB's proposed amendments. And we urge the Board to approve them. We are supportive of the updates to these rules, as they will improve our understanding of air toxics, including those from stationary sources and help to modernize the reporting process (SC)

Comment: We also align ourselves with the recommendations set forth in the environmental justice and health joint letter submitted, as well as the public comments made by those organizations and individuals speaking on behalf of EJ and health today. (SC)

Comment: We support directing staff to keep essential elements more current and to design an approach to provide ongoing scientifically-credible updates to these elements of the program, of course, in consultation with the Scientific Review Panel, and then for -- for further actions to redress inequities. (CEC)

Comment: I really appreciated the staff's report. You have excellent staff. And they brought up pretty fair transition practices. I think it's a part of civic and community responsibility for businesses to conform to these rules. As a citizen, I'm wearing a mask and I'm observing traffic rules. And I think that this effort is another kind of responsibility for our businesses and our industries, so I think they should do that. I think it's -- this is an opportunity for a just transition. We talked a lot about struggles that we may in the future with adopting these rules, but those are all opportunities for new jobs. And we'll leave it up to our elected officials to find the money for it, but they can do it. They're helping out with the pandemic now and I hope they'll help out more. But we can do this and I hope we will do this as soon as we can. (CG)

Agency Response: Staff agrees that it is imperative to significantly expand the list of toxic air contaminants that must be reported, when emitted by California facilities. This led to the inclusion of hundreds of additional toxic chemicals subject to required emissions reporting under the CTR and EICG amendments, as well as comprehensive and consistent reporting requirements for facilities through the state. This will ultimately provide the emissions information needed to address the concerns mentioned in the comments, such as evaluating the need for safety buffers, establishing more accountability for businesses, and providing future opportunities to improve and quantify improvements to air quality within affected communities. We also agree that now is the time to move forward and start making further progress to mitigate problems that have been in place for decades. We appreciate the engagement and vision of the commenters. Their support will be instrumental for successful program implementation as we move forward in partnership, providing outreach, addressing challenges, and providing systems to make the collected toxics emissions and other data easily accessible and understandable.

A-1.2. [Comment: Support Amendments](#)

I want to point out examples to you as to why we need and why we support the two proposed amendments by the staff. And I want to thank the staff for doing a great job in clarifying some of the new things that should be added. For the past 10 years at all public comments I attend and all the public hearings I attend and prepare to -- for the Port of LA in Los Angeles regarding port projects, I bring up things that have not been inventoried. And many of you that are on the CARB staff know this and have heard me

say it many times. Right now, in Wilmington, we have over 120 container storage yards. That means thousands of trucks are going in and out every single day. There has never been an inventory of these in any EIR. There are over 300 operating oil wells. And there has not been a study or an annual review of everyone of these operating oil wells for their emissions. We have hundreds of abandoned oil wells. There has never been an annual inventory of any of those emissions. We have brownfields here in Wilmington and bordering us in Carson, where at one time I went by one at a request of a trucking company employees, where the trucks had been using -- well, the brownfield facility was actually a container storage yard also. The trucks had been driving over the pipes in this facility, so the methane gas had been escaping. And then when I looked at the facility, I saw that the flare unit, the combustion unit was not even operating. And when I talked with the truck drivers there, they told me it had not been operating for over six months. The pipes had been broken for most of the year, and so here was all this methane gas escaping while there is no annual inspection of these. In addition to that, at the Port of LA, Port of Long Beach going from Wilmington going to Terminal Island, we have lift bridges. These are bridges that actually lift up in the center whenever a large ship has to go under them, while it stops car traffic, truck traffic, and train traffic. And this happens practically every day. There is no inventory of these emissions. In addition to that, we discovered that there is a power generator that powers these generators to provide extra electricity. (CSE)

Agency Response: Staff appreciate the support, and agree that it is necessary and important to develop a more current, statewide system of uniform and complete emissions reporting of criteria air pollutants and toxic air contaminants by California facilities. It is vital to include new or other chemicals of concern that are recognized as presenting a chronic or acute threat to public health and were not included in the 2007 EICG. CARB also acknowledges the commenter's concern over emissions from unpermitted sources and facilities. The CTR amendments include requirements to report emissions from portable diesel-powered equipment at larger facilities, regardless of permit status, as CARB moves toward a more comprehensive "facility footprint" concept (including impacts from all sources that are on-site), when evaluating the potential health effects of facility emissions. The CTR also contains a provision whereby concerned citizens may contact CARB staff to determine the status of a particular facility, regarding whether the facility is permitted by the local air district, and whether the facility reports emissions to CARB pursuant to CTR. The data collected under the amended reporting requirements will support many CARB programs, and will provide a better foundation for reducing harmful air pollutant emissions within communities and throughout the state.

A-1.3. Comment: Support for Overall Goals

We support the overall goal of a uniform, consistent and transparent statewide reporting program that can provide meaningful and timely emissions data to the public. (CCEEB1)

Agency Response: Staff appreciate the support and agree that a uniform, consistent and transparent statewide reporting program is critical in providing meaningful and timely emissions data to agency data users, policy makers, and the public.

A-1.4. [Multiple Comments: Support for Adoption](#)

Comment: Finally, I wanted to say that the Lung Association who did submit comments with our collective of public health and environmental justice partners really look forward to working with the Board, the air districts and community stakeholders in our collective pursuit of healthier communities for all Californians. We urge you to adopt the proposals today and look forward to the implementation process. (ALA)

Comment: The Criteria and Toxics Reporting rules and Emissions Inventory Criteria and Guidelines are both vitally important to understanding local air pollution, identifying key stationary sources, tracking progress in reducing emissions and the ability to correlate different types of pollutants from certain sources. The utility of these programs is key to the successful implementation of AB 617, which itself is a critical tool to addressing the ongoing disproportionate air pollution burden in communities across California. The amendments proposed today are an important step forward and should be adopted (EDF)

Comment: Could be strengthened by adopting the complete list of air toxics, included in the EICG and the CTR rule as well. (EDF)

Comment: Richmond faces toxics from Chevron -- the Chevron refinery and others. Wilmington has five refineries, major ports, oil drilling and more. Southeast LA has a history of toxic metals, including Exide, Central Metal, and other burdens. East Oakland has metals processing, an industrial-sized crematorium and more. And all these communities are hit by transportation source emissions and extreme cumulative impacts. It's always hard to get good data on these sources, some more than others. Just yesterday, a regulator told us they don't have good data on metal a processing facility -- facilities in the area, even though this is a major priority for local communities. There are numerous examples over the last decades of my experience where I've seen big inconsistencies between emissions estimations or a complete lack of data. I frequently don't have confidence in data. And we know for a fact that more sophisticated monitoring that's newer shows wide-spread emissions underestimation. For example, oil refineries. In South Coast, studies and another in Texas using FluxSense measurements, they found benzene was drastically underestimated, mainly from storage tanks, pipes and leaks at the refineries. This is also true at petroleum terminal storage tanks. And so these are just examples. There are many examples and we urge adoption and implementation of the new regs to expand the reporting, make it more consistent. (CBE)

Comment: Our communities and PSR-LA is in strong support of the proposed amendments to the CTR regulation and recommend -- and we recommend that the California Air Resources Board should approve the staff proposals to amend the

criteria and air toxics emissions reporting rule and include the recommendations for the emissions inventory criteria guidelines report for the Air Toxic Hot Spots Program. (PSRLA)

Comment: So I believe this proposal has important positive aspects and should be adopted. (CEC)

Comment: So I do support the adoption of these rules by the Board with a few changes. (CG)

Comment: We support adoption and the strengthening of the regulation on air toxics, in addition to the smoke forming and greenhouse gas pollutants into one comprehensive database. Thank you very much for the work of the Board and staff on this, and don't delay. People have waited long enough. I can't believe that companies are still wanting more time or to not include them. (CBE1)

Agency Response: Staff agrees with the commenters regarding the necessity and the value of adopting the proposed amendments. To adequately address air quality issues in disproportionately-affected California communities, it will be critical to implement comprehensive improvements in how airborne emissions of facility-based toxics and other pollutants are collected and shared in California. The amendments to CTR and EICG significantly expand the number of sources subject to annual emissions data reporting, as well as the number of toxics substances that must be reported. The collected data will provide a foundation which can be used to assist communities exposed to disproportionate levels of air toxics. For this and other reasons, staff is enthusiastic about moving forward with implementing the provisions of the amendments in partnership with air districts, community members, and others striving to address the complex issues of air toxics head-on.

A-1.5. [Comment: Support for Sectors and Thresholds](#)

Update Commercial Sectors

The sectors that are to be considered as possible emitters of toxic air contaminants have also been updated based in part on business records to a more realistic version of commerce today. The review has adapted reporting thresholds to be more cognizant of scientific understanding, including the concerns for children's environmental health reflected in SB 25. We encourage the Board to adopt this element of the proposal. (AK)

Agency Response: Staff appreciate the support and believe that revising the industry sectors that are subject to emissions reporting, and the associated emissions thresholds for facility reporting, is necessary to continue protecting public health, especially as toxic air emissions change based on evolving business practices. Additionally, it is important to update the EICG with the 2015 OEHHA health risk science guidance.

A-1.6. [Comment: Looking Forward to Working Together](#)

CCMEC appreciates the opportunity to comment on CARB's amended AB 2588 Emission Inventory and Criteria Guidelines (EICG) dated July 28, 2020 and looks forward to our next discussion with CARB to address the cement industry concerns. (CCMEC)

Agency Response: Staff appreciate the support and feedback received during discussions/meetings with stakeholders from the cement industry.

A-1.7. [Multiple Comments: Support, But More Work Needed](#)

Comment: The Mojave Desert Air Quality Management District (MDAQMD) appreciates the opportunity to submit our formal comments regarding the proposed changes to the CTR regulation and EICG rule that will be considered before the CARB Board at their November meeting. I appreciate CARB's efforts and willingness to include the Districts in this effort. MDAQMD supports strengthening and synchronizing the criteria and toxics inventory process. However, as a local air district facing the challenging implementation of the proposed changes, the MDAQMD requests that the issues raised below be addressed in both rulemakings prior to adoption: (MDAQMD)

Comment: The Eastern Kern Air Pollution Control District (District) appreciates the opportunity to formally submit our comments regarding changes to the CTR and EICG regulations. The District understands the California Air Resources Board's (CARB's) reasons to strengthen and synchronize the criteria and toxics inventory process, and the District appreciates your willingness to include the California Air Districts in this process. However, as a local air district facing the challenges of implementing the proposed changes, the District will note several important items we believe need to be addressed before both rulemaking adoptions. (EKAPCD)

Comment: For the most part, the amendments improve the regulations and are important to adopt now. We support adoption of these rules by the Board with one change. (AK)

Comment: The proposal has important positive aspects and should be adopted -- with minor amendments and additional direction to staff. (AK)

Comment: Together, these amendments are the most significant overhaul of emissions reporting in California since 1989 when AB 2588 was first enacted. CCEEB asks the Board to recognize the scale and scope of the proposed amendments, as well as the need for close and supportive coordination with the thirty- five local air districts, which bear shared responsibility for program implementation with the Air Resources Board (ARB).

CCEEB has worked in earnest over the past year with staffs at ARB, the California Air Pollution Control Officers Association (CAPCOA), and the air districts on the proposed

amendments. We are also engaged at the South Coast Air Quality Management District and Bay Area Air Quality Management District to bring district reporting programs into alignment with the statewide rules. Our overriding goal – and one we believe is shared by ARB and the districts – has been the establishment of a uniform and transparent statewide system of emissions reporting that provides timely, accurate, and meaningful data to the agencies and public.

The challenge has never been one of intent, as there has been no disagreement over goals. Instead, the challenge is the complexity involved in creating an adaptable framework that can serve the state's needs over time and will be implemented by more than 60,000 facilities on an annual basis in perpetuity. Even though the program is expected to grow and evolve, the framework must be made right from the start. CCEEB believes ARB staff is close, but not quite there yet. A few foundational questions remain, along with many needed technical clarifications. For these reasons, we respectfully request the Board to direct staff to continue working with CCEEB, the air districts, and other stakeholders towards resolution of the issues we raise in our letter.

What follows is a more detailed discussion of the reporting rules, organized around three general topics: (1) issues we believe should be addressed or resolved before the rules are made final, (2) other general issues to consider, and (3) recommendations specific to sections of the CTR or EICG rules. (CCEEB)

Comment: CCEEB appreciates the extensive efforts made by ARB staff to engage with us and thoughtfully consider our issues and questions. Much progress has been made, even if that is not entirely evident by the long list of outstanding issues we have expressed in this letter. We are also grateful to the staffs at CAPCOA and the air districts who have shared with us their perspectives and expertise, and who work diligently as partners to ARB. Our hope is that our comments can move ARB forward in ways that support successful program implementation and preserve the integrity of its goals, while providing facilities with the technical resources they need to prepare annual reports. (CCEEB)

Comment: We support both of the proposals with some improvements that I will identify. There's clearly a need for these proposals. These inventories have not been updated since the 1990s. And it's essential that we keep up with the science, enhance public access, and unify the reporting across air districts. If you look at the data reported, there are some really stark disparities in the reporting across air districts. And that's not fair to the public who need this information. And we also need these updated inventories to inform the processes that actually reduce emissions, because that's the goal here is to reduce emissions and improve public health. And these inventories inform the AB 617 process, as well as airborne toxic control mechanisms. And we also know that there's a concentration of air pollution in low income communities of color, so this is very much important for equity in our air pollution systems. (CCA)

Comment: I again urge you to adopt these proposals with these improvements today and move forward. (CCA)

Comment: I would recommend the regulation for the adoption with two suggestions related to logistics of implementation. (NM)

Comment: The Antelope Valley Air Quality Management District (AVAQMD) appreciates the opportunity to submit our formal comments regarding the proposed changes to the CTR regulation and EICG rule that will be considered before the CARB Board at their November meeting. I appreciate CARB's efforts and willingness to include the Districts in this effort. AVAQMD supports strengthening and synchronizing the criteria and toxics inventory process. However, as a local air district facing the challenging implementation of the proposed changes, the AVAQMD requests that the issues raised below be addressed in both rulemakings prior to adoption: (AVAQMD)

Comment: I urge improvements to what's before you and adoption today. (CVAQ)

Agency Response: This group of comments expresses general support from the commenters regarding the overarching goals of updating and synchronizing the emissions reporting requirements statewide, but all also express a desire to have their other, more specific concerns addressed. Staff appreciates the input received from stakeholders and considered this input while developing and modifying the proposed amendments to the regulations. Staff understands the issues raised in these and other comments, and has provided responses to the other specific comments as presented throughout this document.

A-1.8. Multiple Comments: Address Comments Prior to Adoption

Comment: MBARD will continue to work with CARB on the emissions reporting requirements but requests that CARB postpone the regulation changes so that our comments can be addressed and heard by your Board. (MBARD)

Comment: 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. (SBAPCD)

Agency Response: The Monterey Bay Air Resources District did not testify at the public hearing, however other comments submitted by the district in writing are addressed elsewhere in this document under the MBARD commenter abbreviation. This is similar to the Santa Barbara Air Pollution Control District, wherein specific written comments are addressed elsewhere in this document under the SBAPCD commenter abbreviation. Staff provides responses to each written comment submitted, including those that potentially lead to 15-day modifications.

A-1.9. Multiple Comments: Agree With Other Commenters

Comment: Regional San is supportive of the comments provided by the California Association of Sanitation Agencies (CASA). (RegionalSan)

Comment: The District generally agrees with many of the points submitted in comments by other Districts and would like to suggest one additional comment that the District believes could improve implementation of the Program. (NSCAPCD)

Comment: In the interests of time, I'd like to note my support for the recommendations made in the letter submitted to the Board by Physicians for Social Responsibility, LA, as well as other NGOs. (PAN)

Agency Response: These comments made by separate commenters agreeing with each other are included for completeness, but staff did not attempt to ascertain which specific points the commenters were agreeing with. The specific substantive elements by the original commenters are included in other responses in this document.

A-1.10. Multiple Comments: Two Regulations/Inconsistency Between CTR and EICG Regulations

Comment: The lack of consistent emission factors and methodologies statewide between air districts in calculating emissions for stationary sources would create a database that is imprecise, inconsistent and will present inequivalent information as equivalent for similar types of facilities. As a result, it will misinform the public should they attempt to compare data across incompatible air district systems. The resulting confusion is the exact opposite of the original intent of AB617. The legislatively approved definition of stationary sources for this reporting system was targeting only major stationary sources and high risk facilities for which consistency can be created. (CalCIMA/CalAPA)

Comment: CARB comprehensively overhaul the multiple overlapping emission reporting regulations and create a single streamlined requirement (EDC AQMD)

Comment: Regulatory Confusion: With the addition of the CTR regulation, there are now multiple emission inventory and reporting regulations that air districts, regulated entities and the public must decipher and interpret.

Moreover, there remains contradiction and confusion between the CTR regulation and AB 2588 "Hot Spots" regulation. For example, the AB 2588 program would exempt sources from reporting that have been categorized as "low" as they have been screened and determined to pose a low exposure risk. Though the EICG states that exemption from update reporting, the same is not the case (for sources categorized as low) under other programs, even though it would seem that a "low" category should be sufficient for both regulations. Or possibly, if it is determined that the previous designation on "low" categorized facilities no longer applies, then the reporting requirement or exemption thereof should be removed from the EICG. Likewise, the same holds true for the four-year update reporting under the hot spots program for facilities categorized as intermediate or high risk. This is in direct contradiction with the annual reporting requirements specified in the CTR regulation.

In general, the AB 2588 program has the following five goals; 1) collect toxics emission data; 2) identify facilities having localized impacts 3) ascertain health risks; 4) notify the public of significant risks; and 5) reduce significant risks to acceptable levels. The first goal, collect toxics emission data, is now being reimaged under the proposed CTR regulation. Therefore, if the annual reporting requirements proposed in the CTR regulation are the current direction, then the EICG should be revised to remove the reporting requirements so that there is no contradiction and confusion. (SMAQMD)

Agency Response: The amendments to CTR and EICG are meant to complement each other. CTR requires annual emissions (or activity data) reporting for over 60,000 facilities (at full implementation). EICG requires full reporting only once every 4 years for many sources; but, for high-risk facilities (a small subset of the total), substantially more work is required to quantify and mitigate risk. EICG is focused on identifying and mitigating toxics risks but requires less frequent updates of emissions estimates, while CTR is a more comprehensive emissions reporting regulation, generally requiring facilities to update emissions data (or activity data) each year, but does not require risk assessments, notifications, or risk mitigation. Although CTR requires more frequent facility emissions updates (superseding the EICG emissions update frequency), it does not otherwise affect EICG requirements pertaining to district implementation of the AB 2588 program. The two sets of regulation are not duplicative.

Further, EICG is predominantly an air district administered program, based on district resources and priorities. Many districts have robust toxics programs under EICG and some do not. With CTR, all districts are on the same footing, because the applicability and reporting requirements are applied uniformly statewide. Additionally, contrary to the comment regarding creation of inconsistent methodologies across districts, the CTR program goal is to develop more consistent and transparent quantification methods for industry sectors, to correct inconsistencies that currently exist. This consistency reduces confusion and lays the framework to provide much more complete and compatible data across our 35 air districts. Staff disagrees with the conclusion that more confusion will be

created or that the existing approaches effectively acquire sufficient data to adequately implement CARB's inventory-related programs.

The amendments provide a new, stronger pillar to address deficiencies of the past, and build something much better in the future. Regarding the comment about creating a single streamlined requirement, we do expect that the large majority of emissions data reports submitted under CTR will meet the emissions reporting requirements under EICG, avoiding duplicative reporting. The idea of a single reporting regulation is a good concept, which could be considered in the future, but with the timing available, as well as the different goals of CTR and EICG, it was not possible now. However, the amendments were designed so that a facility can typically comply with both regulations by issuing a single report. Because the comments express overall concerns, rather than specific regulatory changes, no regulation updates are required.

A-1.11. Comment: Consider Other Alternative ISORs

ISOR Section VIII. Evaluation of Regulatory Alternatives. CARB does not adequately consider alternatives to the proposed regulation (WSPA1)

Agency Response: Within the ISOR, staff has met all requirements for an analysis of alternatives including discussion of the following alternatives: "Take No Action Alternative," "Require Reporting by All Permitted Facilities," and "Require Full Reporting by All Facilities, Removing the Abbreviated Reporting Provisions." Staff does not have an obligation to provide a discussion of each potential alternative that is raised by stakeholders during the rulemaking process. Such an approach or requirement would not be reasonable, practical, nor supportive of the staff intent to move forward with the approval and implementation of the amended requirements as proposed. However, staff did consider comments and suggestions provided by stakeholders at workshops and through the formal comment process.

A-1.12. Multiple Comments: Quicker Action Needed

Comment: Move more rapidly to emissions reductions and zero discharges into highly impacted communities. (AK)

Comment: Get to Emissions Reductions Sooner Rather than Later. The amendments before you today are primarily focused on reporting and tracking emissions as a way to move toward proper management of air toxics. As proposed, this will take many years.

In the meantime, we ask that CARB direct staff to develop a parallel path to identify sectors of concern and accelerate progress towards emission reductions.

This will require that sectors with potential for greater risks be identified and assessment of alternate strategies to reduce emissions be considered. This should not

be limited to available technologies. In highly impacted communities, available technologies may not be sufficient.

This is consistent with other areas of air pollution control. CARB has not settled for best available technologies for vehicles, and climate and air pollution programs would not ever succeed if they did. Now it is time to allow look for ways to reduce emissions and move toward zero discharge strategies for highly impacted urban environments that fundamentally are unsuited to emissions of highly toxic materials. (AK)

Comment: The other is for the Board to direct the staff to develop early action pathways to identify sectors of concern in order to reduce emissions as soon as possible. (PAN)

Comment: Support those who have spoken for developing early action pathways to identify sectors of concern and to accelerate our ability to reduce emissions. (SFPSR)

Agency Response: The comments provided do not directly address the proposed CTR or EICG amendments so no regulation modifications are required. The comments discuss early actions to address sources of concern and developing pathways to reduce emissions. The amendments are designed to address these concerns by providing improved emissions data, but it will take time to achieve full implementation, as outlined in the regulation.

A-1.13. [Multiple Comments: Regular Updates Needed](#)

Comment: We ask the Board to direct staff to take two further actions to supplement the amendments: Institutionalize future updates of the lists of chemicals considered as air toxics; and... (AK)

Comment: Direct Staff to Keep Essential Elements More Current. It has been a major effort to update the lists of chemicals and sectors. We can expect that the world will continue to evolve and change. Because the air toxics program is defined to a great degree by the substances and sectors, as lists become outdated, so does the program.

We ask the Board to direct the staff to design an approach to provide on-going, scientifically credible updates to these crucial elements of the program, in consultation with the Scientific Review Panel. Updates could come to the Board on some regular basis, perhaps biennially. (AK)

Comment: Direct CARB staff to create a process that provides regular ongoing updates to the list of chemicals and sectors that define the scope of the Air Toxics Program. (PAN)

Comment: Institutionalize a process to update these lists of chemicals and sectors on a regular basis into the future. (CCA)

Comment: We urge the Board to provide more regular updates to the program in terms of both pollutant lists and covered industry sectors and believe that it's important that these are done in consultation with the Scientific Review Panel. And we also very much support annual reporting back to the Board by the staff on progress towards implementation. (ALA)

Comment: It is also important that lists of both toxics and sources are updated regularly, going forward to reflect scientific advancements and that any inconsistencies in local air district collection of this data is addressed to ensure consistency across regions and source type. Updating these rules to ensure that inventories are complete and consistent is overdue and we are encouraged to see CARB moving forward. (EDF)

Comment: Institutionalize a process to update the list of chemicals and sectors that define the scope of the Air Toxics Program (SFPSR)

Agency Response: Staff appreciates these comments and is committed to update the lists consistent with Board direction, as outlined below. It has been over two decades since the list of toxics was last updated. With the passage of AB 617, AB 197, and other community-based programs, there is a renewed urgency in addressing emissions of toxic air contaminants and in taking action to fully understand and reduce these emissions in our communities. To memorialize the Board's direction to perform regular updates, both the CTR and EICG Board Resolutions include the following instruction: "BE IT FURTHER RESOLVED that the Board directs CARB staff to develop a process to regularly update (no less than every five years) the list of toxics to be reported under the Criteria Pollutant and Toxics Emissions Reporting (CTR) and Air Toxics "Hot Spots" programs; staff shall present this process to the Board within one year as an informational item." See also responses to Section A-10.6., "*Multiple Comments: Toxics List - Updates*" and Section A-10.8., "*Comment: Support Substances - Update Chemical List Regularly*".

A-1.14. [Multiple Comments: More Time for Review - Comments](#)

Comment: MBARD recommends extending the review and comment period to have additional time to address the issues included with this letter and other issues we have communicated in prior comment letters which have not been addressed. (MBARD)

Comment: Inadequate Timing for Consideration of Comments: The Sac Metro Air District objects to the timing of CARB's deadline to receive comments on the CTR regulation and subsequent date of the CARB Board meeting to consider adoption of the regulation. There are less than three days between the November 16, 2020 deadline and the November 19, 2020 Board meeting. For a regulation that is so sweeping in its impact on air districts and the regulated business community, which ultimately impacts the final data product that the public will access, it is impossible for CARB to adequately review submitted comments in any meaningful way and incorporate any valid changes prior to Board consideration. Instead, this process

appears to be disingenuous with only minimal review effort and making revisions through a 15-day rule change process to take those comments into consideration. A 15-day process may be adequate to correct deficiencies in the rule identified prior to implementation, but it should not be the process relied upon for more thorough stakeholder engagement. The Sac Metro Air District strongly urges CARB to respect the rulemaking process and stakeholder input by delaying consideration of this regulation until a reasonable amount of time has been given for review and consideration of all comments, preferably through a broader workgroup that has all stakeholders at the table. (SMAQMD)

Comment: From the presentation quite frankly, it's difficult to follow which -- which rules are being changed, since they happen together and they both involve reporting, one at a much -- one at a more significant level than the other. I would say with the scope of changes, it sounds to me like this should be more of a redirect staff to go out and do 45-day comments and a new -- I mean, it sounds like relatively significant changes are being made, perhaps more than 15-day to me right now. Not seeing a mark-up, I wanted to make that comment and -- for the Board's consideration. I think it's important to understand that we as industry saw the full EICG package the week before it went out for a 45 day comment. And that maybe that's one of the reasons it's going through so much change now is CARB staff had focused -- who was working that role had really focused on talking with the Scientific Review Panel, and the full scope of that, and full challenges of that were not necessarily present. (CalCIMA1)

Agency Response: Throughout the CTR and EICG regulation development process, staff worked closely with air districts and other stakeholders to obtain early feedback on regulatory concepts. We also provided draft language to districts and others for input prior to developing final proposals. In addition, staff followed all requirements of the California Administrative Procedures Act (APA) regarding noticing and comment periods. It is common practice for the end of the public comment period to occur just days before the scheduled Board meeting for a regulatory item, so there is nothing out of the ordinary in the staff process.

But, staff agrees that there are substantial amendments to the regulations, and there were also many comment letters submitted regarding the originally proposed 45-day amendments. To minimize confusion and ensure the public and other interested parties had time to engage in the 15-day change process, staff hosted a public workshop during February 2021 to discuss the comments and additional proposed 15-day amendments to address the comments that were raised in writing, during testimony, and by Board members. Such a workshop is not required under APA, but was done to provide inclusiveness and transparency in the process and proposed amendments. The proposed 15-day revisions were released on March 30, 2021 for an supplemental 15-day comment period to obtain further input.

Staff has addressed all substantive concerns raised regarding the proposed amendments. There were no technical or process-based justifications for delaying the inevitable and pressing needs for structural changes to the California emission inventory processes at the facility, district, and state level for our stationary sources. The provided process-based comments do not require any revisions to the amendments. Also refer to *Section A-1.18., "Multiple Comments: More Outreach Needed"* for additional information on outreach.

A-1.15. Multiple Comments: More Time for Review - Materials

Comment: Rushed timing. The timeline for receiving materials to review prior to the comment deadlines continues to be insufficient. The materials for the September 30 workshop were posted the afternoon of September 29 providing attendees little, if any, time for review. If CARB seeks to receive meaningful comments, more time should be given to review the over 700 pages of material included in the CTR and EICG rulemaking documents. A 45-day review period is insufficient time for air districts, the regulated community, or public to review all the documentation and changes. Finally, having comments due three days prior to the Board meeting means these comments cannot be reviewed, nor adjustments made, in a timely manner to allow your Board to make a fully informed decision based on the concerns raised by the commenters. (MBARD)

Comment: 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. (SBAPCD)

Comment: Section VIII. Other Requirements. The proposed amendments add requirements for reporting of emissions or activity data for categories of mobile sources in section VIII.G. While workshops for this rulemaking discussed adding requirements for mobile sources, regulatory language was only made available to the public in the proposed rule posted on September 29, 2020. Given the magnitude of these new proposed requirements, rule language should have been made available to the public for comment prior to the notice of proposed rulemaking. (WSPA)

Agency Response: To begin, please see responses to *Section A-1.14., "Multiple Comments: More Time for Review - Comments"* and *Section A-1.18., "Multiple Comments: More Outreach Needed"* which address related topics, and *Section A-1.16., "Multiple Comments: More Time for Review - Participation"* which discusses some of the specifics of outreach. There were significant amendments to CTR and EICG, but stakeholders were included throughout the development

process. Other CARB regulations which are substantially more complex than the CTR and EICG amendments also follow the minimum mandated 45-day review period, as is commonplace and entirely known to air districts, industry, and others. It is also completely typical for the public 45-day review and comment period to end just a few days before the scheduled Board meeting and public testimony, which is also known to anyone familiar with the CARB rulemaking process. Staff met all mandated rulemaking requirements and performed complete outreach. It was not possible to justify any additional delays, considering the importance and urgency to begin collecting the toxic emissions and other data that will be obtained under the amended regulations needed to protect our communities.

A-1.16. Multiple Comments: More Time for Review - Participation

Comment: Rule Adoption Process. Many of the sources that will be affected by these amendments have not had an opportunity to participate in the rule making process due to the COVID-19 public health emergency. The District believes that CARB should follow the normal open and transparent rule adoption process instead of the abbreviated and closed "amendment" process that has been followed to date. The changes proposed to the EICG and in the amendments to the CTR are significant and the adoption should be delayed to allow sufficient time for regulated industries, the public, and air districts to comprehend the impacts and develop strategies for effective implementation. Rushing through this process to meet an artificial deadline undermines the success of the effort under AB 617 to develop a uniform system of emissions reporting and making the emissions data accessible to the public. (FRAQMD)

Comment: In addition, there are issues with the proposed pieces of legislation that still should be worked out before adoption. There should be more time allowed for thorough public and agency review and, especially, for implementation (NSAQMD)

Agency Response: The onset of COVID-19 posed challenges for regulatory agencies responsible for developing rulemaking, performing enforcement, and conducting many other public agency activities. However, it is inaccurate to say that the rulemaking process was abbreviated and closed. For the CTR regulation development, during February 2020, staff held five in-person workshops throughout the state, with one being webcast with over 200 participants. Following the onset of the COVID pandemic, staff held a well attended virtual-workshop webinar on September 30, 2020 with nearly 500 participants, and another on February 11, 2021 with over 300 participants. With the decision to closely coordinate the CTR and EICG amendments, as well as putting them on the same timeline, these two webinars addressed both regulations.

Of course, this was only a small part of the development process, which included dozens of in-person and online meetings with air districts, industry representatives and other stakeholder groups to develop and refine the

regulatory requirements so they can be practically and effectively implemented. Staff also made personal phone calls and sent direct emails to dozens of industry groups and chambers of commerce reflecting a diverse array of those potentially affected by the amendments. The process was not rushed; it was transparent and open to the public. In several ways, the process was made even more accessible and open in certain cases. For example, the ease of having "virtual" stakeholder meetings eliminated some of the barriers inherent to in-person meetings, such as scheduling and travel constraints, which allowed for a more collaborative and dynamic public participation.

Due to implementation challenges, most stakeholders would prefer more time to do things even better. But it is very important to start the process, which is spread out over a six year phase-in process. The phase-in period allows time to address problems as they occur, provide effective outreach and training to affected entities, and provide the data systems and public accessibility necessary to bring the programs to full fruition. Also see *Section A-1.31., "Multiple Comments: Data - Enhanced Reporting Tool Needed"* for additional information regarding the need to avoid any further delays, and *Section A-1.18., "Multiple Comments: More Outreach Needed"* for additional discussion regarding outreach.

A-1.17. Multiple Comments: More Time Needed to Address Issues

Comment: I am concerned by the proposed actions - they will introduce regulatory confusion, they are proposed on a rushed timetable, there has been inadequate outreach, and implementation costs are not addressed. MDAQMD suggests first and foremost prolonging the hearing in order to have additional time to address the many outstanding issues we have brought to your attention above and also suggests that the proposed mandatory changes only be applicable within AB 617 communities, and retain current statute-required programs for the rest of the State of California.

MDAQMD stands ready to continue to work with CARB on these revision efforts but requests that this effort be postponed until there is further outreach and efforts to explain and support the proposed revisions. (MDAQMD)

Comment: I am concerned by the proposed actions - they will introduce regulatory confusion, they are proposed on a rushed timetable, there has been inadequate outreach, and implementation costs are not addressed. AVAQMD suggests first and foremost prolonging the hearing in order to have additional time to address the many outstanding issues we have brought to your attention above (AVAQMD)

Comment: The proposed actions are concerning. We must be sure to make regulations that have sufficient outreach, are not cost prohibitive, and don't generate confusion for the District and regulated sources. The District would like to postpone the hearing to have additional time to address the many outstanding issues we have brought to your attention. Additionally, the District recommends this regulation be required only for AB 617 communities and retain current statute-required programs

for the balance of the State. The District is always willing to work with CARB on these revision efforts, and looks forward to hearing from you regarding our concerns. (EKAPCD)

Comment: Focus on Implementing the Uniform Statewide Emission Reporting Program First Before Expanding to Small Facilities and Adding New Chemicals. The proposed amendments would significantly expand a major new statewide emission reporting program that is not yet implemented. The objective is to create a uniform statewide emission reporting program for stationary sources. CARB still needs to develop the electronic data reporting tool and Article 2 (emission calculation methods and emission factors) before extending the requirements to thousands of small facilities by adding the fourth applicability criteria. In addition, CARB is proposing to add hundreds of new chemicals to the list of substances for which emissions must be reported, even though emission and health risk factors have not been developed for the new chemicals. The expansion will impose a significant amount of new work on facilities and local air districts and may result in incorrect emissions data in the absence of accurate emission calculation methods and emission factors. LADWP encourages CARB to finish the original undertaking to implement the standardized statewide emission reporting program first, before expanding the reporting requirements to small facilities and adding new chemicals. (LADWP1)

Comment: Executive Summary. CCMEC requests that CARB either discard or significantly modify the proposed rule or, alternatively, postpone the rule and associated decisions until a detailed, scientific investigation can be made for each chemical and industry. (CCMEC1)

Agency Response: This group of comments is submitted by local air districts and by the Los Angeles Department of Water and Power and the California Cement Manufacturers Environmental Coalition. The commenters request further delays in implementing the amendments, such as postponing to some future date, and to provide more outreach and take more time to address additional issues. These desired delays, beyond the 6 year phase-in period already incorporated into the amendments, would further delay potential implementation of emission reductions in communities. It is a core responsibility of air districts to protect those in the communities under their jurisdiction. Also, industries in our communities, or potentially affecting communities, must carry the responsibility of making data public regarding the chemicals they emit to the air that Californians breathe. Nonetheless, CARB has provided additional time in the phase-in period for medium and small air districts (one additional year, compared to large districts) to plan and collect the required data.

Instead of creating confusion or inconsistency, CARB staff believe that the amendments are designed to create a framework for providing statewide consistency in process, reporting requirements, and methods, phased-in and developed over time. Similarly, because of the significant scope of the new requirements, and the limited costs for most small and simpler facilities, it was

neither necessary nor practical to provide outreach to each affected source, given that the reporting requirements for the earliest group of sources does not begin until 2022 data reported until 2023, and additional sources are gradually phased in through 2028 data reported in 2029. It is more effective to provide targeted outreach and assistance as their reporting requirements approach, and not 3, 4, or 5 years in advance when the requirements have minimal relevance. With regard to public input, CARB did hold multiple public workshops on the proposed amendments, and contacted numerous industry groups, public health organizations, and business entities for feedback. Comments regarding the reporting system, methods, and the list of chemicals are covered in other responses specifically targeted to those items.

It is not unexpected that industry representatives request additional time and process delay, because complying with the regulations will require additional resources. Air districts have related resource concerns, however CARB staff are confident that through our collective experience and cooperation, we will resolve any barriers that may occur during the six year roll-out process towards full implementation. Because of the urgent need for updated data collected statewide for all communities, no further delays were incorporated into the schedules.

For additional nuances regarding timing, phase-in, and outreach, please refer to the responses for *Section A-1.18., "Multiple Comments: More Outreach Needed"*, *Section A-1.31., "Multiple Comments: Data - Enhanced Reporting Tool Needed"*, and *Section A-1.16., "Multiple Comments: More Time for Review - Participation"*.

A-1.18. [Multiple Comments: More Outreach Needed](#)

Comment: CPC hopes that CARB will modify the AB 2588 EICG proposed rule language as we have suggested before the rule is considered by the CARB Board in a few weeks. Our comments are aimed at seeking greater clarity, avoiding confusion and strengthening any effort staff is proposing to take to the Governing Board. As stated, this effort can be delayed a bit and the additional time used to strengthen it. For example, with more time more outreach to the local air districts and the regulated community can occur ensuring better coordination. We are aware of several local air districts who have expressed concerns in filed comments about the need for more outreach and collaboration. We certainly support that position as well. (CalPortland)

Comment: 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. (SBAPCD)

Comment: Business Outreach & Lack of Meaningful Stakeholder Engagement: CARB should perform robust and regular outreach to businesses that will be affected by the CTR regulation to ensure they understand the potential economic impacts the regulation will have related to permit fee increases and other internal business costs to comply. It is especially important to give affected facilities an opportunity to provide input during the rule development phase and also to prepare for regulatory impacts. Without a full and open rulemaking process that earnestly engages all stakeholders, the final regulation will likely include elements that have not been fully contemplated.

CARB has conducted several public workshops outlining the rule requirements. However, in each instance, the rule version that was presented in the workshop was released to the public just hours prior, making it difficult for meaningful public involvement. Lack of full stakeholder engagement was only enhanced, considering the bulk of the current rulemaking process was conducted this past year during the heart of the COVID pandemic where necessary resources of all stakeholders has been greatly impacted.

In addition, the initial statement of reasons (a document that should have been part of the rule development process shared with stakeholders) was again released just hours before the start of this last public comment period, thus negating the ability for full public discussion. Lastly, though CARB staff has made themselves available for discussions, it has been mostly done in individual or small group settings that eliminates the greater collaborative process of a larger stakeholder group. Implementing a formal engagement process will more likely avoid those unintended consequences and result in a better regulation. (SMAQMD)

Agency Response: Some of the elements raised in this set of comments are discussed in responses to *Section A-1.31., "Multiple Comments: Data - Enhanced Reporting Tool Needed"* and *Section A-1.16., "Multiple Comments: More Time*

for Review - Participation”, related to timing and process. We provide further elaboration here to address the additional variations raised in these comments.

These comments assert that more stakeholder engagement is necessary, and additional time should be allowed to solicit input from stakeholders. CARB staff believe that the outreach and communication to date have been adequate and appropriate. Additional details can be found in responses to *Section A-1.31., “Multiple Comments: Data - Enhanced Reporting Tool Needed”* and *Section A-1.16., “Multiple Comments: More Time for Review - Participation”*, as noted above. CARB staff is not able to individually contact every person, business, and organization that may potentially be affected by a CARB rulemaking process, however we make an earnest effort to contact business organizations, air district staff, public health advocates, and other individuals and organizations to solicit input on regulatory options. We also advertise and conduct multiple public workshops during the rulemaking development process, and send out information through email and hard copy mailing lists. We also rely on partner organizations to also make opportunities for participation known to their constituents.

Communities, citizens, and public health groups throughout California are insisting that there be no further delays in acquiring additional emissions information from stationary sources, particularly in densely populated areas with multiple sources of potentially harmful emissions. Improved emissions inventory data is vital to the evaluation of health risks, implementation of CARB programs, and appropriate actions to mitigate air pollution. Because it is not practical for CARB staff to communicate with each person that may be impacted, we follow state requirements and consider actions to limit financial or other resource burdens on regulated entities, to the extent feasible. However, it is not responsible for CARB or air districts to continue to postpone data collection for the purpose of collecting additional input. California communities are in need of our help to mitigate their disproportionate exposures to toxic air contaminants, and the staff is confident that facilities, districts and CARB can cooperate to achieve these goals.

Staff acknowledges that some of the work ahead will be challenging. It will take time, but the progress must continue. As mentioned in previous responses, to help ensure success in implementing the program requirements, additional facilities are phased into the reporting requirements over an extended 6-year period, incrementally bringing in additional sources. This approach is designed to provide time to include extensive stakeholder engagement and training regarding the program requirements; however, the outreach and engagement must be phased in gradually as different groups become subject to the requirements, instead of contacting all affected sources simultaneously when some are not required to report until 2029. A gradual phasing in approach also provides for “lessons learned” in earlier phases, creating efficiencies and improved systems moving forward. This process will also allow time to identify

and develop new and more efficient reporting mechanisms, which will save time and resources.

As is implied in one of the comments, it would be overwhelming to try to provide simultaneous engagement and outreach to the 60,000+ facilities likely subject to some form of reporting under CTR. Again, a benefit of the phased-in approach is that facilities, districts, and CARB are not faced with a single wave of increased reporting activity, but instead we will be working with multiple manageable increments over time.

Through the partnerships of all involved, we will address the limitations and inconsistencies in how emissions data has been collected and shared publicly in California.

As mentioned previously *Section A-1.16., "Multiple Comments: More Time for Review - Participation"* more than sufficient outreach was provided, exceeding regulatory requirements, and all stakeholders were provided a reasonable opportunity for input. The effects of COVID did not reduce the completeness or effectiveness of the regulation development or outreach process, or the ability for stakeholders to provide input. The Initial Statement of Reasons (ISOR) was released in accordance with the Administrative Procedures Act, providing a full 45-days for comment. In addition, air district staff, being close partners in development of the requirements and the implementation, provided significant review, guidance, and feedback in developing the requirements prior to the ISOR release at the end of September 2020. Through this mechanism, additional 15-day changes, our three public workshops, many district and stakeholder meetings, individual calls and more, the proposed amendments were developed using a robust, comprehensive, and open rulemaking process, the results of which will provide benefits to California citizens for generations.

A-1.19. Comment: More Outreach Needed - Training

The NSCAPCD notes a gap in the current proposed rule that should be resolved for successful implementation. Specifically, the proposed rule does not articulate how CARB will perform outreach and provide training and assistance for small business affected by the rule. CARB is proposing to create a brand-new technical reporting system with a mandatory compliance requirement. Upon the arrival of this compliance date, small business is expected to collect and develop new types of data, and then input this data into a brand-new state-run system. Small business owners who do not have air quality expertise are expected to determine their own compliance applicability and obligations. Many of the required data elements regarding the facility, pollutants, and emission factors will be new requirements that are not currently included under current District permits.

Although this is a state rule, small business will expect or request that their local air district assist them. Local districts do have air quality expertise, but district regulations, reporting requirements, data systems, and practices (which are born from SIP-

approved elements) are tailored to the air quality status and resources of their territory and therefore are disparate from the requirements of the State's proposed inventory-based rule. Districts, such as the NSCAPCD, do not have data systems capable of holding and managing the proposed data points. In addition, several of the proposed data points are not in permits or in file and will need to be created for the first time. Districts are not being provided resources to support local business under this rule; therefore, the NSCAPCD strongly encourages CARB to implement a robust outreach program to help affected small business comply and to be successful with the proposed rule. (NSCAPCD)

Agency Response: As encouraged by the commenter, CARB staff fully intends to "implement a robust outreach program to help affected small businesses comply and to be successful with the proposed rule." We are committed to the success of the CTR and EICG implementation. We also want to emphasize that the air districts, with long-standing relationships with the facilities under their jurisdiction, and with overall permitting authority over the facilities subject to reporting, are essential partners in this outreach process. CARB staff cannot do it alone, and we are looking forward to working collaboratively with the districts, providing outreach, training, and assistance to their facilities so those subject to reporting successfully meet the requirements of CTR and EICG.

It was not appropriate or effective to articulate the details of such outreach activities within a regulatory framework, as is suggested by the commenter. This is because every district and every source type in different regions will have different needs, as is emphasized by the commenter. Some districts may want help with data systems, some may want help with outreach to individual facility operators, some facility operators may want sector-specific training, others may want assistance regarding which toxics they should be reporting or which methods they should use. This type of variability cannot be reasonably incorporated into a regulation. However, to restate, CARB staff, working with districts, will provide the assistance and resources identified by the commenter, so the requirements of the amended regulations are fully and effectively implemented.

A-1.20. Comment: More Outreach Needed - Workshops

While we genuinely understand and support the overall goals of standardization and increased reporting, transparency of data and community risk reduction, we and others from a broad spectrum of interests continue to have serious reservations about the proposals as written. And we have concerns that unintended consequences, if not addressed, will result in the further erosion of trust in our communities and the potential for unnecessary harm to business and the economy. We ask the Board and staff to acknowledge that many of the air districts and business stakeholders are staying -- saying the same thing in their written and verbal comments. This is not typical. This should be a strong signal to ARB to consider a pause. And so while we have heard and deeply respect the commenters today who have pushed for adoption

today, we respectfully implore the Board to ask staff to continue and expand collaborative workshops to work out these issues highlighted by multiple issues brought to the public record. The template for collaborative rulemaking has precedent. Please let all stakeholders get together in the same Zoom, or room as we used to do in the past, such as the diesel regulations, PERP regulations, and more recently waters of the State. These were long processes to be sure. But what came of them were rules that addressed all of the issues brought to the collective table, rules that are working hard today and rules that were developed and developed buy-in by all those who participated. So what's different this time? In the examples that I just brought up, there were multiple rounds of workshops and draft proposals distributed as workshops, discussions and working groups tackled the issues and concerns. The current CTR effort was workshoped nine months ago and the EICG was added only two months ago. The proposals that have been issued in informal drafts with short formal comment periods such as today's 15-day changes, which I'm still trying to wrap my brain around on slide 21, has created a limited ability to know what's being changed at any given time. Both businesses and the air districts have complained about this process and we have limited ability to understand. So today, I ask that we please pause, consider, get us together, and let's work out something that will work for everyone (Teichert)

Agency Response: Staff appreciates the comments expressing the need for collaboration, workshops, and outreach. Staff and air districts are looking forward to all of these activities during implementation of the amended regulations. CARB staff determined that the phase-in schedule, opportunities for abbreviated reporting, and other elements that have been incorporated into the regulations will also address many of the concerns expressed by various commenters, regarding implementation. Further, staff feel that continuing to delay the initiation of improved emissions inventory data acquisition, so that the details of data collection can be refined, is not justified. CARB is committed to working with all stakeholders to successfully implement the CTR and EICG amendments. Regarding specific comments relating to the regulation development process, these have been addressed in additional detail in other comments, specifically *Section A-1.16., "Multiple Comments: More Time for Review - Participation"*, *Section A-1.19., "Comment: More Outreach Needed - Training"*, and *Section A-1.18., "Multiple Comments: More Outreach Needed"*.

A-1.21. [Multiple Comments: Provide Resources or Funding](#)

Comment: Implementation Costs/Outreach. The CTR public notice estimates a ten-year cost to air districts of \$39 million to implement the CTR changes alone, and suggests that the air districts simply raise fees to cover this increased cost. Expanding the criteria and toxics emissions inventory process throughout the state to *anticipate future* AB 617 communities (and apparently an expected decline in mobile source emissions), and then asking air districts to figure out the means to pay for it, is nonsensical. AB 617 communities are required to create and implement expanded criteria and toxics inventory processes, and consequently have the statutory mandate

to fund such expanded processes. The remainder of the state does not. Provide financial resources to meet this unfunded mandate, or do not require it.

The Districts have shared on many occasions the serious concerns of CARB revising or adopting regulations that have financial impacts not only on the Districts but on the sources themselves, many of them small sources that have limited finances and expertise to tackle the magnitude of what is being proposed in these revisions. (MDAQMD)

Comment: Implementation Costs/Outreach. The CTR public notice estimates a ten-year cost to air districts of \$39 million to implement the CTR changes alone, and suggests that the air districts simply raise fees to cover this increased cost. Expanding the criteria and toxics emissions inventory process throughout the state to *anticipate future* AB 617 communities (and apparently an expected decline in mobile source emissions), and then asking air districts to figure out the means to pay for it, is nonsensical. AB 617 communities are required to create and implement expanded criteria and toxics inventory processes, and consequently have the statutory mandate to fund such expanded processes. The remainder of the state does not. Provide financial resources to meet this unfunded mandate, or do not require it. (AVAQMD)

Comment: Implementation and Outreach Costs. CTR costs to the Local Government (including Air Districts) are estimated to be over \$41-million over a 10-year period. The CTR Staff Report suggests the Air Districts raise fees to cover costs incurred by the proposed regulation. The practice of raising fees may seem to be innocuous; unfortunately, during these difficult times, the raising of fees will not be innocuous because of Board of Directors unwilling to impose higher fees. Please be aware, the Eastern Kern APCD has several major stationary sources and unique facilities including: 3-cement plants, a borate mine, 2-military bases, a gold mine, a silver recovery operation, a paint manufacturer, and other unique facilities. These facilities have the potential of adding hundreds of toxics to the existing toxics inventory. Thereby, forcing us to add staff that will not correlate to better service to the community or any reduction in emissions. (EKAPCD)

Comment: Cost of the Regulatory Requirements. In the Economic Impacts Assessment section of the Staff Report- Initial Statement of Reasons, CARB estimates costs of \$560 for the first year and \$300 each subsequent year for small business reporting. The longer-term impacts of COVID-19 are unknown so even an additional \$300 burden every year might be too much for a small business.

CARB's cost analysis also states air districts may need to establish fees in order to support the additional workload generated from the regulatory requirements. In our jurisdiction we have approximately 1,200 facilities that will be subject to reporting. Using CARB's logic that it will cost \$300 on-going for small businesses to report, this represents our staff time of about 2 hours per facility or 2,400 hours. Reporting is due each year by May 1 to the air districts and then by August 1 to CARB. It is unreasonable for medium-sized and rural air districts to support this level of workload,

2,400 hours, in an eight-month period. Finally, in this time of COVID- 19, it is highly unlikely that our Board of Directors would be willing to add a new fee to struggling small businesses to support this level of reporting effort. CARB must seek a funding source to support these regulatory changes or scale back the reporting requirements for sources located in medium-sized and rural air districts (as listed in CTR Table A-2, Group B). (MBARD)

Comment: We appreciate the effort to use a phased-in approach in order to minimize resource impacts for air districts. However, absent a plan by CARB for providing the necessary resources to California’s Air Districts, a phased in approach only delays the inevitable – air district staffs overwhelmed by a massive increase in workload required to review and process hundreds (thousands) of new reports. (IEA)

Comment: Assistance and Funding for Implementation and Outreach. As stated on many occasions, the implementation of CTR and the link to EICG are elements that require continued funding support. While we have many of the resources necessary for successful implementation, additional financial support for staffing, programming, and especially outreach to the reporting facilities will be needed. Outreach to the many affected facilities in South Coast jurisdiction and technical assistance during the reporting season will likely be extensive. The vast majority of Additional Applicability Facilities do not currently report emissions, and it will be extremely difficult, if not impossible, for local air districts to identify applicable facilities using activity level reporting based on either mass emissions or material usage. We will also have to substantially update our emissions reporting system to accommodate the thousands of additional facilities that will be required to report emissions, an effort that we estimate will exceed \$1M.

Additional resources are needed if the programs are to be significantly expanded, and given the current economic climate created by COVID, fee increases may not be practical. (SCAQMD)

Comment: 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. (SBAPCD)

Comment: Finally, there should be funding provided to air districts by the State of California to cover the costs of implementing the proposed regulations. It is not realistic to rely on an assumption that all air districts will be able to recover their resource expenditures by simply charging their permitted businesses and other public agencies "service charges, fees or assessments." (NSAQMD)

Comment: Regulation Implementation Cost. In the Staff Report: Initial Statement Of Reasons (ISOR) for the amendments to the CTR Regulation, CARB recognizes that local air districts have played a historically important role in processing, verifying and managing facility emissions data, that these actions are central to the proposed regulation's implementation, and that the districts' knowledge is necessary to ensure the success of the statewide reporting program. CARB also acknowledges that the local air districts will provide assistance to smaller facilities for reporting criteria and toxics emissions data and that some local air districts may need to add staffing to manage additional workload they may incur in implementing the regulation. This will result in significant costs to the local air agencies. According to the CTR public notice, the ten-year cost for local air districts to implement provisions of the regulation will be approximately \$39.0 million. We urge CARB to work with the local air districts to develop a mechanism to assist small-to-medium size local air districts with limited resources with the implementation expenses of this very important statewide regulation. Additionally, most of the affected facilities will be small businesses with limited technical-ability and experience with emission reporting programs. Although the ISOR suggests the regulation will have minimal cost impacts for the typical affected business, we expect they will bear significant expense to comply with the CTR Regulation. (VCAPCD)

Comment: Furthermore, the CARB staff report suggests local air districts may need to raise fees to cover the cost incurred to implement the regulation. Additionally, given the current economic climate, it would likely be exceedingly difficult for local air district boards to adopt local fees to support an unfunded state mandate.

Without a commitment for ongoing state funding, air districts may be limited in the resources that can be dedicated to ensuring successful implementation of the proposed amendments to the regulations, including conducting the necessary outreach to affected facilities and small businesses that would be impacted significantly by the proposed amendments.

To minimize resource needs and impacts to affected sources, it will be critical that the state work closely with air districts to develop efficient and streamlined processes and tools to support implementation. (SJVAPCD)

Comment: First and foremost, the state still has not identified a viable and sustained source of funding for implementation of the CTR regulation at the local level.

Therefore, proceeding as intended will simply result in yet another unfunded mandate that will only risk achieving the intended broad goals of transparency and access to reliable air quality information. Instead, an ill funded regulation will be mired in confusion and misinterpretation for all stakeholders – the public, clean air advocates, air districts and the regulated industry, including many small businesses. We must point out that, originally, ARB staff and the Board fully acknowledged that funding for air district implementation was lacking and necessary. The Board directed ARB staff to look for solutions. While recent adjustments to your proposal might mitigate some of the funding gaps to a small degree, the core issue still remains since, for example, we will face a 10-fold increase in emission reporting workload alone. We understand the Board reasonably might expect some of the costs to be passed on locally, but recent experience in Sacramento county suggests otherwise. (SMAQMD)

Comment: The District calls for CARB to take these concerns into serious consideration and not adopt the amendments until an appropriate funding mechanism has been identified. As an unfunded mandate on local air districts that are already experiencing budgetary constraints and shortfalls, CARB should be at the forefront of pursuing funding solutions to support this important effort. (SMAQMD)

Comment: Funding for Air Districts. The statewide air districts are primarily responsible for outreach and education to reporting facilities, including training for the 60,000 coming into annual reporting for the first time. The districts also need to review and validate reported emissions data, including but not limited to approvals for novel test methods and protocols. While fee increases can be adopted to offset costs in many districts, all are anticipated to face funding shortfalls. Additionally, State funding for AB 617 has been primarily (and appropriately) directed towards identified communities located in only six districts. Funding for statewide expansion of annual reporting warrants separate analysis and consideration by ARB and the Legislature. While funding issues are not a reason to delay the rulemaking, funding realities will dictate the speed and success by which the districts are able to engage facilities and implement the new requirements. CCEEB recommends that ARB continue discussions with the Legislature and the air districts on funding and resources needs, and make adjustments to the reporting timelines as needed and as appropriate. (CCEEB)

Comment: We recognize and strongly support the important objectives of the CTR regulation. Providing their communities with relevant information on localized emissions that could impact their health is a laudable goal. While we share this ultimate vision, we join with many other local air districts, public health groups and businesses to highlight key reservations and remaining concerns regarding the amendments being considered today. First, this Board recognized fully the need for funding two years ago when your staff first brought you this regulation. At that time, you directed your staff to find a solution. However, to date, these solutions remain elusive. The version of the CTR regulation before you will still place a significant financial burden upon air districts and local businesses. As partners in the fight for clean air and recognizing that this regulation as proposed constitutes an unfunded mandate, the State has a responsibility to address funding needs before adopting this

regulation. And while this Board has made clear its expectation that local air districts share some of the burden and raise new fees, given the dire situation the pandemic has left local jurisdictions in, it is unlikely our board of local elected officials will adopt yet another financial hit on local businesses. Actually, we tried recently and failed. And without proper funding, the CTR regulation can only be partially and ineffectively implemented at best. (SMAQMD1)

Comment: For these and the other reasons stated in our written comments, the Sac Metro Air District respectfully requests you do not adopt the proposed CTR regulation until funding and other issues have been adequately addressed. (SMAQMD1)

Comment: At the core of all reporting are really the air districts. And we want to thank them too. While this may look on the surface like rules directed at facilities, it's just as much about the districts. Facilities will need them at every step of the way, including outreach, education, training, engineering review, data validation, and reports submittals to CARB. Without the districts, the facilities can't reasonably comply. And without funding, the districts can't do the work that they need to do. So I think we need to see -- need to sit back and review the proposed 15-day changes (CCEEB1)

Comment: Who pays? – The compost industry is traditionally a low profit margin business. Our industry provides as much of a public service, turning “waste organics” into a value-added product that provides a long list of environmental, economic, and social, and human health benefits. All government agencies from OSHA, DTSC, CARB, Air Districts, County Health Offices, all have a stake in the health of the compost industry, as well as all of us citizens. Recommendation: Toxicity and the LOD and LOE needs to be determined for the compost production operations, paid by CARB and the other stakeholder agencies, working with our industry. CARB cannot expect composters to pay for this research expedition. However, ACP is willing to work with CARB staff and the investors of this regulatory regime to implement them in an empirical, phased, tiered process as recommended. (ACP)

Agency Response: The proposed amendments to CTR have been developed to assist with the implementation of many CARB programs by providing a more complete and improved inventory of facility-based emissions. Collection of improved community-level emissions data for current AB 617 communities, and for the evaluation of potential communities selected for targeted action under AB 617 in the future, is only a small part of the intended benefits that that an improved inventory will provide. CTR also supports the needs of AB 197, the California Clean Air Act, Air Toxics Control Measures, the federal Clean Air Act, and CARB’s broader obligation to protect public health via an understanding of the causes of, and solutions to, air pollution in the state.

CARB recognizes that smaller sources and businesses have limited resources, and small sources (approximately 40% of applicable sources) have an option of providing abbreviated reporting data to meet the requirements of the proposed amendments. For example, retail gasoline dispensing facilities (representing an

estimated 9% of all facilities subject to CTR) would only need to provide the number of gallons of gasoline dispensed on an annual basis (which is the value upon which emissions estimates are based) to comply with CTR, and this is a value that should be readily available to the facility. The remaining data required under CTR can be obtained from the district-issued permit, for abbreviated reporters.

The estimate of \$560 and \$300 are average costs over all applicable facilities, and many smaller sources and businesses will have costs less than the average. Larger, more impactful facilities are expected to have the majority of costs associated with the proposed amendments.

The proposed amendments add many new toxic substances to be reported. However, those additional pollutants added to the emissions inventory would be those that have a means of quantification (i.e., if a pollutant cannot be quantified currently, then reporting of emissions is not required, and any use or production of the chemical can alternatively be reported). In addition, pollutants are proposed to begin reporting in two phases to reduce reporting burden.

The air districts have no specific legal requirements under the proposed regulation; the regulation applies to facilities. CARB recognizes that California's local air districts play an important role in collecting, processing, confirming the validity of, and managing facility emissions data, and that these actions are central to the proposed regulation's implementation, data collection, and enforcement provisions. The proposed amendments are intended to build on those existing efforts, because air districts are already familiar with local facility operators, conduct inspections, issue permits, and in many instances have been regulating applicable sources for decades. If necessary, districts could levy service charges, fees, or assessments for activities they choose to implement, but those costs are speculative and are at the air district's discretion. Air districts have discretion to add staff to cover their activities. CARB is committed to providing assistance to facilities and districts by helping with outreach activities, providing online training opportunities, providing guidance documents, and additional activities as feasible. CARB is also designing a new database that can facilitate reporting, which on a timeline that coincides with the CTR phase-in schedule.

While the proposed amendments do not directly reduce emissions, the proposed amendments will increase the quality of data for determining areas of future reductions in emissions and support right-to-know principles.

[A-1.22. Comment: Provide Working Groups for EF, Risk, Chemicals](#)

Adding these chemicals to the EICG will begin this work, however the public should not expect to know the risk from these new chemicals immediately, especially the ones with no emission factors or risk factors. It will be a long and detailed process of identifying the presence of the chemicals, developing emission factors, determining

risk factors, and finally quantifying and reporting risk to the public. The creation of working groups with CARB staff, OEHHA staff, air districts, facilities, and the public could be valuable to this process, and we suggest the regulations prioritize the chemicals with known emission factors and health risks for review first. (FRAQMD)

Agency Response: Staff generally agrees that chemicals with known emission factors and/or health values should be prioritized, and to a great extent, the adopted regulation amendments do this by prioritizing the reporting of over 460 substances with available exposure limits or other health-related values; therefore, no modifications were made to CTR based on this comment. Nonetheless, staff believes that it is also important to develop a comprehensive understanding of the full range of chemicals being emitted in order to prioritize additional substances that need health values, even for chemicals for which no emission quantification method is available. Section 93404(c)(1)(B) allows the reporting of the amount present, used or produced (without quantifying emissions) of chemicals for which no quantification method exists. This can be the first step in understanding the potential risk to public health posed by a particular chemical. As outlined in the Resolutions approving the EICG and CTR amendments, CARB is committed to establishing working groups with OEHHA, the air districts and other stakeholders to prioritize and expedite this work.

A-1.23. [Multiple Comments: Provide Data Transparency](#)

Comment: We really don't like secret data. That defeats the purpose of the regulations. (CBE)

Comment: And I fear that the 15-day proposed amendments allowing local air pollution control officers to keep secret staff testing data, which is something that industry and air pollution control officers have wanted for a long time, is a bit too much to trade for expanding the TAC list. As well, keeping that information from the public and keep secret -- secret would also inhibit the ability of the Federal Clean Air Act to be implemented. Much of the staff testing that is done in the State of California is done under requirements from the Federal Clean Air Act. And being able to keep that information secret is going in the wrong direction. So Chairman Nichols and members of the Board, I would strongly urge you not to adopt the 15-day amendments, do not adopt the pollution secrecy amendments in this proposed plan, (CCAT)

Agency Response: A core goal and requirement of the proposed amendments is to make facility emissions data more accessible, more transparent, and more complete. The CTR amendments in particular make facility operators, and the air districts who permit them, accountable for collecting comprehensive annual emissions data from most of the permitted emission sources in California. This data, and other data reported under EICG, is being collected and organized specifically to support community members, scientists, decision makers, and others to reduce harmful airborne emissions.

Staff is uncertain regarding "secret data" or the "secrecy amendments" mentioned by the commenters, as secrecy is contrary to the regulations and the proposed amendments. It is possible that the "secrecy" reference is to section 93406(b) of CTR, which allows entities to claim certain information as confidential if it is trade secret or otherwise exempt from public disclosure. However, even should such confidentiality claims be made, the data may still be publicly released if a Public Records Act Request is submitted and the entity cannot support the confidentiality claim. Also, facility emissions data are public records pursuant to California Government Code 6254.7(e); although certain activity or throughput data can be claimed as confidential business information, emissions cannot. Therefore, staff did not modify the regulation or abandon the amendments in response to the comment. In addition, the comment may refer to the fact that it is optional for some facilities (as described in CTR) to report "stack" parameters, which are physical parameters of release point locations, such as the height above ground, diameter of the stack, the temperature and flow rate of exhaust gas, etc. These data are used for atmospheric dispersion modeling to mathematically predict the movement of emitted chemicals in the air, and concentrations of the chemicals that may occur near the source, to evaluate human health risk. Such data are needed for sources that represent the potential for health impacts, but if emissions are below certain thresholds, the stack data are not used nor needed to model the dispersion of emitted chemicals. Therefore, for many sources, providing stack data is not required, unless specifically requested by CARB or the local air district. Stack testing data, in contrast, which are actual measurements of chemical concentrations and flow rates at a specific release point, are required to be used (as best available data and methods) to quantify emissions, when such measurement systems data are available.

A-1.24. [Comment: Provide Guidance](#)

Lack of Guidance for Navigating Complex (CTR and EICG) Regulations. Harmonization and guidance for the proposed amendments to the CTR and EICG regulations, as well as risk assessment guidelines and local air district regulations implementing these and risk management requirements, are critical. The interaction of these programs is so complex that CASA requests that CARB work with CAPCOA on comprehensive implementation guidance before adoption of the final CTR and EICG regulations. Items that need to be addressed and clarified include, but are not limited to: (CASA)

Agency Response: The commenter requests that the regulation not be adopted until implementation guidance is completed. However, without fully adopted and known requirements, much of the work of developing guidance would not be useful because the requirements are subject to modification until the regulations are formally adopted and effective. Further, it is not scientifically or morally justifiable to continue with ongoing delays until industry representatives and others are fully comfortable with the amended requirements. It is possible to move forward now to address ongoing deficiencies in existing facility toxics and

other emissions data, which provides a foundation to help communities historically exposed to elevated levels localized air pollution. In order to provide the time to develop guidance and conduct outreach, the inclusion of additional sources and requirements are gradually phased in starting with 2022 data, reaching full implementation with 2028 data reported in 2029, eight years from now. Staff is committed to working with CAPCOA and others to develop implementation guidance, as well as tools to make reporting more efficient. Staff believe the timeline provides sufficient time to assist reporters and to develop the systems needed for successful implementation.

A-1.25. Multiple Comments: Data - Access & Interpretation

Comment: § 93401. Applicability. (a)(4) Additional Applicability/Additional Applicability Facility. Comment: For the record, we would like to reiterate key points raised in our previous comment letters of June 6, 2019, August 1, 2019 and March 4, 2020, which we feel deserve careful consideration and discussion if the ARB intends to move forward with additional applicability criteria.

It is well documented that the majority of emissions (80% or more) and health risks are due to mobile sources, which this regulation does not address. Instead, the amendments seem to focus on collecting significant amount of data with no clear strategy on how the data will actually be used to achieve meaningful emission reductions. (IEA)

Comment: Website & Future Emission Data Access: The District highly recommends that CARB begin planning how online emission data can be made relevant and understandable for the public, e.g., requiring viewing of informational training videos prior to allowing public access. This step and others can help reduce confusion and misinterpretation and help explain the limitations and caveats inherent in the collected emission data. (SMAQMD)

Comment: Public Data Access and Risk Communication - as mentioned previously, CCEEB recommends that ARB convene stakeholder discussions to seek input on how the public will access reported data, and how emissions and risk will be communicated so as to be timely and meaningful. Efforts should be made to put stationary source emissions in broader context to reflect the proportional contribution of stationary, mobile, and area sources. We note that stationary source data will become more detailed, timely, and spatially granular than data for other sources – more robust data should not paint a false picture that these sources are necessarily the largest emitters affecting an area. (CCEEB)

Agency Response: A primary goal of the amendments is to create uniformity statewide, to harmonize and modernize the data collection and reporting processes, while reducing variability and inconsistencies. Full implementation is going to take over six years because these structural improvements are not simple or quick to implement across a state as large and diverse as California, with equally diverse air districts. Through this process staff will address the

questions and concerns raised by the commenters, which do not directly apply to any specific provisions of the proposed amendments, so no text modifications are required. Over the coming years, staff will work with districts and other interested stakeholders to further the development of consistent emission estimation methods for key industrial sectors. This will be an open public process, to ensure transparency in the assumptions and protocols used to develop methodologies.

A-1.26. Multiple Comments: Data - Enhanced Electronic Data System Needed

Comment: Lack of Supporting Technology. The District's overall comment regarding the CTR amendments is that without fixing the current database and system of reporting facility data, and adding mobile and other data not currently reported to CARB, the amendments to CTR will not result in emissions and risk data being made available to the public in a meaningful way.

FRAQMD has commented before on the technical issues CARB must overcome before expanding the inventory program to the extent proposed in these amendments. The District recommends that CARB implement a new data management system, and provide properly resourced, statewide training for air districts and facilities, prior to adopting amendments to CTR. The only program currently provided by CARB to submit emissions inventory data is the HARP 2.0 Emissions Inventory Module and CARB is no longer providing training on this program to either the public or air district staff. In fact, CARB's reduction in all District training programs across the board remains concerning.

The CARB database CEIDARS has decades of stationary source emissions data, but only allows the public to view one facility at a time, and one year at a time on the website. The Pollution Mapping Tool was a huge improvement, but it has not been expanded to include all the reported facilities and emissions data that is already available to CARB through CEIDARS. Therefore, without first updating the current database and system of reporting facility data the amendments to CTR will do nothing to solve the problem of making the data publicly accessible. The expanded data will just go to sit with the other data that air districts have reported - in the CEIDARS database where the public can access it one facility at a time, one year at a time.

CARB staff believes it will develop a new emissions inventory data management system, transfer all of the existing facility data over, check the existing data for accuracy, and provide training statewide to all air districts and thousands of facilities before the expanded reporting requirements in the amendments go into effect. The development of a new system to take the place of CEIDARS will be complicated and difficult. The District suggests a better path forward may include implementing the first version on CTR that was adopted in 2018, developing a new database system and present it to the public with the existing data, and then assess where there are remaining gaps in the data. (FRAQMD)

Comment: Electronic reporting system. Section 93403(c) indicates an alternative submittal methodology using a CARB administered electronic data system. PG&E seeks input from CARB on its timeline for availability of the electronic data system. (PG&E)

Comment: It is also important to note that the CARB's current California Emissions Inventory Development and Reporting System (CEIDARS) and transaction file protocols are unsuited and not configured to receive, store, and process the enormous amount of new data that would be collected under the current proposal. A new platform must be developed to support the volume and variety of the proposed dataset. A significant amount of time will be required to develop such a program, and allow for testing before being deployed. The time necessary to develop a new program of that magnitude would seriously conflict with the implementation timeline as identified in the proposed amended CTR. (SJVAPCD)

Comment: CARB should continue to look for ways to streamline emission inventory efforts between the Air Toxics "Hot Spots" Information and Assessment Act of 1987, GHG emissions reporting, criteria pollutant emission data submitted through CEIDARS, and the CTR regulation, such as the development of an all-encompassing emission reporting regulation and online reporting tool that will be used for all emission reporting requirements.

Having a CARB-developed online reporting tool will avoid the duplication of effort that will result if local air districts need to develop their own reporting tools. A state reporting tool will also foster consistent reporting requirements for the regulated community and increase efficiency, especially for businesses that operate in multiple air districts. We recommend that CARB develop the online tool as a prerequisite for CTR regulation implementation. (SMAQMD)

Comment: ARB Electronic Reporting Portal and Data Management Platform. The e-reporting system and backend data management system will allow districts and facilities to upload emissions data. Users need to understand how the system will be designed so that they can develop compatible reporting platforms and data formats ahead of implementation deadlines for 2022 and 2023 data years. CCEEB requests the Board to direct staff to make public its work plan and timelines for developing and beta testing the e-reporting system, providing as much information as possible on report formats and data transfer specifications. (CCEEB)

Comment: Second, the addition of the CTR regulation to the suite of other existing inventory and reporting programs has added a layer of complexity and confusion for air districts, businesses, and the public in general. CTR is a sweeping change to reporting requirements for thousands of businesses and many air districts and ARB do not yet have adequate database systems in place to facilitate an influx of emission data of this magnitude. Therefore, we believe that State -- the State must provide additional time for adequate stakeholder engagement to flesh out remaining conflicts and inconsistencies between other reporting programs to create a robust data system

and very importantly a way to accurately and effectively present the new information to the public. (SMAQMD1)

Agency Response: See the response to Section A-1.31., “Multiple Comments: Data - Enhanced Reporting Tool Needed” which discusses the development of improved data management systems. It is correct that current data systems are not optimized for the additional data which will be collected, particularly under CTR. This is one reason for the gradual phase-in of the expanded reporting requirements so CARB, districts, and facility operators can develop the infrastructure needed to support full reporting. At CARB, we are designing the updates systems such that data collected under CTR and EICG can be better integrated, and to provide better interfaces for both the districts and optionally, reporters, for providing data to CARB. The comments do not address specific regulatory requirements, but are about data management concerns, so no regulation updates are necessary.

A-1.27. [Multiple Comments: Data - Need More](#)

Comment: I'm hoping that CARB takes the necessary steps to ensure that our communities have the data, resources and tools to support the sustainable success and implementation of AB 617 projects with the center focused on tangible reductions to pollution burden to achieve environmental justice and a just transition. (PSRLA)

Comment: I wanted to speak to some of my experience in some of the ground truthing in communities that I've worked in over the last 20 years from City of Commerce, East Los Angeles, to Riverside, San Bernardino, West Long Beach, and Wilmington. So together with community members we conducted these ground-truthing projects where we looked at what is really on the ground in the neighborhoods that we live in and compare them with several government sites for toxic inventories. We consistently found outdated and missing information. And, in fact, in some cases, there was just no data. And where facilities existed there was -- they were just not found any place. And so you can see from some of the experiences that we've all had with Exide and Commerce East Los Angeles and San Bernardino, we issues with auto body shops. (LBACA)

Comment: People need good information. People need the State to collect information on all the sources, and improve the data, and make it accessible to people online, whether a source has a permit or not. (CBE1)

Agency Response: As mentioned in the response to Section A-1.23., “Multiple Comments: Provide Data Transparency”, a primary motivator for developing the amendments is to provide more complete, consistent, and transparent data to communities. The amendments were developed to formalize a regulatory process to address longstanding shortcomings in the collection and availability of facility emissions data. As the requirements are implemented, staff is committed to working with all of our partners engaged in this process, to address the

concerns raised by the commenters regarding the need for additional and more complete emissions data that can be used to evaluate all air pollution issues. No modifications were made to the amendments as a direct result of this set of comments, but CARB is generally moving toward a more comprehensive inventory at facilities, by including the reporting of emissions from portable diesel engines at California's largest facilities, through specific amendments to the CTR and EICG requirements. CARB will continue to consider the best ways to gather the most appropriate combination of source type data at facilities, including how to collect mobile source emissions data at facilities, so that the actual impacts from all emissions can be appropriately evaluated and potentially mitigated. Future amendments to CTR and EICG may be identified as the best way to capture this additional data and to understand the total "facility footprint" of emissions.

Regarding ground-truthing, should community members or others have concerns about certain sources or facilities, as part of the amendments to CTR, a new provision was added (section 93410(f)) which provides a mechanism for citizens to request that CARB coordinate with a local air district to evaluate if a facility of concern may be subject to reporting under CTR. This provision was added to address situations in which an emissions source is in a community, but the facility may be unpermitted or not included for emissions reporting purposes. The new provision now allows the public to request and receive information about specific sources of concern where data may not be currently available.

A-1.28. [Comment: Data - Public Access](#)

What is being done to expeditiously compile data into an interactive public-facing tool for the public to search and access data across the state? (CEJA)

Agency Response: CARB staff are working diligently to maintain, update and further enhance the public-facing tools that allow the public to search and access emissions data. We are also working on modernizing the data systems that support the reporting and management of this information.

For many years, emissions data collected under the EICG has been publicly available through CARB's Facility Search Engine, an online tool that can be used to query criteria pollutant and air toxics emissions from facilities in California (see <https://ww3.arb.ca.gov/ei/tools/Facility%20Search%20Tool/2018%20Facility%20Reporting%20Summary.pdf>). More recently, staff created the Pollution Mapping Tool (https://ww3.arb.ca.gov/ei/tools/pollution_map/), which provides a more interactive platform that enables users to locate, view and analyze emissions of greenhouse gases, criteria pollutants and toxic air contaminants from large facilities in the state. Staff are committed to keeping the data available through these tools current, and improving the users experience with the addition of new features on a regular basis. Initial data under the amended regulations will begin being submitted in 2023, and we anticipate that it will be publicly available

through these tools within a few months, after staff conduct the necessary quality assurance checks.

A-1.29. Comment: Data - Quality and Consistency

We urge CARB to ensure that each air district meets consistent, clear, and transparent requirements so that the inventory will include high quality data on toxics and criteria pollution from the many sources in each area of the state. (CEJA)

Agency Response: Staff agrees with the commenter, and it is our priority to do exactly what is stated in the comment. A key impetus for the development of the CTR amendments is to establish a statewide consistent and enforceable framework to attain these goals. For EICG, it is a little different because so much implementation is under the jurisdiction of districts, but in many cases, the annual, uniform, and consistent data collected under CTR will be used directly for EICG emissions reporting, providing the same benefits of uniform and transparent reporting for data collected under the EICG requirements.

A-1.30. Multiple Comments: Data - Potential Usage Confusion

Comment: Permit Requirements and Emission Factors are not Consistent Statewide. Local air districts have developed and implemented stationary permitting systems which fit the needs and sources within their districts. This is fundamental to the design intent of the local district system and its recognition that South Coast is not Yolo-Solano. As a result, which emissions factors are utilized and what sources are encompassed within permits varies by district. These are not large, major-emitter combustion sources with CEMS systems, such as the facilities identified in AB 617's statutory authority, but rather a broader and more diverse array of businesses. Incorporating all of that mixed data into a statewide system doesn't create clarity — it will create confusion as sources from one district are "apples" and similar sources in other districts are "oranges," and the resulting numbers are therefore not directly comparable as to what is achievable.

AB 617 effectively accommodates this by enabling fence-line monitoring of stationary sources once AB 617 communities are identified. Consistent, comparable data on emissions leaving the sites in the direct area of concern was authorized. It is not necessary to bring every non-major facility into a statewide reporting system. AB 617 relies on monitored exposure assessments not emissions assessments. A more reasonable approach is to target the impacted community and do extra work within that community, not statewide. Again, the Legislature had the wisdom to create a scalpel that focused costs and burdens where change was most needed. It did not create a system to act everywhere — instead the concept was to target the resource expenditures of districts' businesses and the state on the communities most in need of reductions now, with the understanding that the lessons learned there may be expandable to other places later. This proposed reporting system as constructed is the opposite of that policy structure.

The Statewide Reporting System Creates an Illusion of Emissions Data Sufficiency. This emissions reporting system seems designed to create the appearance of comprehensive emissions reporting. It does not. Not only does it create “apples to oranges” data defects in comparing data between districts, a statewide, stationary source inventory ignores many of the most significant sources which are mobile sources. (CalCIMA/CalAPA)

Comment: Public Perception of Facility Risk. The expanded list of reportable substances will create public relations challenges for all AB 2588 facilities. The proposed changes to the EICGR could potentially result in higher risk estimates for facilities even though facilities have not changed their operations. This may cause public concern about air quality with little context about the true scientific evaluation of health risks. When facility information from the EICGR program is made publicly available, LADWP recommends that the public be informed that: Many of the chemicals have not been proven to be emitted at the facility; The emission factors for reported chemicals are conservative estimates; and, The newly reported emissions do not necessarily mean facilities are emitting more than usual. (LADWP)

Comment: AB 617 aims to harmonize stationary source emissions reporting requirements from all air districts and to develop a uniform statewide annual emissions reporting system. As a result, it also creates a universal emissions inventory for the public to request data from. It is important that CARB establishes a confident and accurate data inventory. With the addition of a considerable amount of data points from new facilities, as well as, toxic chemicals, it is crucial that we are not filling the database with overestimated or inaccurate emissions information. (LADWP1)

Comment: It's a numbers game. And it is. But, you know, when you're not being shown the numbers, then it's kind of an unfair game. And I don't. And if somebody is very proud of the way that they do their business and their operations, that this shouldn't be something that they should be ashamed of -- of being transparent in the way that they do. You know, especially, you know, many operators, many industry sources, you know, they -- they always come across as like, hey, we're here. You know we want to be good neighbors. We want support. But, you know, let's -- let's also bring transparency into this, because I don't think it's about necessarily saying, you know, whether they can or not or have a right to or not. But I think that to bring transparency and fairness, we need to know. And then that way we can find solutions, because we can't find solutions to things we don't know. So I really encourage the Board and the staff to continue to address all the shortfalls of this, but I definitely want to support the idea of moving this forward with some of these great recommendations and especially the agricultural sources. (CCV)

Agency Response: The core theme addressed by this group of comments has to do with the use or misuse of data collected under the amended requirements of CTR and EICG. The comments do not recommend any specific regulatory modifications, so none were made. Staff is aware that the influx of additional data collected under the new requirements will present challenges. There will be

growing pains. But there is no doubt that issues can be resolved, and the benefits of having complete, consistent, accurate, and accessible statewide facility emissions data far outweighs the relatively short-term difficulties of updating the insufficient mechanisms of the past as we all move forward. For example, a more complete inventory of emissions, including more sources and more chemicals, will not only provide a more complete picture of actual health risks, but will complement the monitoring data mentioned in the comments, by allowing emissions sources to be associated with chemicals detected at monitoring locations within communities.

As mentioned repeatedly, a primary goal of the amendments is to create an environment of consistency, to allow "apples to apples" comparisons, to ultimately harmonize reporting requirements, to provide estimates of actual accurate emissions, and to communicate that information in a way that does not create false perceptions of risk, but also does not minimize potential risks when they actually do exist. The idea is to provide access to the full reality of source-based emissions data, with enough clarity and context so it can be used and understood by both experts, those concerned about a facility nearby their home, and anybody else. These are challenges that can be met and problems that can be solved, but it will be a process, requiring years and not months, which is another reason for the multi-year phase-in of the program requirements, to allow the time needed for success of both reporters, but also for the districts and CARB.

A-1.31. Multiple Comments: Data - Enhanced Reporting Tool Needed

Comment: Data Management. The proposed expansion of the criteria and toxics emission inventory process represents a massive expansion of the existing emissions inventory data stream, on a facility, device, process and pollutant basis. In effect, the proposed threshold levels will require the MDAQMD to collect emissions data from every facility (the alternative, evaluating facility applicability annually based on actual emissions, is too onerous). The promised data management tool to uniformly address CTR, CEI and AB 2588 Hot Spots reporting has not been provided. Allegedly the proposed changes are intended to improve public access - it is not clear how. The proposed expansion does not solve existing problems, magnifies them, and has the potential to create new problems. (MDAQMD)

Comment: Data Management. The proposed expansion the criteria and toxics emissions inventory will result in a massive expansion of the existing emission inventory database. As a result, the District will be required to collect emissions inventory data from each facility (based on the revised CTR requirements) in the District. The data management tool to uniformly address CTR, CEIDARS, and AB 2588 Hot Spots reporting has not been provided. In accordance with AB 197, CARB is to provide public access to facility emissions at the local and sub-county level; unfortunately, the difficulty of achieving this goal will be exacerbated by the increased data and lack of a stable database. (EKAPCD)

Comment: Data Reporting Tool. The proposed changes to CTR introduce a massive amount of additional data for CARB to receive and store. It is hard to envision how the current system of using HARP transaction files to import the data into the outdated CEIDARS will be successful. Many of the required data fields and pollutants called out in the CTR regulation are not available data fields in HARP or CEIDARS. We have heard talk of a new database platform but have not seen progress toward this database and believe the timeline for the reporting requirements make it impossible to have a new system up and running to receive data. (MBARD)

Agency Response: The comments provided by air district staff are correct. Implementing the new requirements of CTR (and also of EICG with the expanded list of chemicals) is going to be a substantial undertaking for CARB, districts, and industry. It will require improved and more efficient ways of doing business. We also agree that new data management tools and process will be required to achieve full implementation. But, we must move ahead now. The forward-thinking momentum provided by the amendments are intended to spark the incentive and the motivation to improve and innovate to meet the needs ahead -- not to wait until everything is completely figured out.

CARB and districts are making direct and tangible progress in developing the systems needed to fully implement the requirements. But knowing that the process takes time, CARB has worked with stakeholders to provide a gentle phase-in process, incrementally adding sources over 6 years. This is done specifically to allow time for industry, districts, and CARB to create the infrastructure needed to support the reporting of annual emissions data by tens of thousands of facilities. No modifications are required to the regulatory language because there are not requirements to provide or use a specific data system, and the comments are not relevant to a particular amendment or provision of the regulations. Also, based on prior successful challenging inventory programs, we have complete confidence in air districts and CARB, in partnership with industry and communities, to fully meet the requirements of the proposed amendments.

A-1.32. [Comment: Every Chemical Should Have Toxicity Assessment](#)

We also disagree and we want no secrecy agreements made with any industry with any chemical manufacturer. The public has a right to know what chemicals are being manufactured, what chemicals are being used at any production and any product, so that we can be prepared to know what they are and any of the health hazards. Right now, if there's a release, none of the hospitals, none of the emergency urgent care centers know what has happened to a patient. So you could be treated for asthma when you're exposed to three, four other more toxic chemicals. Also, an HRA, Health Risk Assessment, is not adequate. We believe that, you know, every chemical should have a toxic -- toxicity assessment and report. (CSE)

Agency Response: See the responses to Section A-1.27., “Multiple Comments: Data - Need More” and Section A-1.23., “Multiple Comments: Provide Data Transparency” regarding the commitment by staff to provide complete and transparent data collected under the amended regulations as soon as reasonably possible.

Regarding the part of the comment related to HRAs performed under the Hot Spots Program, the EICG Appendix A-I includes a list of substances to be reported and quantified by facilities subject to the Hot Spots program. In some cases, these substances have an OEHHA approved reference exposure level or cancer potency; however, there are also many cases where staff has added substances that do not yet have an OEHHA approved health value as part of the latest EICG amendments. CARB is committed to establishing working groups with OEHHA, the air districts and other stakeholders to prioritize and expedite the development of provisional health values.

A-1.33. Multiple Comments: Cumulative Impacts

Comment: Population-Wide Risk Assessment. CARB's directive in Health & Safety Code §44342 is to develop criteria and guidelines for site-specific inventory plans. The terms "site-specific" and "facility" are clearly used in §44342 to indicate AB 2588 was intended to address facility risk not the combination of risks from many facilities on a population. The language added regarding taking into consideration population-wide impact assessment, persistence, or bioaccumulative properties are beyond the scope of CARB's responsibility for developing guidelines and should be removed from the document.

The district may consider population-wide impact assessment in addition to point estimates of risk, and may consider the facility's risk individually or in combination with other facilities. The district may consider additional properties of concern including persistence and bioaccumulative properties. (MBARD)

Comment: Cumulative Impact Analysis under EICG. The proposed amendment to the AB 2588 EICG cites cumulative impacts from more than one facility in many sections. This appears to be at odds with the statutory language of AB 2588 and districts may not have the discretion to make such a significant change to AB 2588 implementation. Furthermore, adding both population-wide and combined impact assessment of multiple facilities, ignoring the effects of background pollutant transport and mobile sources, is challenging and may not be possible to implement barring additional specific guidance. Per CARB staff, this language was added to provide flexibility to districts for inclusion or exclusion of facilities in areas of interest, so that districts could bring facilities into the reporting system based on the overall risk where they are located at their discretion. As written, this language may create an unrealistic expectation that cumulative impact analysis is appropriate or even possible under AB 2588. We ask that the guidance language be updated to clarify CARB's intent that

overall community risk can be considered for reporting applicability, but not for health risk assessment and/or risk reduction requirements under AB 2588. (SCAQMD)

Comment: 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 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.

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. (SBAPCD)

Comment: Including additional parameters in a screening risk assessment that are not attributable to the stationary source, such as "the combined impact of multiple facilities on the surrounding population," is likely to penalize the stationary source for circumstances it cannot control. It also diminishes the utility of screening risk assessments as a tool to determine whether a stationary source qualifies for an exemption from reporting. For example, it would be pointless to conduct a screening risk assessment for any stationary source operating near a large area source such as a

freeway, an airport, or a distribution terminal, where the determination would be driven more by the risk from surrounding sources than the subject source. AB 2588 was designed to identify and address health risks from individual sources, not cumulative risks from multiple sources. Only facility-specific parameters should be considered in making applicability determinations (ISOR, page 46). (WSPA)

Comment: Do concepts, such as “population-wide” assessments, signal a change in risk assessment methodology that will require changes in OEHHA methodology? (CASA)

Comment: The comprehensive new programs established in the CTR and corresponding updates to AB 2588’s Air Toxics Program and other programs signal a new paradigm in dealing with TACs. How will these translate into risk management programs? (CASA)

Comment: Further Actions to Redress Inequities. Address the Community Scale for Air Toxics. The State has embarked on an ambitious program to rectify the disproportionate burden of air pollution in communities in a Community Air Protection Program³ established under AB 617. While this is new, it relies on data from the air toxics program and CTR.

One of the reasons that a new focus on community air protection is needed is that existing programs have focused to a great degree on regional scale and on individual facilities. This is especially true for stationary sources of air toxics.

Even under AB 2588, which was intended to address risks to communities, the focus has been on individual facilities. A facility must fall under a defined risk threshold. But there is no limit for multiple facilities in close proximity, even in highly impacted communities. This is a source of structural racism, as well as a scientific flaw.

The proposed amendments for the EICG adds new guidance that allows local districts to consider community scale impacts of the air toxics facilities. (The document uses the term “population scale.”) It also allows the districts to consider other factors that are scientifically important. However, it is simply as a suggestion to the districts that they may adopt or ignore. We ask that CARB take an additional step to establish community scale assessment as a regular component of the toxics program and engage with the districts to make it work, in cooperation with the communities, and redress inequities.

³ California Air Resources Board. Community Air Protection.
<https://ww2.arb.ca.gov/capp> (AK)

Comment: We note that much more will need to be done to support equitable protection of communities and root out structural racism. We ask the Board to consider these additional actions today: create the appropriate focus at the community scale especially for stationary air toxics sources and to increase the role of communities in the air toxics program; and... (AK)

Comment: In communities, there are often multiple sources of pollutants in close proximity. The toxic stew in the air is not being addressed nor assessed for risk. No one knows what toxicity is being created when various chemicals mix together. These sacrifice zones are typically and unjustly, people of color and lower income levels. (MZ)

Comment: There's two more actions that the Board should take to address inequities in the burden of air pollution for communities. One is for the Board to establish community scale assessment as part of the Air Toxics Program and work with the districts in cooperation with communities to make sure the program works. (PAN)

Comment: There is a lot of discussion here about using scientifically up-to-date and valid methods. And in many ways, we have. But the one thing we have not done is to incorporate the community scale into the risk assessment methods. And that is a scientific flaw, as well as a remnant of perhaps some institutional injustice or racism here. And so I think that that really has to be addressed. (AK2)

Comment: As Chairman Nichols, you noted in your introduction, this is also -- these proposals are strengthening and supporting implementation of AB 617 Community Air Protection Programs. We encourage the Board to work with the districts and the communities to strengthen protections in terms of reducing cumulative impacts from even the smaller co-located facilities that can have combined community scale effects, especially in our most disadvantaged communities. (ALA)

Comment: And it's especially important to include community scale cumulative impact assessment. Our communities are hit by numerous impacts. We need that for our risk assessment. (CBE)

Comment: I also want to underscore the importance of the community scale in addressing disproportionate cumulative and synergistic impacts which we don't know or do enough about, and prioritizing reductions and enforcements in highly impacted areas including, but not limited to, AB 617 communities. (CVAQ)

Comment: We also recommend to include a complete list and inventory with the cumulative sources and all contaminants that contribute to both air pollution issues, as well as the emissions reporting information. (PSRLA)

Comment: The emissions inventory should be added at sources identified through ground-truthing. So exposure assessment is more accurate and we can implement better efforts to reduce emissions. It should also include data that assesses cumulative impacts within communities. South Central Los Angeles communities are exposed to a variety of air pollutants and thus health threats can arise from the combination of different sources. It is important to include all sources that may contribute to the (inaudible) [burden of] local communities. (PSRLA)

Comment: Now where I work currently in the Long Beach area, we do have areas when we think about things being very on the neighborhood level. While we have these huge polluting sources from the ports, refineries, drilling sites and intermodal

facilities, we also have a lot of cumulative impacts from smaller sites and particular auto body shops. And so I really want to highlight that while the presentation did include auto body shops, there was sort of a minimum reporting for those sites. And they are very important for our communities because they are many, many of them. (LBACA)

Comment: Very concerned about the impact of acute and cumulative impact of toxic air contaminants and other toxics on our most -- on our communities made most vulnerable by structural racism and environmental injustice. (SFPSR)

Comment: I also want to support what other people, including Dr. Kyle, have spoken to about addressing community scale impacts recognizing that you are covering various hot spots, but you recognize the fact that many communities are impacted by multiple sources of air toxics, and we want to be able to protect those communities in particular, (SFPSR)

Comment: We ask that CARB take an additional step to establish a community scale assessment as a regular component of the Toxics Program and engage with the districts to make it work in cooperation with the communities, AB 617 communities, and redress inequities, in other words. In the meantime, we ask CARB to direct staff to develop a parallel path to identify sectors of concern and accelerate progress towards emissions reductions. So thank you very much and I'll pass the buck. (CEC)

Agency Response: This set of comments covers two sides of the same issue regarding population-wide impact assessments and the potential for cumulative risk contributions from multiple facilities (and other sources) as provided in EICG. One set of commenters express concerns that these possibilities are mentioned as a voluntary air district option in implementing the EICG requirements. The other set of commenters express concerns that there is not an enforceable requirement to perform population-wide or cumulative risk assessments under EICG. So, one side is saying the concepts provided in the 15-day modified text require too much action, and the other says that the actions required may not provide nearly enough protection to near-source populations. Also, although this issue is not directly applicable to the facility-based CTR emissions reporting requirements, which do not require impact or health risk assessments, the associated comments and staff response is included for both regulations. This is done because of the overlap between the stakeholder concerns regarding the two regulations and how the collected data will be used.

The specific EICG text relevant to the comments is the following: "In clarification of the provisions below, the districts may voluntarily consider population-wide impact assessments and the potential for cumulative risk from multiple facilities in granting an exemption from further compliance." This is part of the introductory note to Section II of EICG for Applicability, and Section III for Removal of Facilities.

Under AB 2588, the population wide risk metric is a risk metric already required in Health Risk Assessments per OEHHA's 2015 Air Toxics Hot Spots Program Risk Assessment Guidelines. In the OEHHA guidelines, the population wide risk metric pertains to an individual facility, not multiple facilities. Section II.J.(3)(b)(ii) of the EICG states that the district may consider population-wide impact assessment and may consider the facility's risk individually or in combination with other facilities. This is a voluntary consideration that can improve protection of public health. The Legislative Findings and Definitions in Health and Safety code section 44301 of the AB 2588 Hot Spots Statute mentions the concept that sources "may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to cumulative health risks of emissions from other sources in the area." Thus, the district may voluntarily consider population wide and cumulative impacts in order to assess the health risk to those who are exposed per the 2015 OEHHA risk guidelines and §44301 of the Health and Safety code.

In addition to the EICG requirements, H&SC section 44391.2 of the AB 617 statute, requires the state board (i.e., CARB) to prepare, "a statewide strategy to reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden." The statute further requires that criteria presented in the state strategy shall include, but not be limited to, "An assessment and identification of communities with high cumulative exposure burdens for toxic air contaminants and criteria air pollutants." Therefore, to support the AB 617 community emission reduction programs and other activities, cumulative impacts must be considered moving forward, which is another general reason for expanding the scope of the emissions reporting requirements. To evaluate cumulative risks in any community scenario, the inventory of emissions from all sources (facilities, mobile sources, etc.) must be as complete as possible. Such efforts to evaluate cumulative risks from multiple sources of airborne emissions would typically be focused on specific locations or sources of concern (with multiple, known sources of potentially harmful emissions), and not be applied universally, but the evaluation of cumulative impacts is an important tool in reducing health risks. We are committed to working with air districts and other stakeholders on developing guidance on methodologies and case studies for evaluating cumulative risks from multi-facility air pollution.

A-1.34. Multiple Comments: Concerns Regarding Expansion of Reporting

Comment: The California Construction and Industrial Materials Association (CalCIMA), and the California Asphalt Pavement Association (CalAPA) strongly oppose the amendment and expansion of statewide reporting by the California Air Resources Board from the "major sources" identified within AB 617 as being required to report to include practically all permitted stationary sources within California. (CalCIMA/CalAPA)

Comment: Other General Comments on the Proposed Amendments. Expanded reporting shifts focus away from Major Sources and Impacted Communities. The promise of AB 617 and the Criteria and Toxics Reporting (CTR) Regulation was to establish a uniform and transparent annual emissions reporting system for those sources of concern in impacted communities. Importantly, Article 2 of the CTR must be developed by ARB and CAPCOA to provide sector-specific guidelines that would enable reporting consistency and comparisons of sources across districts – something that cannot currently be done due to inconsistent reporting periods and quantification methods.

CCEEB has always recommended that ARB and the air districts focus initial efforts on statewide reporting consistency for major sources, as identified in AB 617.² Sector-specific approaches allow the major sources to “test drive” new reporting requirements and data tracking systems, and to develop test and quantification methods that can be adapted for use by other sectors at lower costs and in quicker time. If we focus our efforts and get it “right” for the major sources, CCEEB believes the entire program will be more likely to succeed.

By shifting agency focus away from work that remains to be done for major sources, including development of consistent guidelines and test methods, ARB and district attention will be redirected to the tens of thousands of small area sources coming into annual reporting for the first time, and without regard to where these facilities are located and whether or not they are in impacted communities. The proposed amendments represent a 47-fold increase in who must report (from 1,300 to 60,900), based on a 63-fold increase in applicability stringency (from 250 tons per year of criteria pollutant emissions to 4 tons per year). Although abbreviated reporting in the CTR rule is helpful, it only applies to 24,000 facilities (or 40 percent) and does not address AB 2588 requirements.

Ultimately, this recasting of priorities is within the Board’s discretion, and CCEEB members are required to report either way. However, it should be acknowledged by the Board that, in adopting changes that greatly expand who reports, it is slowing efforts to bring about the consistency and uniformity for major stationary sources.

² See CCEEB letter to ARB on CTR 15-day Changes, dated March 29, 2019. (CCEEB)

Agency Response: See the response to *Section A-1.35., “Multiple Comments: Exceeds Authority”*, which discusses the scope of the reporting requirements and why it is justified. The amended requirements are necessary, and put the focus exactly where it should be, which for CTR is on collecting facility emissions data throughout the state for most permitted activities, and for EICG, with the focus on the sources of greatest concern for toxic emissions. These are fundamental priorities for CARB, because the information is needed to implement AB 617 programs, to acquire data needed to implement AB 197 requirements, and to provide the data needed to effectively evaluate toxics risks (e.g. for AB 2588 implementation), and when necessary mitigate risks (e.g. through Air Toxics

Control Measures). Staff disagrees that the amended regulations would somehow dilute or distract from our most important priorities, or slow progress, or create inconsistency. The comments do not specifically address any specific amendments, other than generally stating the need to reduce the overall requirements, so no regulation modifications are necessary.

A-1.35. [Multiple Comments: Exceeds Authority](#)

Comment: As we will explain below, we believe these amendments far exceed the intent of the Legislature as well as authority which has been granted to CARB. (CalCIMA/CalAPA)

Comment: However, we do not believe the State Board is authorized to adopt these regulations by statute. (CalCIMA/CalAPA)

Comment: Approach Exceeds Explicit Legislative Authority in AB 617 and AB 197: The Legislature provided an explicit definition of stationary source for this regulatory activity in Health and Safety Code 39607.1. Further, in legislative analysis, the Legislature specifically noted it covered reporting by “major sources.” AB 617 was a carefully constructed, phased-in and targeted approach to reducing emissions exposure in our most impacted communities instead of a broad statewide approach.

Health and Safety Code 39607.1 is CARB’s authorization for a statewide reporting system on stationary sources as defined. It has a three-part definition of Stationary source for the purposes of the section, not a four-part definition as created by this regulation.

“39607.1. For purposes of this section, the following definitions apply:

“Nonattainment pollutant” means a criteria pollutant for which a district is classified as a nonattainment area pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

“Stationary source” means any of the following:

A facility that is required to report to the state board the facility’s greenhouse gas emissions pursuant to Section 38530.

A facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors.

A facility that receives an elevated prioritization score based on cancer or non-cancer health impacts pursuant to Section 44360.

(1) The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.

(2) The state board shall require a stationary source to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using the uniform statewide system of annual reporting developed pursuant to paragraph (1). With the report required pursuant to paragraph (2) of subdivision (b), the state board may require, as appropriate, a stationary source to provide relevant facility-level emissions data. The state board may require, as appropriate, a stationary source to verify or certify the accuracy of its annual emissions reports by a third-party verifier or certifier that is accredited by the state board."

The section reads clearly enough. It creates a three-part definition of stationary source that captures major and high-risk sources within the state and authorizes, in consultation with districts, the creation of an annual reporting system for those stationary sources explicitly defined for use within the section. In other words, it is the regulation that CARB has already adopted, and which is being amended. The additional provisions now being considered were previously removed by staff last year prior to the adoption of the regulation. We see no need, nor authority for those provisions to be re-inserted into the regulations. (CalCIMA/CalAPA)

Comment: There is further evidence that the Legislature considered this annual reporting system as being limited to "major stationary sources." In the July 14, 2017 Assembly Analysis on Concurrence with Senate Amendments the analysis notes:

"1) Provides for regular and consolidated reporting of emissions from major stationary sources (emphasis added) by requiring ARB to establish a uniform statewide system of annual reporting of criteria pollutants and toxic air contaminants (TACs), including reporting by sources of facility-level emissions data and third-party verification."

The Legislature got it right as those are the stationary sources best situated to report annually. Air Districts and non-major stationary sources are not ready for this annual reporting system at this time. (CalCIMA/CalAPA)

Comment: Further, AB 197, which has also been used as justification for this rule, specifically dictates that CARB only collect information from Air Districts that they collect in their inventory activities. Specifically, AB 197 provided CARB report the following data:

"(3) The criteria pollutant and toxic air contaminant emissions data for stationary sources shall be based on data provided to the state board by air pollution control and air quality management districts collected pursuant to Section 39607 and Chapter 3 (commencing with Section 44340) of Part 6 of Division 26."

The Legislature did not grant the Board authority to collect such information from operators and permittees of the local air districts. While the ISOR for this regulation notes AB 197 provides the following: *"H&SC section 39607(b)(2) established under AB 197 requires that the state board shall, 'Inventory sources of air pollution within the air basins and determine the kinds and quantity of air pollutants.'" From this sentence*

fragment one might think the Board was authorized to collect this data from operators, however that is not true.

First, the ISOR language comes from 39607 (b)1 and not (b)2. However, under both sections the Legislature made it clear where CARB was to get the data. It is not from operators, but Air Districts as shown by the 39607(b)1 and (b)2. In neither section is the data provided from operators directly to CARB, nor is CARB granted authority to adopt a rule to collect data itself.

“(b) (1) Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants, including, but not limited to, the contribution of natural sources, mobile sources, and area sources of emissions, including a separate identification of those sources not subject to district permit requirements, to the extent feasible and necessary to carry out the purposes of this chapter. The state board shall use, to the fullest extent, the data of local agencies and other state and federal agencies in fulfilling this purpose [Emphasis added]”

Health and Safety Code 39607(b)2 as included within AB 197 also reinforces that the information the State will make available upon its website is to come from the local districts not their permittees. It states,

“(2) Make available on the state board’s Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources and to at least a county level for mobile sources. The emissions reported shall include data on the emissions of criteria pollutants and toxic air contaminants emitted by stationary sources as provided to the state board by districts. The information shall be displayed graphically and updated at least once a year.

Rather than collect the information already collected by Air Districts and make it available as authorized by Statute, CARB has instead embarked on a regulatory agenda to tell local air districts what and how to collect data followed by a requirement on operators to report the data that way to CARB should the air district not do so. This program clearly was not authorized under AB 617, which was precisely limited to Major Source reporting and reporting in selected and prioritized EJ communities. Further, this is not authorized by AB 197, which only authorizes CARB to collect information from Air Districts.

At the least CARB must remove provisions of this rule which would require operators to report to CARB. We expect that our local permitting agencies will collect such data as they need to determine compliance and would likely share information they do collect if asked. However, CARB has not been given the authority to manage the air districts in either AB 617 or AB 197 and we do not believe CARB has authority to adopt regulations on local districts in this matter. (CalCIMA/CalAPA)

Comment: However, the program is a significant expansion beyond the authority granted CARB by the legislature in AB 617 and AB 197. (CalCIMA/CalAPA)

Comment: Further and as stated in previous comment letters, the proposed expansion reaches beyond the statutory authority granted to CARB under AB 617 and AB 197, and the Initial Statement of Reasons (ISOR) fails to identify any other statutory authority that would allow for the proposed expansion. (WSPA1)

Comment: and misinterprets its statutory authority. The ISOR states that AB 617 requires CARB to “establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.”⁷ Health and Safety Code Section 39607.1 limits CTR applicability to three categories of stationary sources.⁸ None of these categories authorize inclusion of all permitted sources at de minimis activity thresholds.

⁷ ISOR, page 24

⁸ Health and Safety Code Section 39607.1 “(2) “Stationary source” means any of the following: (A) A facility that is required to report to the state board the facility’s greenhouse gas emissions pursuant to Section 38530.; (B) A facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors; (C) A facility that receives an elevated prioritization score based on cancer or noncancer health impacts pursuant to Section 44360.” (WSPA1)

Comment: Rationale for Section 93401(d). “The inclusion of this section is necessary to provide CARB and air districts the authority to collect data from facilities to ascertain if they may be subject to CTR.” The ISOR does not identify any specific language in AB 617 or AB 197 that authorizes CARB to undertake exploratory data gathering to determine applicability. The very next sentence rejects potential alternatives that should be more clearly identified and analyzed in the ISOR: “This authority is necessary because otherwise, without facility data, *the regulatory agencies would either need to rely on non-facility data, or use other mechanisms for obtaining the facility data*, hampering the ability of the agencies to ensure compliance when identifying applicability.” (emphasis added) (WSPA1)

Comment: In regards to the CTR annual reporting rule, we commented separately with the California Asphalt Pavement Association and want to emphasize again, as we did in last year’s AB 617 process, that CARB does not have the legal authority to expand that regulation to cover 60,000 businesses in the state beyond the 1,500 that were authorized by the Legislature as major (inaudible) [sources]. (CalCIMA1)

Comment: The authority in 197 is to collect the data collected by the air districts from their permit programs. We would ask that the CTR regulation amend out the direct request for reporting from industry to CARB, as a result of that. (CalCIMA1)

Agency Response: The proposed amendments extend beyond the minimal basic reporting concepts established under AB 617 and AB 197. As noted in the ISOR and Notice, the expansion of applicability relies not only on the AB 617 and AB 197 statutes, but also on CARB's other relevant authorities that support the amendments. These authorities include those granted in California Health and Safety Code sections 39600, 39601, 39602, 39605, 39606, 39607, 39607.1, 39607.3, 39701, 40913, 41500, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2. Further, these CTR amendments are proposed to interpret and implement sections 39003, 39500, 39606, 39607.1, 42705.5, 44301, 44391.2 of the Health and Safety Code.

In utilizing these authorities, CARB is working to fulfill obligations imposed on it that flow from California Assembly Bill (AB) 617, AB 197, AB 2588, the California Clean Air Act, the federal Clean Air Act, as well as CARB's broader obligation under Health and Safety Code section 39003 to protect public health via an understanding of the causes of, and solutions to, air pollution in the state.

These authorities and obligations are detailed in Resolution 20-31 which is incorporated herein.

In addition, CARB is working closely with air districts in collecting the specified CTR data and is using the data provided by districts. It is true, however, that if an air district does not collect required data and provide it to CARB, then CARB may obtain data directly from the facility operator (in such instances CARB must first confer with the district). This is necessary to maintain compliance for facilities subject to CTR and is a proper exercise of CARB's statutory authorities. Also, air districts may choose to have one or more of their facilities submit data directly to a CARB reporting system that is under development. But, even in such cases, there will be a mechanism for districts to review and approve submitted facility data before it is finalized.

A-1.36. Multiple Comments: Major Regulation

Comment: The Initial Statement of Reasons (ISOR) states that the estimated ten-year cost to the private sector of implementing the CTR Amendments would be \$67.4 million (ISOR page 22) and the Notice of Public Hearing (NoPH) states the ten-year costs to Air Districts would be an additional \$39 million (NoPH page 8) of the \$41.5 million estimated ten-year costs to local governments. The highest annual costs to the private sector during the implementation of the amendments is expected to be \$9.6 million; in that same year (2027), the projected annual costs to local government (though this includes some regulated sources operated by local agencies, not just Air Districts) will be \$5 million (ISOR page 16). While the ISOR states the estimated cost to businesses were based on estimated " primary costs incurred for determining applicability, data gathering and recordkeeping activities, preparation of an annual emissions data report, reviewing the report, and submitting the report to the local air district," there does not seem to have been an effort to account for the resulting

increase in permit fees collected by Air Districts to cover their portion of the estimated \$5 million costs attributable to local government (for that year alone) in implementing this program (ISOR page 16). Based on the current cost break-down presented in Table 1 of the ISOR (page 16), it seems reasonable to expect accounting for increased fees imposed by Air Districts on regulated facilities to increase the annual costs to the private sector above \$10 million for several years which would exceed the threshold for definition as a major regulation per H&SC Section 57005. As such, the estimated cost to the private sector presented are an under-estimation of the costs the private sector is likely to experience as a consequence of this proposed regulatory amendment. An evaluation which considers the full costs to the private sector accounting for the Air Districts' need to recover costs of implementation of these regulatory amendments should be made prior to approval and the process of considering Major Regulation Alternatives should be thoroughly conducted prior to approval of the proposed regulatory amendment. (Shasta AQMD)

Comment: The statutory thresholds for major regulations (Government Code section 11346.3 and Health and Safety Code section 57005) specify total cost in any 12-month period following "full implementation." Full implementation would occur when all regulated facilities are required to report emissions for any of the nearly 1000 newly listed substances. Neither statute allows averaging of costs over a multi-year implementation period, nor do they allow the agency to arbitrarily select the least costly 12-month period as the basis for determining whether the proposed regulation qualifies as a major regulation. It is similarly inappropriate to bifurcate costs between the EICGR and the CTR, as suggested in Section VII. G. (Alignment with Criteria and Toxics Reporting, ISOR, page 21), or to piecemeal analysis of regulatory cost as a means of avoiding a more fulsome analysis of economic impacts. Rather, the interaction between the proposed changes to EICGR and the CTR, and the expected use of the expanded data sets to support AB 617 implementation by establishing "a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants," argues for a comprehensive analysis of the combined economic impacts of both proposals.

Using staff's lowest estimate of individual facility costs, total private sector implementation costs in any 12-month period following full implementation would be at least \$17.5 million dollars (58,400 facilities x \$300 per facility). This amount is well above the Health and Safety Code threshold for a major regulation (\$10 million), thus the requirement to evaluate less costly, equally effective alternatives should apply in this case.

For all of these reasons, actual facility implementation costs are likely to be much higher than the staff estimates. A realistic analysis of implementation costs would likely conclude that the proposed regulations exceed the Government Code threshold for a major regulation (\$50 million), indicating that CARB should conduct a SRIA before bringing final regulations to the Board for adoption. (WSPA)

Comment: Economic Impacts Assessment. The Economic Impacts Assessment concludes (ISOR, p. 15) that the regulation will not have the potential to cost California businesses more than \$10 million in any year, and is therefore not a “major regulation.” Table 1 on page 16 of the ISOR lists annual projected costs to businesses of up to \$9.6 million in 2027 (not counting penalties) plus another \$5 million for local air districts and other local government entities (with air districts accounting for approximately 95% of that cost), which are authorized to charge fees to businesses to cover their costs. In addition, the ISOR estimates an additional cost to businesses of \$1.3 million from the EICG (Table 3, p. 22)\$9.6 million plus \$5 million plus \$1.3 million equals \$15.9 million, assuming districts do charge fees to businesses to cover their costs. Therefore, the CTR as proposed should trigger a “major regulation” analysis, especially with the added EICG. (NSAQMD)

Agency Response: There are two thresholds to consider regarding major regulations, one requiring a Standardized Regulation Impact Assessment (SRIA), and the other as specified by CalEPA.

The definition of major regulation as it specifically relates to a SRIA is “any proposed rulemaking action adopting, amending or repealing a regulation subject to review by OAL that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000) in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency), computed without regard to any offsetting benefits or costs that might result directly or indirectly from that adoption, amendment or repeal.” (1 CCR § 2000). For a major regulation proposed on or after January 1, 2014, a SRIA is required. A SRIA requires a comprehensive assessment of all costs or all benefits (direct, indirect, and induced) of the proposed regulation on business enterprises and individuals located in or doing business with California.

Health and Safety Code (H&SC) Section 57005 addresses the requirements for major regulations as defined in that section. In implementing those requirements, the Cal/EPA requires CARB to perform an economic impact analysis of submitted alternatives to the proposed regulation before adopting any major regulation, as defined in that section. A major regulation is defined as “any proposed regulation that will have a potential cost to California business enterprises in an amount exceeding ten million dollars (\$10,000,000) in any single year.” Exceeding the CalEPA major regulation threshold requires a consideration of whether there is a less costly alternative or combination of alternatives which would be equally as effective in achieving increments of environmental protection in a manner that ensures full compliance with statutory mandates within the same amount of time as the proposed regulatory amendments.

The proposed regulatory amendments are not projected to have potential costs to California business enterprises exceeding ten million dollars in any single year;

therefore, the proposed regulatory amendments are not considered a major regulation under H&SC Section 57005. Similarly, the proposed amendments would not exceed the major regulation threshold for a SRIA to be conducted, as the proposed economic impact on California business enterprises and individuals in any 12-month period through full implementation would not exceed fifty million dollars (\$50,000,000), and therefore the proposed amendments do not require the preparation of a SRIA.

The air districts have no specific legal requirements under the proposed regulation; the regulation applies to facilities, not the air districts. However, CARB recognizes that California's local air districts play an important role in collecting, processing, confirming the validity of, and managing facility emissions data, and that these actions are central to the proposed regulation's implementation, data collection, and enforcement provisions. The proposed amendments are intended to build on those existing efforts, because air districts are already familiar with local facility operators, conduct inspections, issue permits, and in many instances have been regulating applicable sources for decades. If necessary, districts could levy service charges, fees, or assessments for activities they choose to implement, but those costs are speculative and are at the air district's discretion.

The economic analysis evaluated each year of implementation of the proposed amendments (over a ten-year period) to capture the phase-in of the proposed amendments and estimate the maximum year of costs and subsequent anticipated reduction in costs. The maximum year of costs were used to compare to major regulation thresholds. Costs for the proposed amendments to the EICG were also presented to illustrate the shared costs between the two programs because the combined economic impact of both proposals would be less than the sum of the two programs when looked at in isolation, due to the similarities of both proposals.

A-1.37. Multiple Comments: Significant Burden to Implement

Comment: These regulations would impose significant costs to materials producers and air districts. (CalCIMA/CalAPA)

Comment: Significant Cost Burdens on Non-Major Emitters and Air Districts: As there are areas of the state where annual reporting occurs by our members, we have actual costs for complying with annual reporting obligations for non-major sources. The general operator cost to submit data to South Coast Air Quality Management District is between \$2,500 to \$5,000 per year in direct consultant cost without including time and labor costs, and significantly more for complex facilities. In meetings with CARB staff, we have learned this reporting system is expected to include up to 60,000 facilities annually. The annual compliance cost for 60,000 facilities at just \$2,000 dollars per facility would be an estimated \$120 million annually.

The added burdens on local air districts are also a significant concern to the materials industry. Added burdens on their staff resources directly impact their ability to undertake critical activities such as permit modifications, variances and other necessary activities that keep operations running. The equipment specificity of stationary source permitting systems and need to update permits due to replacement is a very real need and delays in such actions have real impacts on a material producer's ability to operate. (CalCIMA/CalAPA)

Comment: Impact Beyond Gap Year. CMC appreciates CARB added a "gap year" following the first year of reporting for Phase 1 facilities, and clarification that annual emission reporting under CTR would not be effective until four years after the initial reporting year. However, we continue to have concern that the proposed expanded reporting requirement will create overwhelming workload burdens for regulated facilities. Various requirements in the proposal would represent unrealistic and unreasonable amount of burdens on facilities are found in multiple provisions of the proposed amendments to the CTR regulation: (CMC)

Comment: 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. (SBAPCD)

Comment: WSPA recognizes and appreciates the additional flexibility provided in the proposed amendments, including the addition of a "gap year" following the first year of reporting, and clarification that annual reporting of toxic air contaminants subject to the Criteria Pollutant and Toxics Emissions Reporting regulation (CTR) would be effective four years after the initial reporting year under the revised EICGR. We also agree in concept that including a new "Sector 0" in the regulation could "aid in the evaluation of the relative contribution of (stationary sources) to impaired ambient air quality" (ISOR, pages 108-109).

However, we remain concerned that the proposed phase-in schedule, even with the above-noted adjustments, is insufficient to moderate the enormous new workload burdens facing air quality management districts and the tens of thousands of facilities that will be subject to the expanded EICGR. (WSPA)

Comment: While WSPA recognizes and appreciates that the implementation timeline for amendments to the CTR regulation has been extended, there are still numerous problems with the proposed amendments. In particular, there is broad underlying concern that air districts have not made much progress developing their respective emission reporting programs since the CTR was adopted in December 2018. The proposed expansion of reporting requirements will impose unsustainable workload burdens not only on regulated facilities but also on the local air districts responsible for implementing this program. (WSPA1)

Comment: As proposed the requirements would impose costs on air districts, businesses and residents, that will exceed the value of the public health benefit derived from the data compiled. Any benefit is likely to be offset by the negative health impact resulting from the decreased economic activity. Scarce resources would be better spent on more cost effective health, public health and emission reduction activities and programs or simply not taken from Californians. (EDC AQMD)

Comment: Cost of the Regulation Amendments. The rulemaking acknowledges that besides direct costs to the facilities to comply with the amended CTR there will also be increased permit fees from air districts, this is stated without reviewing the limits on District permit authority. Air Districts do not have blanket the legal authority to “just raise permit fees”, there are strict limits imposed in state law, by case law and in the state constitution (prop 26, 218 and 13). In addition, in most of the north state large sources have closed due to long term economic factors and smaller sources are currently closing due to COVID. Raising fees on closed sources simply will not generate revenue. Unlike CARB, Air Districts do not have the ability to access “general fund” (i.e. tax) dollars to support our programs, all costs must be paid through local permit revenue. (FRAQMD)

Comment: Real Costs to Air Districts. The real costs of the proposed regulation to air districts are not trivial. Costs to California’s local air districts are estimated at up to \$5.3 million per year and \$39 million over the next 10 years (ISOR, p. 20). In addressing how districts can cover the costs, the ISOR states (p. 21), “...districts could levy service charges, fees, or assessments sufficient to pay for any implementation required under the proposed regulation.” Both politically and functionally that is not an easy thing for most air districts to do, particularly with so many businesses struggling right now. Imposing new fees at the local level is an exhaustive and potentially contentious process. Also, air district boards would have to make a finding of necessity (i.e. that a need exists) under Health and Safety Code §40727 to amend their fee rules to pull in that extra \$39 million, but it’s not guaranteed that they could make that finding. (NSAQMD)

Comment: For the reasons included herein and in many other comment letters submitted by local air districts, the NSAQMD feels that there is not enough need for the CTR/EICG’s proposed level of emissions detail to justify the costs and burdens of the proposed emissions inventory data collection overhaul set forth in the CTR/EICG. (NSAQMD)

Comment: Will local air districts have adequate staff to fairly implement these programs, and where will the funding come from in light of the burdens local districts face in implementing CTR? (CASA)

Comment: Issue #4 - We understand, based on CARB statements at the September 30th workshop, that the AB 2588 reporting changes are intended to motivate facilities to change their processes or raw materials to minimize health risk. In situations where

the rule provisions do not have the potential to change facility processes, the rule changes will impose a cost with no corresponding benefit. (CCMEC1)

Comment: If waste handling of organics and MSW becomes a toxics hot spot, handling at MRFs and recycling facilities will now be subject to reporting under AB 2588 and potentially require preparation of health risk assessments. This effort will not only cause additional and extensive new requirements to the operators of these facilities, but could make recycling too expensive, shut down facilities, as well as prevent the siting of new facilities because of the new label as a toxics hot spot.

As discussed, this is all unnecessary since these facilities are already heavily regulated under various state and local nuisance regulations directed at controlling odors and dust from recycling facilities and MRFs. Additionally, this would add to the current financial stress these facilities face because of the reduction of recycling markets due to severe restrictions from Asian countries. Efforts to include these facilities in the AB 2588 Program may permanently impact industry's efforts to comply with the most aggressive recycling goals and mandates in the country. (SWICS)

Comment: A big issue for our industry is who pays. Since our industry is funded largely by waste collection fees, we do not have large research budgets whatsoever. Also, the impact on the development of more compost facilities, CalRecycle has it in its -- to double the compost facilities over the next five years. So that is certainly a concern. (ACP1)

Comment: This challenge comes -- while I think the water people have very successfully talked about how challenging it is for them, most industries that report out there are not chemical manufacturers. They use products that have things in them. They'll go to MSDSs. They'll look for chemicals. It is going to be a very expensive and complex process for the vast majority of industry reporting in this role. And certainly, the extra challenges of water may be somewhat additional. (CalCIMA1)

Comment: I can't speak to every agency but with the San Joaquin Valley Air District, it's not a lack of resources that impairs their ability to implement these kinds of programs. There was a 2016 State audit showing that the Valley Air District permit fee revenues don't cover their costs. And the State recently also found that their emission reduction banking system has been using miscalculated credits in the favor of themselves and industry. So the resources are there, but they need more transparency tracking and enforcement. (CVAQ)

Agency Response: The proposed amendments are not expected to impose significant costs or burden that impacts operations. In many cases, the data requested by the proposed amendments are already collected on a periodic basis and/or evaluated as part of the air permitting process. For the new substances listed in the proposed amendments, the substances only need to be quantified if there is a means of quantification. Many small sources and businesses are expected to qualify for abbreviated reporting, which reduces the

data needed from facilities to comply. To further reduce reporting burden, the requirements have been designed to phase-in over multiple years.

CARB recognizes that California's local air districts play an important role in collecting, processing, confirming the validity of, and managing facility emissions data, and that these actions are central to the proposed regulation's implementation, data collection, and enforcement provisions. The proposed amendments are intended to build on those existing efforts, because air districts are already familiar with local facility operators, conduct inspections, issue permits, and in many instances have been regulating applicable sources for decades. If necessary, districts could levy service charges, fees, or assessments for activities they choose to implement, but those costs are speculative and are at the air district's discretion. Air districts have discretion to add staff to cover their activities.

A-1.38. Comment: Regulations Overly Broad

Rather than targeting areas most in need of attention, this overly broad set of regulations will create a sweeping new reporting structure for practically all stationary sources in California, undermine local authority, and create the opportunity for confusion, rather than clarity, with regard to clean-air goals and progress. (CalCIMA/CalAPA)

Agency Response: It is correct that certain areas of California have more critical needs in terms of developing a more complete understanding of the local emission sources and addressing their impacts. However, toxic emissions can occur at facilities anywhere, and all residents of the state should receive the benefits of knowing if they are being exposed to potentially harmful airborne emissions, not just those in certain communities or regions. In addition, the CTR regulation further empowers the local authority of air districts by providing clear and consistent reporting requirements statewide, which both CARB and air districts can enforce (section 93410). The amendments create an even playing field and provide clarity and uniformity to facility operators, air districts, and the public as we strive to meet clean air goals. For the above reasons, the proposals were not modified in response to the comment.

A-1.39. Comment: Reduce Scope of Data Collection

There should also be consideration given to reducing the scope of the proposed data collection. (NSAQMD)

Agency Response: Over the course developing the amendments, staff listened closely to stakeholders regarding data to be reported under CTR and EICG. The proposed amendments represent a balance between stakeholder concerns. Further, many of the requirements reflect data that has historically been collected by air districts.

After evaluating overall data needs and the public comments provided, some reporting requirements were removed from CTR, such as the requirement to report the "Permit or rule or emissions limits(s)" (see *Section A-5.3., "Comment: Reporting Would Be Made Difficult or Burdensome - Full Report Contents"* and *Section A-5.7., "Comment: Limit Reporting - Permit Limits"*), or the scope of reporting was modified, such as for control efficiency reporting (see *Section A-5.3., "Comment: Reporting Would Be Made Difficult or Burdensome - Full Report Contents"* and *Section A-5.6., "Multiple Comments: Limit Reporting - Control Efficiency"*), or in some cases reporting was delayed, as with release location data (see *Section A-4.2., "Multiple Comments: Release Location Data"*).

A-1.40. Multiple Comments: Costs Underestimated or Estimated Incorrectly

Comment: This would impose millions of dollars of compliance costs per year on the University, highlighting the drastic underestimate of costs imposed on state government by the proposed amendments (according to the Staff Report: Initial Statement of Reasons, these costs would be merely \$23,000 to \$149,000 per year for all of state government). (UC)

Comment: Implementing this portion of the regulation, as currently proposed, could potentially take manpower and resources away from local air district programs that focus on reducing emissions, protecting disadvantaged communities, and providing a predictable and reliable permit process that is essential to businesses and facilities that choose to continue their operations in California.

There is significant cost associated with the proposed modifications, but absent are clear environmental benefits. We also believe the existing economic impacts summaries underestimate the cost of implementing this program. There are many steps involved in collecting the data, detail checks, data gaps analysis, and submittal to the agency. One San Diego facility estimates 500 hours to complete the annual inventory for their facility. Furthermore, as we look ahead to another year or two of life in a pandemic, operations will continue to be restrictive and costly in order to ensure the safety of our employees. As a result, costs are up and production is down. This is the wrong environment and the wrong time to impose costly new regulations, particularly when some of these requirements lack clear environmental benefits. (IEA)

Comment: Since 2018, small businesses and residents of Shasta County have been economically impacted by wildfire and the current pandemic. Our local governments are wary of introducing increased fees for programs that would mostly benefit AB 617 disadvantaged communities of which Shasta does not possess. We urge CARB to re-examine the ultimate associated cost of the CTR and provide clear analysis of the resulting costs to small business. (Shasta AQMD)

Comment: Economic Impact Analysis. Based on the economic impact analysis presented in the Initial Statement of Reasons (ISOR), the initial average cost for a small

business to comply with the proposed reporting requirements would be approximately \$560 per year, and \$300 per year thereafter.

CARB's expectation for the facility financial burden is unrealistic and significantly underestimates the real- world compliance costs related to determining applicability, data gathering and recordkeeping, preparation of emissions data reports, reviewing, and submitting reports to the local air district, as documented in ISOR. CARB also presumes local air districts will have enough resources in terms of staff time and finance for assisting small business in complying the proposed regulation. And the proposed reporting requirements under CTR would introduce financial impacts not only on the sources themselves but also on the local air districts responsible for the implementation.

We note that several local air districts have expressed concerns over the financial burden this proposed regulation would cause. CARB needs to conduct further economic impact analysis to understand the true costs of the proposal. (CMC)

Comment: We are further concerned, based on our review of the Initial Statement of Reasons (ISOR), that CARB has not fully or properly elucidated the potential economic impacts that would likely result from the proposed regulations, nor considered a reasonable range of alternatives to the current proposal. These and other issues discussed below merit further analysis before the staff proposal is adopted by the Board.

ISOR Section VII. Economic Impacts Assessment. The analysis of potential economic impacts from implementation of the proposed regulation is internally inconsistent and includes several unsupported assumptions. The ISOR estimates that the average cost per facility to comply with the proposed requirements, which staff describes as determination of applicability, data gathering and recordkeeping activities, preparation of emissions inventory plans and reports, quality assurance/quality control, and submitting reports to the local air district, would initially range from approximately \$560 to \$22,300 per year, declining to \$300 to \$720 in out years. These estimates seem improbably low, regardless of the number of listed substances a given facility is required to report, and especially for smaller facilities or first-time reporters that will need to retain consulting services. The ISOR also acknowledges that costs for first time reporters may be higher than staff estimates¹, and staff has acknowledged in workshops and stakeholder discussions that first time reporters represent a large percentage of the total number of affected facilities.

The analysis fails to address factors that will likely result in costs in excess of the reported estimates. For example, it does not identify costs associated with developing emission factors, speciation profiles or alternative emissions estimation techniques for newly listed substances where source testing is not otherwise required. As CARB acknowledges on page 24 of the ISOR, development of alternative quantification tools can be resource intensive, especially those derived from source testing. The analysis also does not identify additional costs for facilities subject to the CTR, which currently

report emissions of toxic air contaminants on a quadrennial cycle, but will be required to transition to annual reporting pursuant to the proposed harmonized phase-in schedule.

Private facilities represent 96% of all affected facilities, but less than 60% of total costs. There is no explanation in the ISOR for this variance. Rather, staff asserts on page 19 that “Most costs for local government facilities to implement the regulation are expected to be similar to the costs for facilities in general.”

The analysis assumes that new costs imposed on smaller facilities will be borne largely by local air districts.² Given the scope of smaller facilities subject to the proposed regulations - CARB estimates that 50,000 small businesses will be covered under the proposed amendments³ - it is highly unlikely that air districts will be able to absorb these costs within existing resources. Rather, it is much more likely that air districts will seek cost recovery from these facilities through administrative fee authority. For these reasons, the full costs of implementation on a per-facility basis should be reflected in the staff analysis.

¹ However, there will be some businesses with higher or lower costs, depending on the complexity of the facility, *or if a facility is not subject to preexisting reporting requirements such that they are not currently collecting data needed to compute emissions data* (which will typically be performed by air districts for the smaller facilities). Emphasis added; ISOR, page 17

² “In addition, for smaller facilities, it is anticipated that the local air districts will provide assistance to these facilities in computing emissions based on easily obtained throughput and activity information such as the quantity of material sold (such as gasoline), material consumed (such as natural gas, diesel fuel, or coatings), or material produced or processed.” ISOR, pages 17-18

³ ISOR, page 18 (WSPA)

Comment: ISOR Section VII. Economic Impacts Assessment. CARB’s analysis concludes that the CTR amendments do not constitute a “major regulation” because the economic impact would not exceed \$10 million per year, and therefore would not trigger the additional analysis required by Health and Safety Code Section 57005. This conclusion is based on several assumptions that systematically understate costs to both regulated facilities and local air districts. The ISOR estimates that the average cost per facility to comply with the proposed requirements, which staff describes as determination of applicability, data gathering and recordkeeping activities, preparation of emissions inventory plans and reports, quality assurance/quality control, and submitting reports to the local air district, would initially average \$560 per facility, dropping to \$300 per facility over an undefined period of time. These estimates seem improbably low, especially for the tens of thousands of facilities that would be brought into the program for the first time under the proposed expansion.

CARB estimates lower costs in the ISOR based on the assumption that CTR reporting requirements constitute a small additional workload burden “supplementing the workload that is typically already required in most regions to meet existing mandated data collection and reporting requirements.”³ This sweeping generalization is not supported in the ISOR. The staff analysis also assumes that new requirements and costs imposed on smaller facilities will be borne largely by local air districts.⁴ Given the scope of smaller facilities subject to the proposed regulations - CARB estimates that 50,000 small businesses will be covered under the proposed amendments⁵ - it is highly unlikely that air districts will be able to absorb these costs within existing resources. Rather, it is much more likely that air districts will seek cost recovery from these facilities through administrative fee authority. The sheer number of facilities being brought into the program invalidates the assumption that local air districts, with no additional funding, can absorb the additional workload being imposed on these facilities. For these reasons, the full costs of implementation - on a per-facility basis - should be reflected in the staff analysis.

The ISOR cost estimates are also internally inconsistent. The ISOR states that the proposed amendments will bring an additional 60,000 facilities into the program, 58,400 of which are private businesses and 50,000 of which are small businesses. Using CARB’s initial estimate of \$560 per facility, the total cost of program implementation for all affected facilities would be \$32,704,000, which is more than 3 times higher than the \$9.6 million estimate in the ISOR⁶ and the \$10 million threshold for a “major regulation” under Health and Safety Code section 57005. The statutes governing evaluation of economic impacts from proposed “major regulations” require consideration of total costs following full implementation of the regulation, and therefore it is not appropriate for CARB to amortize implementation costs over the multi-year period reflected in the proposed phase-in schedule.

³ ISOR, page 17

⁴ “In addition, for smaller facilities, it is anticipated that the local air districts will provide assistance to these facilities in computing emissions based on easily obtained throughput and activity information such as the quantity of material sold (such as gasoline), material consumed (such as natural gas, diesel fuel, or coatings), or material produced or processed.” ISOR, page 20

⁵ ISOR, page 18

⁶ ISOR, page 16 (WSPA1)

Comment: Cost of implementation. The Initial Statement of Reasons (ISOR) estimates an implementation cost per facility for the initial reporting year at \$560 to \$22,300 and annual reporting thereafter at \$300 to \$720. PG&E believes that these cost values are understated. PG&E estimates that initial reporting would cost at least two to three times more than the values presented in the ISOR and that annual reporting, for the simplest of facilities, would roughly cost \$1,000 per facility thereafter. (PG&E)

Comment: Cost of Regulatory Requirements. In the Economic Impacts Assessment section of the Initial Statement of Reasons, CARB estimates a ten-year cost to local air districts of \$39 million to implement the proposed regulation. Given the significant scope of the proposed revisions, this cost may be understated, particularly with respect to initial outreach and training, increased staff processing of significantly expanded information submissions, and new infrastructure costs required to develop any needed CARB and air district database and other information systems. (SJVAPCD)

Comment: Economic Impacts & Lack of Funding: While we appreciate CARB has taken steps to mitigate some of the reporting burden on permitted businesses and local air districts through an expansion of abbreviated reporting, there will still be significant costs associated with compliance and implementation of this regulation. These costs will be borne by air districts in the form of additional compliance assistance for regulated sources, development of technological systems to collect and track the large inflow of new emissions data and personnel costs to enact the regulation. These additional costs for our District may exceed one million dollars annually. If passed on to permitted facilities, this could mean an estimated additional fee of \$200 to \$400 per permit, representing an approximate 15-25% increase. This is especially concerning considering the immense economic downturn caused by the pandemic.

We furthermore believe the September 29, 2020 *Initial Statement of Reasons* underestimates the implementation costs of the CTR regulation and lacks the supporting documentation to justify the estimated costs provided. (SMAQMD)

Comment: Cost Impact Analysis – CCEEB believes the estimated implementation costs for affected facilities is underestimated. For example, we believe the costs associated with source testing and new and intensive tracking requirements for onsite mobile and portable sources of emissions are underestimated. (CCEEB)

Comment: We believe that the ISOR underestimates the costs to the private sector likely to result from the proposed amendments, in part because they do not include increases in fees that will undoubtedly result from the significant increase in costs to state and local governments to administer the proposed changes.¹ Some industry calculations have concluded that just the assessment of applicability of the newly listed chemicals to a facility may take approximately \$20,000 per business just in employee time. Additional costs for developing the inventory plan and any modeling work are estimated between \$15,000 - \$20,000 for consultant costs and source testing ranging from \$15,000 to \$80,000 per facility. Including these costs increases the estimate of the economic impact on the private sector in excess of \$10 million for at least one year making the proposal a major regulation under Health & Safety Code 57005², thus requiring a more rigorous analysis of potential alternatives.

¹ The ISOR projects total costs of \$34.1 million (\$3.4 million/year) to local governments and notes that these will be covered through the "Hot Spots" fees and other means. The ISOR also estimates that an additional \$3.8 million (\$0.4 million/year) will be collected to fund state agency activity under the existing fee regulation.

² Even using the lowest average cost of \$300 per facility provided in the ISOR, the projected compliance cost would be \$11 million in 2025 and \$10.6 million in 2026 based on the projected number of affected facilities in Table 1. (ACC)

Comment: Economic Impact Analysis. Based on the economic impact analysis presented in ISOR, the average cost per facility to comply with the requirements in the proposed amendments would be approximately \$560 to \$22,300 per year initially, and the annual cost thereafter would decrease to approximately \$300 to \$700 per year.

CARB's expectation for the facility financial burden is unrealistic and significantly underestimates the actual costs associated with complying the emission reporting requirements under EICG, such as determining applicability, data gathering and recordkeeping, preparation of emissions data reports, quality assurance/quality control, and submitting reports to the local air district.

Additionally, there are costs associated with researching emission factors, developing quantification tools, or conducting source testing that are not fully captured in CARB's economic analysis. CARB also presumes local air districts will have sufficient resources and can recover costs from assisting small business in complying the proposed regulation, while several local air districts have expressed concerns over the financial burden on the implementation costs and suggested outreach to the potentially impacted facilities before fully adoption of the proposed reporting requirements under EICG. For these reasons, we feel CARB needs to reconsider its cost analysis to better reflect real-world implementation costs.

CMC appreciates CARB introduced phase-in reporting schedule to provide additional implementation time, however, we remain greatly concerned about the proposed expansion of reporting requirements will create an overwhelming burden for facilities that are subjected to AB2588. Various requirements proposed by CARB in the amendments to the EICG regulation lack of basis for the rulemaking and imposed unrealistic and unreasonable amount of burdens on facilities. (CMC1)

Comment: Cost of implementation. The Initial Statement of Reasons (ISOR) estimates an implementation cost per facility for the initial reporting year at \$560 to \$22,300 and annual reporting thereafter at \$300 to \$720. PG&E believes that these cost values are understated. PG&E estimates that initial reporting would cost at least two to three times more than the values presented in the ISOR and that annual reporting, for the simplest of facilities, would roughly cost \$1,000 per facility thereafter. (PG&E1)

Agency Response: The proposed amendments are not expected to impose significant costs or burden. In many cases, the data requested by the proposed amendments are already collected on a periodic basis and/or evaluated as part of the air permitting process. For the new substances listed in the proposed amendments, the substances only need to be quantified if there is a means of quantification, otherwise, only the amounts used or produced need to be reported. Reporting the emissions from portable engines operated onsite at

GHG and Criteria Facilities can be performed in many ways (a specific method is not prescribed). Many small sources and businesses are expected to qualify for abbreviated reporting, which reduces the data needed from facilities to comply. To further reduce reporting burden, the requirements have been designed to phase-in over multiple years (not all facilities would begin reporting at once).

The estimated costs of the proposed amendments are in addition to what is currently being done with regards to emissions reporting. For example, depending on the type and size of a facility, the facility may currently be reporting nothing at all or may already be reporting on an annual basis. As emissions inventory requirements can vary from facility to facility, the exact additional requirements are difficult to estimate; however, CARB does not expect the emissions inventory requirements of the proposed amendments to impose significant costs or burden.

The proposed amendments do not require regulated entities to develop emission factors, speciation profiles, or alternative emissions estimation techniques for newly listed substances; therefore, facilities are not expected to incur costs associated with these activities.

Private facilities make up the largest portion of affected facilities and, therefore, facility costs. However, local government costs account for both government facility and air districts costs. Without including air district costs, costs on a per-facility basis are similar between private facilities and local government facilities.

The air districts have no specific legal requirements under the proposed regulation; the regulation applies to facilities, not the air districts. However, CARB recognizes that California's local air districts play an important role in collecting, processing, confirming the validity of, and managing facility emissions data, and that these actions are central to the proposed regulation's implementation, data collection, and enforcement provisions. The proposed amendments are intended to build on those existing efforts, because air districts are already familiar with local facility operators, conduct inspections, issue permits, and in many instances have been regulating applicable sources for decades. If necessary, districts could levy service charges, fees, or assessments for activities they choose to implement, but those costs are speculative and are at the air district's discretion. Air districts have discretion to add staff to cover their activities.

A-1.41. Comment: Implementation of the Current Regulation

The District is concerned that CARB is racing ahead to expand CTR reporting while failing to support the version of the regulation the Board has already adopted. The CTR regulation that was adopted in 2018 requires specific facilities to report expanded emissions data for 2020 operations. As of today, November 12, 2020, CARB has not provided the air districts with a tool to collect this information. Most Air Districts have already begun the process to collect data for 2020 operations. The

District has repeatedly made this timeline clear to CARB staff starting in Spring 2020. As it currently stands the District is unable to provide assistance and outreach to affected sources or collect data for the current version of the regulation because of a lack of support for implementation from CARB staff. There is no reason to expect this to change with the proposed CTR expansion. (FRAQMD)

Agency Response: The phase-in of the new CTR requirements begin with 2022 data submitted in 2023, and sources are then incrementally phased in from 2022 to 2028 data. It was necessary to put the new requirements in place now, following two years of reporting under the original requirements. Otherwise, the improvements would be further delayed. Also, for mid-sized and rural districts (which includes the commenter) implementation of the new requirements do not begin until 2024 data reported in 2025. This provides these districts at least two years to work with stakeholders and CARB to initiate implementation of the updated requirements for the Phase 1 sources. Also, for these districts, the final phase-in of facilities continues through 2028 data submitted in 2029, providing additional time for districts and CARB to prepare and engage reporters. For these reasons, staff has declined to further delay the regulatory process.

A-1.42. [Comment: Implementation of Amendments - CTR Requires Data from Every Facility](#)

Data Management. The proposed expansion of the criteria and toxics emission inventory process represents a massive expansion of the existing emissions inventory data stream, on a facility, device, process and pollutant basis. In effect, the proposed threshold levels will require the AVAQMD to collect emissions data from every facility (the alternative, evaluating facility applicability annually based on actual emissions, is too onerous). The promised data management tool to uniformly address CTR, CEI and AB 2588 Hot Spots reporting has not been provided. Allegedly the proposed changes are intended to improve public access - it is not clear how. The proposed expansion does not solve existing problems, magnifies them, and has the potential to create new problems. (AVAQMD)

Agency Response: Staff agree that the CTR requirements will likely require reporting for most if not all sources within an air district. This will be an additional workload for most air districts. With districts collecting more consistent and complete emissions data, there will be significant improvements in public access to data, however this will require several years to fully realize and deploy. This is understood, and part of the reason for a 6-year phase-in schedule for CTR. Also, CARB is developing an improved reporting system, which will also require several years to complete, but it is not essential for reporting or for reporters to meet their obligations to submit data to their local air districts. See also responses to Section A-10.2., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - Full List" and Section A-10.21., "Multiple Comments: Waste Sector - Substance List".

A-1.43. Comment: Implementation of Amendments - Technical Evaluations

And the plan for how CARB, OEHHA and the Scientific Review Panel will tackle its technical evaluations is still emerging. The current program is already backlogged. We agree that prioritization is needed, but want to ensure that whatever streamlining -- streamlining happens doesn't diminish scientific accuracy or the legislative requirements. (CCEEB1)

Agency Response: Under the CTR amendments, and for the toxics substances subject to reporting, there will be no diminishment in scientific accuracy or in carrying out any legislatively mandated requirements. Instead, we will be obtaining more information, more consistently, more often, and more accurately. Staff will ensure an open transparent process in performing technical evaluations. Please refer to *Section A-1.22., "Comment: Provide Working Groups for EF, Risk, Chemicals"* in response to why collecting emissions from new and emerging chemicals is important in the process of understanding and evaluating new and emerging chemicals in industry.

A-1.44. Comment: Health Effects of Air Pollution

Studies on air pollution and children's health show diverse respiratory health outcomes, including asthma, other respiratory symptoms, deficits in lung function and growth, alteration in the immune system and mortality in children younger than five years of age. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2528642/> (MZ)

Agency Response: Staff appreciate the provided information and agree that there is strong epidemiological evidence showing the associations between ambient air pollution and adverse health outcomes in children. This supports CARB's regulation amendments to the EICG and CTR to update the EICG's Appendix A and include CTR's Table B-2 and B-3 list of chemicals to include a wide range of new and emerging substances that have not yet been required to be reported under the Hot Spots Program.

A-1.45. Multiple Comments: Smaller Source Outreach

Comment: Which brings me to the concern of Outreach to potentially impacted sources. There has been minimal, if any, attempts to reach out to the smaller source segment that will potentially be impacted by the proposed revisions. This means that the responsibility will also fall to the District's after the fact that revisions have been adopted. The appropriate way to engage in Outreach to potentially impacted sources is up front so that the process is transparent and the sources can have ample time to engage in the process to understand what the potential impacts will mean to them; this is exactly how the Districts are required to go about their regulatory revisions. (MDAQMD)

Comment: The Districts have shared on many occasions the serious concerns of CARB revising or adopting regulations that have financial impacts not only on the Districts

but on the sources themselves, many of them small sources that have limited finances and expertise to tackle the magnitude of what is being proposed in these revisions. Which brings me to the concern of Outreach to potentially impacted sources. There has been minimal, if any, attempts to reach out to the smaller source segment that will potentially be impacted by the proposed revisions. This means that the responsibility will also fall to the District's after the fact that revisions have been adopted. The appropriate way to engage in Outreach to potentially impacted sources is up front so that the process is transparent and the sources can have ample time to engage in the process to understand what the potential impacts will mean to them; this is exactly how the Districts are required to go about their regulatory revisions. (AVAQMD)

Comment: There has been outreach to large facilities, like cement plants; unfortunately, the same level of outreach has not been afforded to smaller source segments that will be impacted by the proposed revisions.

Therefore, local Air Districts will be required to provide outreach and training. It would be more appropriate to provide better outreach and transparency, thereby, providing all impacted sources ample time to engage and understand the potential impacts and corresponding costs they will be required to incur. The impact of your oversight may be an underestimate of your estimated cost to Air Districts. (EKAPCD)

Agency Response: Further harmonization and consistency is also being implemented by the use of CTR relying on the amended list of reportable toxics developed under the extensive process EICG used to substantially expand the list of substances. Through this coordination, similar toxics data will be reported under both programs for toxics with health risk values (CTR does not require reporting of toxics without health values). With CTR, there is the added benefit of required annual toxics data reporting, subject to the specific CTR data elements that must be provided. This is in comparison to the typically quadrennial reporting under the EICG requirements, with less consistency in the overall data being reported because it is under the jurisdiction of local air districts, versus the state-level CTR program. In total, the amended requirements under CTR and EICG provide marked improvements from previous data collection efforts.

A-1.46. Multiple Comments: Support, Concerning Community

Comment: We are a community-based grassroots organization out here in Southeast L.A. County and we've been working for many years with DTSC and AQMD out here to regulate Quemetco which is the remain -- last standing lead acid battery recycling facility west of the Rockies now that Exide has sort of gone away. And so -- and we're also a really overburdened community. Not only do we deal with Quemetco's consistent exceedances of arsenic and lead into the air, but we are surrounded by highways, the logistics industry, logistics facilities, and railroad -- railroad traffic and other industry in the City of Industry and around us. So we're really concerned about air quality. We support the proposed amendments and we are particularly concerned

because we are in a community that has already unjust burdens for low income and communities of color. We know that these rules will improve our understanding of all the sources in our communities and what -- what they're doing to us and to our health, and we urge you to -- I urge you, we all urge you to approve them. We need to update -- these are outdated lists and we need approaches to remedy the inequities that are institutionalized in the science that you all use. (CACNWAH)

Comment: We work alongside rural disadvantaged communities throughout the San Joaquin Valley and Eastern Coachella Valley. We consistently hear from community residents about their concerns about the air quality in their communities. And so we support the adoption of the amendments that we're discussing. (LCJA)

Comment: Our communities really need this protection, particularly in a time when they're going to be more impacted by accelerating climate change and want to support staff and board's efforts on this. (SFPSR)

Agency Response: This support for the amendments is greatly appreciated by staff. The primary goal of the regulatory updates is to help communities in exactly the ways that are mentioned: to help understand and address the concerns and impacts from toxic and other air pollutants. With the expanded comprehensive and consistent reporting requirements, CARB, with our community, air district, and industry partners, can all more effectively, and more universally address air pollution. It will take some time, but we are certain that the amended regulations will provide a foundation of improved emissions data, leading to safer and healthier communities throughout California.

A-1.47. Multiple Comments: Community Issues

Comment: CEJA represents environmental justice and disadvantaged communities throughout California. Underserved communities we work with are breathing some of the most polluted air in California and the country, and are bearing the severe health, social, and economic costs associated with that pollution. Most recently, the 2020 State of the Air Report by the American Lung Association found that California has the six most polluted cities in the country for ozone, the five most polluted cities in the country for year round particle pollution, and five of the top seven polluted cities for short-term particle pollution.¹

¹ <https://www.stateoftheair.org/key-findings/> (CEJA)

Comment: It's very important to understand that there's two major sources of air pollution. There are two major -- not sources, but things we care about with air pollution. It's regional pollution, you know, NOx and SOx, and PM, and greenhouse gases, and then there's neighborhood pollution. What is the facility across the street from your house emitting. We've never had a good handle on that. (CCAT)

Comment: It is vitally important that reductions in emissions from stationary sources occur rapidly and that the communities around these sources are included in the

planning and implementation of the Air Toxics Program. EDF appreciates the work of CARB staff that have gone into these proposals and we encourage you all to take seriously the comments from members of front-line and environmental justice communities and ensure that these rules are as robust as possible to improve local air quality and preserve public health. (EDF)

Comment: As we continue developing tools for South Central Los Angeles residents to engage in air quality policy decision making, it is important for our communities to have access to a complete, accurate and transparent list of all air toxic emissions, so we can better assess the needs and implement more successful emissions reductions solutions. This is -- this will also bring accountability and transparency to the program and the agency, given that it's decades long overdue to change the reporting rules and update the list of air toxic emissions. (PSRLA)

Comment: And so in terms of our work on the front lines, I really want to highlight as well how important it is that for a child with asthma, no amount of medication is really going to address their symptoms and the severity, if they continue to be exposed in their communities. And so our communities are paying for this burden with quality of life, safety, health and also health costs. And so this -- we cannot continue to -- pass this burden -- thank you -- on our community members. And so I also want to request an urgency around this and to also have a clear link between how these reductions will have improved health outcomes. (LBACA)

Comment: We believe that CARB can do even more can -- the -- CARB can build upon these proposals, it can work quickly to translate the data received into real emissions reductions and work rapidly to address localized impacts in communities disproportionately impacted by air pollution. (SC)

Comment: I'm a resident of the Los Angeles harbor area adjacent to the Port of Los Angeles. I do a lot of mindful traveling throughout my neighborhood. And when I'm riding my bicycle or walking, I can smell the different toxic odors and tell that I'm breathing pretty toxic air and see black smoke occasionally. And I do call 1-800-CUT-SMOG, but I'm not always happy with the results that that gets me (CG)

Comment: Please also create appropriate focus at the community scale in my neighborhood and other neighborhoods, especially for stationary air toxic sources. And increase the role of communities in the Air Toxics Program. Please move more rapidly to emissions reductions and zero discharges into highly impacted neighborhoods like mine. (CG)

Comment: As a CBE community organizing Wilmington, I'm very familiar with the intensive concentration of heavy industry side by side with residents and schools. Everyone is at least a mile or, at the most, a mile from refinery, from oil drilling, and, of course, there is auto body and auto painting and everything right next to people's homes. (CBE1)

Comment: In certain areas, 50 percent of the houses I visited door-to-door reported that someone in the house had cancer and had died of cancer. In addition, there are very high levels of asthma here. You can pick anyone out of the street and ask them, and they tell you here my child have asthma. (CBE1)

Comment: We hear over and over again that for many different kinds of pollution sources that the emissions are low or that there is no information about these emission. And yet, sometimes the emissions are actually visible and community members report impact. Other times, they are invisible, but people still report smells and experience coughing. I can't believe that these -- these measures have not been updated since the 1900s. I want to tell you that a lot of people died already inhaling all these untested chemicals. They would never know what they died of. This is very depressing and debilitating. (CBE1)

Comment: In Wilmington, you can pick almost any neighborhood and go and you're going to find that in one lot where somebody has one permit, they sublease. So inside you're going to find three or more small businesses doing auto body, auto painting, and mechanics, and all type of things. And they don't have a permit. Only the main person with the lease has a permit. (CBE1)

Agency Response: One of the goals of the proposed amendments is to increase the quality and transparency of data submitted to California's emissions inventory. This is important throughout California, but even more so in and near communities. While the proposed amendments do not directly include emissions reduction measures, the proposed amendments are intended to provide emissions data on facilities to serve as the foundation for developing and implementing plans to further reduce air pollution.

A-1.48. [Multiple Comments: Identify Inconsistencies Between Districts](#)

Comment: We recognize the importance of transparent, accessible information about the sources of pollution impacting our communities. Our review of publicly available material has raised questions of whether air districts across California are consistently reporting their toxics and criteria pollutant-emitting sources. It appears that some air districts may not be reporting all of their toxics and criteria pollutant-emitting sources. We are also concerned that there may be delay at some air districts, and that this could result in slowing the availability of transparent information. This delay could ultimately harm communities breathing some of the worst air in the country. We are requesting additional information due to these concerns related to the air district's reporting of sources and pollution.

We specifically request the following information categories to illuminate the potential issues we've seen: How many permitted facilities has each air district reported? Are there variations between air districts? Is this due to reporting differences or differences in the density of sources? How does the air districts' reporting compare across the state? Do some air districts provide more information than others? Have there been delays in reporting? Have any accommodations been made to air districts

in relation to reporting of facilities and toxic and criteria air pollutants? What are different air districts doing to collect data in a clear and transparent way? How publicly and readily accessible is the information reported across air districts? (CEJA)

Comment: Review the Implications of Relying on Existing Practices and Permits to Define Facilities in the CTR

We support the CTR rule in many respects. One recurring concern, however, is that it will bring variability in permitting that has developed over the last decades into the baseline for the State inventory.

We know that there are differences among the districts in terms of what is permitted. We would expect that there could also be patterns of differing attention among communities of different background. Efforts should be made to remove any patterns reflecting structural racism from the new inventory that is to be statewide and uniform. We ask the Board to analyze the approach it has taken and identify any issues that may arise from it.

Specifically, we ask the Board to direct the Staff to Identify any sources of variability in practices by local air districts that contribute to inconsistencies in the CTR baseline of facilities and report back to the Board. This is the time to ensure that the new system does not incorporate past practices that contribute to disproportionate impacts on communities. (AK)

Comment: Identify any sources of variability in practices by local air districts that contribute to inconsistencies in the CTR baseline of facilities and report back to the Board. (AK)

Comment: Secondly, direct the staff to identify any sources of variability in practices by local air districts that contribute to the inconsistencies that I referred to in the criteria and toxic reporting facilities and have the staff report back to the Board on that, so that that can be addressed. (CCA)

Comment: Finally, we recommend that the Board work with the districts to identify and reduce differences in permitting and reporting, providing support for that more uniform reporting that we're all looking forward to. From the slides on the reporting tool, especially slide 17, it really is clear that there are significant differences in reporting across jurisdictions leading to widely differing levels of access to health -- health-based information and toxics information. We appreciate that moving towards a more unified reporting structure is underway and hope that this can be accomplished much sooner than later. (ALA)

Comment: We'd also look for harmonizing the work of local air districts and to resolve various inconsistencies on the standards that are set. (SFPSR)

Comment: These amendments are, like I said, also necessary because they help modernize the data reporting process and make it more accessible to the public, but it

is also important for the Board to ensure that there is consistent reporting practices by the air districts (SC)

Comment: Identify any sources of variability and practices by local air districts that contribute to inconsistencies, and the CTR baseline of facilities, and report that back to your Board. (CG)

Agency Response: This set of comments clearly underscores the need for the proposed amendments and also identifies some of the challenges moving forward. A primary motivator for the development of the CTR amendments is to provide the framework to collect consistent, complete, and accurate emissions data for virtually all permitted sources in the state. The amendments are necessary because, as so well described by the commenters, the current system is a patchwork of different approaches by different districts. Some districts have expansive and robust emission inventory programs, while some collect very little emissions data, and there is a spectrum of variability in between.

A primary goal of the amendments is to create statewide uniformity across districts regarding which facilities report, how often, which chemicals must be reported, and what ancillary data (device and process information, permit information, etc.) are reported. This will harmonize and modernize the data collection and reporting practices across districts, while reducing variability and inconsistencies. Full implementation is going to take over six years because these structural improvements are not simple or easy to implement across a state as large and diverse as California, with equally diverse air districts. Through this process staff will address the questions and concerns raised by the commenters, which do not directly apply to any specific provisions of the proposed amendments, so no text modifications are required.

In addition to the practices listed above, over the coming years, staff will work with districts and other interested stakeholders to further the development of consistent emission estimation methods for key industrial sectors. Emissions quantification methodology is another aspect of emissions reporting that varies across districts, and CARB intends to update CTR in future years with additional requirements that will provide more transparency and more consistency regarding how emissions estimates are actually calculated. This will be an open process, to ensure transparency regarding the assumptions and protocols used to develop the methodologies.

Further harmonization and consistency is also accomplished by aligning the amended list of toxic substances to be reported under CTR and EICG, as developed through the extensive process used to substantially expand the EICG list of substances. Through this coordination, similar toxics data will be reported under both programs. CTR requires annual reporting of hundreds of toxics, including all toxics that have numeric health values, while EICG encompasses an even larger list of substances for health risk consideration, to be evaluated at

least every four years. In total, the amended requirements under CTR and EICG provide marked improvements from previous data collection efforts.

A-1.49. Comment: Local Air District Processes for Facility Prioritization

What process will the local air districts use to develop a prioritization process taking into account the continuing flux of Appendix A-1 compounds, lack of final toxicity factors, lack of test methods and proposed new elements of the EICG, such as “population-wide” assessments, and inclusion of less than 10 tpy facilities? (CASA)

Agency Response: This process is already in place and is able to address these considerations. From its inception, the Hot Spots Statute already specifies the process to be followed by facility operators and air districts in developing, reviewing, approving, and updating emission inventory plans and reports to quantify “the full range of hazardous materials” (including chemicals that have been added to the list of substances in Appendix A-I over the years, which the Statute requires CARB to “compile and maintain”), and including the less than 10 ton per year facilities (which are covered by Appendix E of the EICG), and the use of health toxicity values (which are continually being expanded by the Office of Environmental Health Hazard Assessment). Upon the district’s examination of the latest emission inventory data for a facility (for example, in its quadrennial emission inventory update), H&SC section 44360 of the Statute specifies the process as well as factors for consideration for the air district to establish its prioritization process and its designation of high, intermediate, and low priority categories. In listing factors for consideration, H&SC section 44360 also specifies “...and any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors”. The OEHHA risk assessment guidelines (developed pursuant to H&SC section 44360(b)(2) and updated in 2015) already include requirements for population-wide exposure metrics (such as cancer burden or other forms of population exposure impact estimates) as a required metric that must be included in AB 2588 health risk assessments for facilities. (For example, population exposure is discussed in Sections 4.6, 4.15, and 4.16 of the OEHHA guidance manual). Finally, H&SC section 44365(b) of the Hot Spots Statute also allows the districts to establish more stringent criteria and requirements for emission inventories and for their priorities for requiring health risk assessments, so the EICG has provided lists of factors that the districts may wish to consider, at district option, to ensure protection of public health.

A-1.50. Comment: Address Localized Community Impacts

Build on this proposal and take steps to insist that agencies address the localized impacts in communities designated under AB 617 and others. It has been overlooked and it needs to be fixed. And I ask that CARB reduce toxic emissions into our -- in our communities and propose zero discharge strategies. It's been far too long that we've had to deal with the burden of the ports of the traffic through our communities, the industry in our communities. And so we urge you to protect us and we urge you to support these new rules. (CACNWAH)

Agency Response: Staff agrees that the new amendments need to be supported and we intend to work vigorously to ensure successful implementation of both CTR and EICG. The collected data will directly support and enhance the many AB 617 efforts that are ongoing, as well as other CARB (e.g., AB 197, Air Toxic Control Measures, AB 2588), district, and national programs to much better support and serve overlooked communities. No changes were made to the amendments based on this comment.

A-1.51. Comment: Do Not Concentrate Facilities in Rural Areas

And lastly, while proximity is critically important, it also cannot be used as a justification to concentrate these facilities in rural areas like much of the San Joaquin Valley. Our region has been a sacrifice zone for far too long. (CVAQ)

Agency Response: Staff agrees that dangerous emission sources should not be concentrated in any specific areas. With the statewide data collected under the amended CTR and EICG regulations, communities throughout California will be able to determine if they are in areas with high emission source concentrations, which is a key step in mitigating those emissions. The comment is outside the scope of the amendments, so no updates are required.

A-1.52. Comment: Implementation of Amendments

How will the local air districts incorporate the changes to their existing regulations, such as BAAQMD Rule 11-18 and SCAQMD Rules 1401 and 1402? Will a guidance document be developed? (CASA)

Agency Response: To the extent that district rule changes may be needed to implement the amendments, staff will work with districts to provide any required support. CARB staff will provide guidance documents relevant to elements of program implementation, but does not intend to provide a guidance document pertaining to district rule modifications because districts are already familiar with their rule development processes and they are aware of the new EICG and CTR requirements.

A-1.53. Comment: Air Pollution in Visalia

Two years ago, I took a trip to Three Rivers in the Fresno/Stockton area to meet a friend. While there, we visited Visalia. When we were in the town center, I got out of the car and immediately noticed that the air was thick and acrid. It was so shockingly bad that I looked up what might have accidentally been released that day.

Turns out, the American Lung Association's State of the Air 2018 report ranked Visalia number 1 as the city in the United States most polluted by year-round particle pollution. This was not a one-time occurrence ... it's like that there all the time and has been ranked in the top worst polluted cities for years.

That would account for the large complex of allergy and respiratory centers I noticed. (MZ)

Agency Response: Staff expects that one of the many benefits of the proposed amendments will be to help people better understand the emissions sources resulting in episodes like this, as well as the chronic sources of emissions, which can then be analyzed, and the data used to address the problems.

A-1.54. [Comment: Updates to EICG Report Specific to Waste Sector](#)

Is CARB going to be updating the "EICG Report" in this round of updates? If so, what will be included for California compost producers? Currently it appears that the EICG Report 2007 is included by reference as Appendix B. Is that correct? (ACP)

Agency Response: Yes, under the revisions to both EICG and CTR, the permitted process, "Composting of organic waste," is subject to reporting if certain conditions are met. Specifically those processes or facilities in which, "Over 500 tons per year of material composted" occurs. This sector and the applicability threshold is identified in Sector 49 of CTR Table A-3 and EICG Table E-3.

A-1.55. [Comment: Waste Sector - Unintended Consequences](#)

EMWD supports CARB's efforts to harmonize these efforts and develop a strategy through which the wastewater sector can respond. While we understand and support the goals of the CTR and EICG amendments, we are greatly concerned with the potential unintended consequences of these complex amendments to the wastewater sector. (EMWD)

Agency Response: Staff appreciates the collaborative efforts of the wastewater sector representatives in helping to refine the amendments to address the unique needs of the sector. In that same spirit, staff is confident that we will cooperatively address any hurdles that may appear during implementation.

A-1.56. [Multiple Comments: Out of Scope](#)

Comment: Subject: Removing Catalytic converters from exhaust.

Comment: Hello CARB, This is a very big problem, young people are removing and replacing with headers, straight pipes. Reasons why: Louder, very loud & car will go faster. (CB)

Comment: AB 617 and the hot spot issues are due to poor design, planning and implement -- implementation 30 years ago. And we are -- we're harvesting the fruits of that poor design. And unfortunately, ARB going forward may end up doing the same thing again and again by pro -- by so much emphasizing battery technologies at the expense of fuel cell technology. Let me clarify, each battery vehicle, whether it's a car and worse for trucks have one order of magnitude more batteries than the current

gasoline vehicle. So where -- and hydrogen fuel cell will have only one battery at most. And the problem with the battery vehicles is we'll have lots and lots of battery waste about 20 years from now. This is like a 30-foot tsunami of battery waste coming this way. And the location of these battery recycling facilities, they will not be in Bel Air, or Beverly Hills, or Pacific Palisades, or Malibu, the expensive neighborhoods in our area, but it will be in AB 617 facilities. And just like the speakers who spoke about the Quemetco and these Exide GNB, that's just two facilities that were there. Now there will be 20 such facilities in the future. So ARB should really carefully evaluate this serious bias -- towards battery. So I would urge you to -- going forward, when you get the next batch of Volkswagen settlement, to put a lot more funds into hydrogen fuel cells because the environmental footprint will be far, far less than the current plan. So let's not repeat the mistakes of the past, let's have a clean air solution. (RG)

Comment: I am a resident of Los Angeles, California. I reside in Tarzana, California. So I recently understood that there was a new California Clean Fuel Reward Program for new electric vehicles. Noticed that it was not retroactive, as in I literally purchased my electric vehicle last week and woke to news that if I purchased it this week, then I would be getting an additional a \$1,500 off of sticker price. I don't think this is fair whatsoever. I think this is news to a lot of people. Actually, the hundreds or thousands of people that I'm sure have been either calling their electric vehicle retailers or the program headquarters and Hawthorne, from what I understand. I believe that the State of California should look further into this and allow that any -- any electric vehicle purchased within the last certain amount of -- x amount of days be eligible to receive this reward as well. If -- obviously, if people were to know about this, I believe that they would have -- were to have just waited to purchase the car at a later time. Obviously, as you guys know, COVID is not an easy time and an additional \$1,500 off of an electric vehicle when you're trying to make the right moves for you and your family, you guys should reward us for wanting to do that as well, especially if it's brand new. And thank you. (EK)

Agency Response: These comments are outside the scope of this rulemaking. The comments address catalytic converters and batteries for vehicles, and are not relevant to CARB's proposed actions directed at air emissions of toxic substances from stationary facilities.

A-2. Section 93401 – Applicability

A-2.1. [Comment: Proximity to Receptors](#)

The amendments seem to focus on quantities of emissions and not on another component of risk, which is proximity to receptors. IEA recommends that proximity of the affected facilities to offsite receptors be considered when determining reporting frequency. Facilities that are in remote locations, miles away from offsite residential communities and businesses, should be exempt or subject to less frequent reporting. Expending a significant level of effort to report annual air toxics emission for these

facilities is not justified since the emissions do not reach any communities. These resources would be better spent if applied to actual emission reduction projects. (IEA)

Agency Response: Early in the regulation development process, staff did consider proximity-based options. However, in order to ensure consistency and provide clarity, staff determined distance proximities were not necessary to meet the program objectives. Use of proximity introduces substantial inconsistency, such as different proximities being appropriate for different regions (potentially based on population densities), different proximity factors for different types of facilities or emissions types or levels, or even different proximity factors based on meteorology (upwind versus downwind facilities).

Ultimately, a proximity-based approach is unworkable due to variability, and potential inequity on a statewide basis, so it was not included. Instead, for many sources which may be smaller or less impactful to people, such as backup generators or retail gasoline stations, there is an option for simplified abbreviated reporting. There is also an option for a facility or district to request abbreviated reporting for specific facilities or facility types.

A-2.2. [Comment: Unpermitted Emissions for Applicability](#)

§93401(a) – General Applicability. It appears that unpermitted emissions can now be considered for applicability determination (and more importantly reporting per § 93404(c)(1) and (2)), but we would like confirmation as §93401(a)(4) for Additional Applicability Facilities makes specific references to using permitted emissions while being silent on unpermitted emissions. (SCAQMD)

Agency Response: The text of section 93401(a)(4) was modified under a 15-day change to address the comment. Under the modification, unpermitted sources may be included in the applicability determination with the addition of the following text: "If local air district rules or policies require reporting of emissions from unpermitted sources for a facility, such sources may be included in the applicability determination specified in (A) through (C), below." This helps to create consistency with the reporting requirements under section 93404(c)(1) and (2).

A-2.3. [Comment: Applicability - Leased Spaces and Facility Definition](#)

Unclear applicability for sources in tenant-controlled leased spaces – CCEEB has requested but not yet received clarification from staff as to whether reporting requirements apply to sources at facility in tenant-controlled spaces. For example, if a facility is required to report due to operations or equipment under control by the owner, and part of the facility footprint contains leased space, is the facility required to report tenant-controlled equipment and process emissions? CCEEB notes that lease terms may not provide regular and continuous access to and monitoring of tenant activities. (CCEEB)

Agency Response: Aspects of this question have separate answers for CTR and EICG. While the reporting provisions of the two regulations have been harmonized to the greatest extent possible, there are some differences in the legislative mandates, scope, and program needs between the two programs that affect a few provisions, one of those being the way the facility definition in each program might handle a few situations. In the vast majority of cases, the facility definitions in each program function in parallel, but there are exceptions. For example, CTR is an annual emission reporting program across greenhouse gases, criteria pollutants, and toxics, and CTR focuses on sources with an air district permit (or otherwise required to report under district rules), and under the AB617 Statute, CTR must accommodate the “stationary source” definitions across three programs. So as one illustrative example, because CTR needs to harmonize with greenhouse gas reporting, the CTR regulation uses a broad basin footprint in its definition of onshore petroleum and natural gas production facilities. By contrast, under AB 2588 however, such a broad geographic footprint would not be useful or meaningful for evaluating localized air toxics “hot spots” of risk under AB 2588. So the AB 2588 Statute has its own facility definition, and the Hot Spots program covers not only emission reporting but also elements of health risk assessment and public notification. Therefore, to ensure that these risk assessment and public right-to-know aspects are complete and meaningful, an AB 2588 “facility” is required to cover both permitted and nonpermitted sources (e.g., fugitive releases, nonpermitted solvent use, etc.), and must ensure a comprehensive characterization of the nearby public health impacts due to all releases from a facility site.

With these unique program needs in mind, CARB staff will clarify the example raised in the comment regarding “tenant-controlled” or leased spaces, for each of the two regulations.

First, under CTR, the CTR annual reporting covers “permitted” sources, and CTR has phrases in its definition of a “Facility” that refer to “...having one or more sources...” “...under common ownership or common control”. So a CTR reporter would typically not be responsible for reporting emissions from operations on a single site from activities that occur on leased spaces that are fully under separate “Operational control” by a separate “Operator” (which are terms defined in CTR). This is particularly the case if emitting activities occurring within leased spaces are under separate district permits, held by a separate operator, distinct from any lessor permits, and the lessee activities are under separate and independent “Operational control,” in which case the lessor is not responsible for reporting lessee emissions subject to reporting under CTR. As a distinct and separate “facility” under CTR, any reportable lessee emissions would be separately reported by the lessee owner or operator.

By contrast, under the AB 2588 EICG regulation, there is a need to ensure that toxics emission reporting from a “facility” site is comprehensive and will support the AB 2588 subsequent program steps of facility prioritization score, health risk

assessment, public notification, and reduction of risk to below the district significant risk threshold. Because the AB 2588 program is intended to cover both permitted and nonpermitted releases from a facility when evaluating potential impacts to nearby residents, the AB 2588 Statute's definition of facility is very broad and inclusive of "every structure, appurtenance, installation, and improvement on land which is associated with a source of air release or potential air release of a hazardous material" (Health and Safety Code Section 44304). And the EICG further clarifies the "facility" definition (Section X.(14)) to encompass the phrase "...which are under common ownership, operation, or control, or which are owned or operated by entities which are under common ownership, operation, or control". Because of the more extensive coverage of AB 2588 (compared to the focus of CTR on separately permitted sources) and the more inclusive EICG wording with respect to entities under either common ownership, operation, or control, the EICG has historically interpreted a situation like that raised in the comment regarding a leased or "tenant-controlled" space on the facility property as being a reporting responsibility for which either or both the facility owner and/or the lease holder can be held accountable, and in general should be treated together as a collective "facility" for purposes of determining whether the facility triggers the district prioritization and/or risk thresholds. (Inappropriate sub-dividing of a facility site could result in circumventing the intent of the AB 2588 public right-to-know provisions and risk-related thresholds).

No regulation change is necessary for either CTR or EICG in relation to the comment, because the existing text in each respective regulation provides the necessary information. However, staff is available to answer any questions regarding any specific configurations and the associated reporting requirements.

Also, note that under both CTR and EICG, "Portable" equipment, leased or otherwise, which is brought on site by a specific owner or operator to operate on the site, is considered to be under the operational control of the facility owner/operator. Emissions from such sources are subject to CTR reporting per 93403(c)(2)(C) by that owner/operator for GHG and 250 ton per year facilities (i.e., 93101(a)(1)-(2) applicability). And likewise under EICG, such portable diesel engines brought onto these sites are subject to EICG reporting under EICG Section XI.C.(2)(c).

A-2.4. Comment: Expand/Decrease Applicability - Include Unpermitted Sources

On a few details, we want to make sure that sources not permitted are also covered. These can be some of the worst for very localized impacts. (CBE)

Agency Response: Under the requirements of CTR, only permitted sources are subject to emissions reporting, or unpermitted sources that are subject to reporting under district rules or policies. It is not technically or economically practical at this time to require reporting for each stationary emission source

within the state, so applicability was not expanded in this regard. If there is public concern over emissions from an unpermitted source, both CARB and the local air district are prepared to work with concerned citizens or groups to determine if additional permitting, restrictions, or mitigation of emissions are appropriate and necessary for a particular source.

A-2.5. Multiple Comments: Response Time too Short - High Priority Facilities

Comment: PROVISION ALLOWED FOR LOCAL AIR DISTRICT DISCRETION - Section 93401(a)(3) allows local air districts to categorize high priority facilities at a district's discretion at any given time prior to the reporting deadline for the data year. (CMC)

Comment: Section 93401(a)(3). Applicability / Elevated Toxics Facility. This proposed change gives air districts discretion to categorize a facility as high priority for toxics up until the reporting deadline for the data year instead of at the beginning of the data year. Any air district "high priority" determination should be made and communicated to the facility owner or operator well in advance of the data year. Only confirmations of nonapplicability should occur within the data year itself or before the otherwise applicable reporting deadline. (WSPA1)

Agency Response: Staff agrees the initially proposed language was problematic, in that a facility operator would not know if they were subject to reporting at the beginning of a data year, as needed to collect required data. Therefore, section 93401(a)(3) was modified to state, "A facility that is categorized by the local air district as high priority for toxic air contaminant emissions at the beginning of the data year...". This provides reporters additional time to determine if they are subject to reporting and take appropriate action.

A-2.6. Multiple Comments: Apply CTR Only to AB617 Communities

Comment: ...and also suggests that the proposed mandatory changes only be applicable within AB 617 communities, and retain current statute-required programs for the rest of the State of California. (AVAQMD)

Comment: We also recommend applying the proposed regulatory changes only to the air districts with AB 617 communities. Once a reporting system is established with these air districts, additional consideration can be made to roll-out the requirements statewide. (MBARD)

Comment: The proposed regulatory changes be applicable only to sources in 617 communities. (EDC AQMD)

Comment: Lowered Applicability Threshold. The District does not support the lowered threshold for CTR enhanced criteria and toxics emissions reporting outside of the AB 617 communities. Facilities that have been analyzed under the AB 2588 Air Toxics Program and determined to be low or intermediate risk should not have to update their emissions every year and should stay with the reporting schedule in AB 2588.

Facilities that emit between 4 and 10 tons per year of a criteria pollutant should stay on the current 3-year reporting cycle. (FRAQMD)

Agency Response: The CTR amendments are meant to provide the benefits of a robust accounting of criteria pollutant and toxics facility emissions statewide, not just limited to selected regions. Harmful emissions do not only occur in AB 617 communities. There is no health-based justification to establish inequities between different communities or regions of California, in collecting fundamental emissions information for facilities, which is necessary to identify and reduce harmful emissions. The amended requirements also support the needs of AB 197, AB 2588, as well as CARB's overall obligations to protect public health. For these reasons, staff has retained the uniform statewide requirements as provided in the CTR amendments, and not limited its benefits to only certain areas.

A-2.7. [Comment: Include Applicability Based on PTE](#)

§93401(a)(4) – Additional Applicability. We request consistent language be added to this subpart from §93401(a)(4)(A) which allows local air districts to base applicability on permitted potential to emit values in the absence of actual emissions. As we mentioned before, it will be extremely difficult to determine which facilities will need to report if it is based on actual throughput or toxic emissions as this data is unavailable for those facilities since they currently do not submit annual emissions reports (SCAQMD)

Agency Response: Staff agrees with the comment and has incorporated the requested change to provide consistency with other pre-existing applicability determination requirements.

A-2.8. [Comment: Complex Process, Streamline](#)

Applicability & Thresholds: The District highly recommends CARB look at streamlining the regulation to improve the applicability determination process. The regulation as written, especially with the introduction of the fourth criterion under § 93401(a)(4) and Appendix A, introduces a high level of complexity to determine applicability and reporting requirements for the thousands of permitted facilities in our District. The proposed thresholds, even with the additional language allowing potential to emit to be used as a threshold will still, in effect, require the District to collect emissions data from all facilities. Otherwise, assessing facility applicability on an annual basis to compare to Appendix A thresholds will be too onerous and difficult. (SMAQMD)

Agency Response: Staff agrees that the amended CTR will require air districts to evaluate the emissions levels for any permitted facilities or sources under their jurisdiction. That is part of the intent of CTR -- for air districts to determine the emissions from any sources they are responsible for regulating. By providing specific and easily understandable applicability thresholds, and by also phasing in the requirements over 6 or 8 years (depending on district), staff strived to provide a level playing field for air districts and facility operators to successfully

meet CTR requirements. CARB staff believes this is achievable. We also agree that in many cases, facility applicability may need to be assessed annually. But not for all sources, especially those that have permit or other limits, or types of operations, which would prevent them from exceeding thresholds.

A-2.9. Comment: AB 2588 Industrywide Sources and CTR Reporting

IWS Sources Should Not Be Required to Conduct HRAs. Under the AB 2588 Program, certain industrial sectors that are generally comprised of small businesses are designated as industry-wide source (IWS) categories. As such, air districts prepare emission inventories and HRAs for these facilities. However, the proposed amendments to CTR identifies several of these industry-wide source categories for reporting based on activity level, some with no de minimis threshold, such that they will need to prepare their own inventories.

IWS facilities subject to reporting under CTR will be at odds with these AB 2588 requirements. Note that both air districts and CARB collect IWS fees for purposes of preparing inventories for these facilities. (SCAQMD)

Agency Response: There is interplay between the requirements of CTR and EICG. This comment primarily pertains to CTR rather than EICG, but to be complete, CARB staff will clarify the relationship between the respective provisions, and clarify why there is not a conflict between these provisions. CARB staff agrees that the AB 2588 statute specifies that certain smaller facilities that meet specific conditions qualify to be treated under the AB 2588 “industrywide” (IW) emission inventory and health risk assessment provisions in H&SC section 44323, in which the air district (rather than the individual facility operator) either “shall” or “may” prepare the inventory and risk assessment for these facilities. (The “shall” vs. “may” is dependent on particular types of AB 2588 applicability/size categories). The IW approach may nonetheless require the air district to gather or request information from the facilities in order for the “releases” to be “characterized and calculated” as stipulated in H&SC section 44323(d). For example, the district may need to collect throughput or other activity data for the facilities, in order to calculate the IW inventory. This could be done through an annual throughput survey of the type that the districts often conduct, or through permit information the district maintains for their facilities (usually annually), for example. These steps and “activity” level information sources are potentially the same as what a facility would need to track, assemble and report if they are subject to the “abbreviated reporting” process under the CTR regulation, and which CTR generally allows for the parallel classes of small facilities as the classes AB 2588 stipulates “shall” be handled by the IW process. Because of this largely parallel treatment between the AB 2588 “industrywide” data needs (e.g., activity data) and the CTR “abbreviated reporting” data needs (e.g., activity data, which the CTR would even allow the district to submit on the facility’s behalf), it is anticipated that a facility’s effort under CTR for these classes

of abbreviated reporting would be substantially addressed by the same effort needed under AB 2588 IW.

A-2.10. [Comment: Consider Other Alternatives for Applicability and Timing](#)

Alternatives Analysis – neither AB 197 nor AB 617 specifically apply to small sources. CCEEB believes that an alternative should have been included that applies less stringent applicability thresholds (i.e. > 4 tpy) and one that looked at different implementation schedules. (CCEEB)

Agency Response: Staff appreciates the comment to consider less stringent applicability thresholds for small sources. The comment goes beyond the scope of the Proposed Amendments and presents the idea that CARB should have considered less stringent applicability thresholds for smaller sources as part of their regulatory development process. CARB staff disagrees.

Staff received and evaluated similar input from many stakeholders that were generally concerned over resource impacts and compliance or enforcement implications. CARB staff developed elements of the proposed amendments to address such concerns, including options for abbreviated reporting for smaller sources (including a facility obligation that only requires activity data reporting once per year and optional stack information reporting), flexibility regarding quantification methods, and an extended phase-in period for reporting. However, staff did not consider reducing the applicability thresholds to, in turn, reduce the number of permitted facilities included in the inventory. The logic behind this decision is that CARB has multiple statutory obligations that require comprehensive stationary source emissions data to implement required programs. Among these is AB 197, codified in H&SC 39607(b)(1), which states, in part, "(The state board shall) Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants..." as well as 39607(b)(2) which states, "(The state board shall) Make available on the state board's Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources..." These requirements do not exclude smaller sources. Also, smaller sources can be a significant source of toxics risks, either individually or cumulatively, and current inventory collection practices do not collect enough information to adequately evaluate the potential for multiple small sources to present a cumulative risk to nearby residents.

Together with CARB obligations that are defined in other statutes including but not limited to AB 617 and AB 2588, CARB staff believes it is necessary and prudent to establish a more consistent and comprehensive, streamlined reporting system for the emissions from stationary sources across the state. CARB staff will continue to work with all stakeholders to collect a reliable and more complete stationary source emissions inventory, while minimizing cost and compliance burdens.

A-2.11. Multiple Comments: CTR Criteria Pollutant Threshold

Comment: New Reporting Thresholds. Outside of AB 617 communities (or existing toxic inventory processes), there is no justification for lowering reporting thresholds to four tons per year (or zero tons per year for that matter). If there is belief that certain industries merit increased recordkeeping and reporting, the MDAQMD recommends studying samples of those industries and facilities to establish *actual emissions and associated risks* before applying blanket requirements throughout the state in anticipation of *potential emissions and potential risks*. (MDAQMD)

Comment: New Reporting Thresholds. Outside of AB 617 communities (or existing toxic inventory processes), there is no justification for lowering reporting thresholds to four tons per year (or zero tons per year for that matter). If there is belief that certain industries merit increased recordkeeping and reporting, the AVAQMD recommends studying samples of those industries and facilities to establish *actual emissions and associated risks* before applying blanket requirements throughout the state in anticipation of *potential emissions and potential risks*. (AVAQMD)

Comment: § 93401. Applicability. Section (a)(4)(A). The proposed facility actual emission threshold of 4 tons/year (tpy) for permitted equipment and processes is significantly lower than the threshold that the legislation had intended (i.e., 250 tpy). This threshold should be revisited; possibly raised; or a tiered threshold should be implemented. (DoD)

Comment: Consider annual reporting for greater than 20 tpy facilities and reporting less frequently for facilities with lower emissions and less impact. The frequency to be determined/approved by the APCD/AQMD on a case by case basis or based on an emissions threshold. (DoD)

Comment: New Reporting Thresholds. The District questions the wisdom in reducing the reporting threshold to 4-tons per year, and zero tons per year. As a blanket threshold there will be a significant increase in reporting facilities; however, if it doesn't lead to credible data or significant risk information, it is akin to counting grains of sand on a beach. The District recommends studying samples of specific industries and facilities to establish an emissions base and associated risk based on emission levels, before applying blanket requirements throughout the State in anticipation of potential emissions and potential risks. (EKAPCD)

Comment: Reporting Threshold. MBARD does not support the reporting threshold in §93401(a)(4)(A) of 4 tons per year. There is no justification or consistency with any existing regulation for this level of emissions to trigger reporting. At a minimum, MBARD's recommendation is to bring a level of consistency with existing air district regulations by changing the applicability to 5 tons per year. Many current air district regulations define federal "de minimis" actual emissions at a level of 5 tons per year based on a CARB and California Air Pollution Control Officers Association (CAPCOA) developed model state rule to limit potential to emit. Please see the information

provided in this link, including the California model rule:
<https://www.arb.ca.gov/fcaa/tv/tvinfo/pteatt.pdf>. (MBARD)

Comment: Lowering the applicability threshold to 4 tons/year of any criteria pollutant except carbon monoxide, puts the emphasis on relatively small contributors to air pollution at great cost to the local agencies and regulated entities. New language at 4 (a) and 4(b) lower the applicability criteria even further by allowing the local districts discretion to set the applicability threshold based on the facility's authorized (permitted) potential to emit, instead of actual data year emissions. This change would potentially capture even smaller sources of emissions.

This threshold is significantly lower than the threshold that the legislation had intended (i.e., 250 tpy). In San Diego alone, this threshold would pull an addition 7,500 facilities into the annual reporting program, putting a significant strain on San Diego APCD's already strained resources with minimal environmental benefits. This threshold should be revisited; possibly raised; or a tiered threshold should be implemented. For example, consider annual reporting for greater than 20 tpy facilities, bi-annual reporting for facilities between 10-20 tpy and reporting every 4 years for facilities with 5-10 tpy. (IEA)

Comment: Any facility with less than 4 TPY should not be subject to the CTR. (CMC)

Comment: The proposed reporting threshold of 4-tons per year be significantly increased (EDC AQMD)

Comment: Expansion of Workload for Local Agencies. The number of facilities required to report under the applicability threshold of 4 tons per year (tpy) or more of any criteria pollutant emissions (CTR § 93401(a)(4)(A)) and facilities emitting toxic air contaminants (CTR reporting under 93401(a)(4)(C)) will be well over 1000 facilities in Ventura County. The result will be a substantial increase in workload and expense for our agency.

Criteria Pollutant Reporting Threshold

CTR regulation § 93401(a)(4)(A) establishes a new CTR applicability threshold of 4 tons per year (tpy) for criteria pollutant emissions (except carbon monoxide). Staff believes the 4 tpy reporting threshold aligns with Districts with an 'extreme' federal ozone non-attainment area. Most districts have much less severe air quality problems and have lower nonattainment classifications or are in attainment of the ozone standard, and a less stringent reporting threshold would be more appropriate for them. (VCAPCD)

Agency Response: In recognition that in air districts which generally have lower population densities, with emission sources and affected people more widely separated in many cases, as part of the 15-day modifications staff has provided a 10 ton per year criteria pollutant applicability threshold for sources in District Group B (smaller and rural districts) identified in Table A-2 of CTR. This is to help address both the potential proximity issue, and the acknowledgement that air

districts in Group B may often have fewer resources to focus on smaller emission sources.

Regarding the 4 ton per year (tpy) threshold, the air district with the most facilities within California (SCAQMD) has a 4 tpy reporting threshold, many other air districts have a 5 tpy threshold, and one commenter proposes a 20 tpy threshold. Each of these thresholds has a basis, primarily based on resources and the number of sources affected, but they also are somewhat arbitrary. The 4 ton threshold was selected because it is the lowest threshold in wide use within California, and is most in line with the intent to be aggressive in including those sources that are most likely to be important emission sources, and also "on the radar" of local air districts due to their emission levels. It is correct, 4 tons per year is lower than 250 tons per year as specified in AB 617. This lower threshold is intentional, as described in detail in the response to *Section A-1.35., "Multiple Comments: Exceeds Authority"*. It would have been unjustifiable to simply retain the 250 ton limit for all facilities under CTR, in consideration of the need to acquire adequate data to meet all of CARB's stationary source inventory needs, as well as the need to evaluate the relative contribution of multiple smaller sources towards health risks and attainment of ambient air quality standards. The 250 ton threshold was not appropriate considering the needs of communities of concern due to air pollution impacts. Therefore, the 4 ton per year threshold for larger districts (and 10 ton threshold for smaller districts) was selected for CTR annual criteria and toxic emissions reporting purposes.

A-2.12. Multiple Comments: Districts have Too Much Discretion Regarding PTE

Comment: Section 93401(a)(4)(B) also allows air districts to exercise their discretion to use potential to emit (PTE) instead of actual emissions in determining applicability. Both these specific provisions give the local air districts too much discretion in applicability determinations, resulting in additional burden and uncertainty for smaller facilities. CARB has not demonstrated that any of this is needed. Applicability should be based on the actual emissions for the permitted sources, not PTE. (CMC)

Comment: Rationale for Section 93401(a)(4)(A). This section provides too much discretion for air districts and undermines certainty for smaller facilities. Applicability should be conditioned on permitted emissions, not potential to emit (PTE). Any facility subject to permit conditions limiting emissions to less than 4 TPY should not be subject to the CTR. Section 93401(a)(4)(B) should require the air districts to inform a facility of any intended change to a PTE basis at least one year in advance of the beginning of any data year. (WSPA1)

Agency Response: For any facility in compliance with permit conditions, their PTE value will be greater than their actual or permitted emissions, bringing in more sources to this program than if actual emissions are used. The potential use of PTE is intended as a streamlining screening tool for districts and facilities, to reduce the need for facility operators to compute emissions and submit them to

the air district, if their PTE is below specified applicability thresholds. Because of the potential resource reductions for facilities and districts, staff is retaining the existing language. However, this does not preclude facility operators from submitting actual emissions (or permitted levels) to air districts, and requesting that actual or permitted emissions, and not PTE emissions, are used in applicability determinations.

A-2.13. Comment: Expand/Decrease CTR Applicability to Provide Exemptions

Exclusions. The regulation is structured in a way that no reasonable exemption can be sought. The petition process does not address exemptions. We recommend including a mechanism to negotiate an exemption status for yearly reporting at the discretion of ARB or the local APCD/AQMD. For example, under exclusions; add paragraph B, clause 4: "This article does not apply to facilities or emission units that meet exemption criteria as approved by the local air districts or ARB." Examples of criteria for exclusion include: Remoteness of facilities; distance from receptors, less than 10% change in operations or stability of operations, etc. or an emission change of less than certain amount per year (e.g., < 2 tons/year change a single pollutant). (IEA)

Agency Response: The commenter is correct. CTR is designed to include the majority of permitted emission sources within California, with only the least impactful sources being excluded. Individualized exemption criteria was purposely not provided to avoid the additional workload and bureaucracy necessary to manage and enforce such a process, as facilities potentially meet, and then stop meeting exemption criteria. For example, when a new receptor (a house, a business) is built within a specified distance of a facility (and, what specifically is a "receptor?"); or, if emissions vary year-to-year within an arbitrary emissions change threshold, and the need to move the source in and out of reporting; or the necessity to create distinct percent emissions change thresholds for different toxics, based on their health risk values. For these and other reasons, it was not practical or effective to implement exemption-based criteria that would be less burdensome or more effective than the proposed requirements.

A-2.14. Comment: Expand/Decrease Applicability - PFAS

Issue #3 - CCMEC understands that the rule is intended to address manufacture or release of new chemicals, such as PFAS. Industries in which these activities do not occur should be expressly exempted from the rule changes. (CCMEC1)

Agency Response: Industries that do not emit, use, or produce a listed substance or class of substances (such as PFAS) are not required to report those substances. Therefore, a modification is not necessary to address the commenters concern, because they do not need to report substances that do not apply to their operations. However, there is no justification for a blanket exemption for sources that do not emit, use, or produce PFAS (or other any

substances) because these facilities may be emitting other substances listed under the existing or amended requirements which are subject to reporting.

A-2.15. Comment: Expand/Decrease Applicability - MSW

In the most recent version of the EICG, CARB has introduced recycling facilities as a potential -- potentially regulated under the Hot Spots Regulations. My up-front ask is that we are -- we are asking that these facilities be excluded from this regulation. These do not belong in a Toxic Hot Spots Program nor is it productive to do that. And let me explain. Just, first, let me -- let me just state that we're talking here about municipal solid waste. That begins in all your kitchens, and commercial kitchens, and restaurants that utilize in markets that you shop at. This is municipal solid waste. We handle that. The character of that municipal solid waste has not changed through the handling process. Where it changes is in the -- is in the management process, for example, landfills and digesters. And rightfully so, those are regulated under AB 5 -- AB 2588. It's counterproductive in many aspects to regulate these facilities. These facilities are already heavily regulated in local and State regulations as a nuisance for dust and odors. And as such, they -- they already are under very -- very strict regulations. It's also counterproductive, because our industry is under a lot of stress right now to be able to meet the mandates of California to increase recycling to organic diversion, which I'll remind you is an important part of your Short-Lived Climate Pollutant Strategy with the additional regulations, which are completely unnecessary as I stated, because of all the other regulations we live under. You would now potentially label these facilities as a toxic hot spot, once again handling your municipal solid waste. We strongly recommend that they be excluded. And -- and you've heard from other -- other folks and more, you'll hear about that -- that the waste facilities need to be treated and looked at separately as a unique entity in California. (LACSD)

Agency Response: Staff is unable to grant the request by the commenter to exclude the municipal solid waste industry from reporting under EICG or CTR. These are well known sources of toxic emissions, and the mentioned existing "local and State regulations as a nuisance for dust and odors," do not require the quantification and reporting of toxic air contaminants which can directly affect communities. There is no justification for removing a known source of toxic emissions from applicability simply because reporting may potentially be difficult.

However, recognizing that the waste industry does have additional challenges in effectively quantifying emissions, the full reporting requirements for the sector are delayed until 2028 data reported in 2029. So effectively, they have 8 years before a full report is required, which is expected to be sufficient time to address their concerns. Also, see *Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector"*, *Section A-9.6., "Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing"*, *Section A-10.21., "Multiple Comments: Waste Sector - Substance List"*, *Section A-10.22., "Multiple Comments: Provide Enough Time to Complete Pooled Source Testing"*, and

Section A-5.16., "Comment: Waste Sector - Status Quo and Two-Step Process" for additional information relevant to the comment.

A-2.16. [Multiple Comments: Expand/Decrease Applicability - Agriculture](#)

Comment: Include Agricultural Sources

California communities deserve data systems and assessment methods that take account of the pollution burden that they face rather than institutional turf. The CTR rule adds agricultural exclusions and does not address this concern. We encourage the Board to develop systems that consider the pollutants that communities actually face and not exclude important sources particularly agricultural sources. Rather, coordination with other parts of Cal EPA would be appropriate. (AK)

Comment: Include Agricultural Sources

CPR asks the CARB Board to direct staff to include all Criteria Pollutants and Toxic Air Contaminants that communities actually face and not exclude important sources - particularly agricultural sources - from the statewide inventory tools. This is especially important in order for CARB to be able to fully and properly implement AB 617, which includes pesticide TACs.

Altogether 47 pesticide TACs are used in California, with annual total usage of approximately 45 million pounds. California communities deserve data systems and assessment methods that take account of the pollution burden that they face rather than institutional turf. The CTR rule adds agricultural exclusions and does not address this concern. Rather, coordination with other parts of CalEPA would be appropriate.

CARB's resolution adopting the Shafter CERP includes language acknowledging CARB's jurisdiction over pesticide TACs: ". . . some pesticides are also classified as TACs and so can be regulated as a TAC, and as smog-forming compounds as they become waste gases outside of their pesticidal use; State law establishes a system of overlapping authorities between pesticide and air regulators to address these complex problems."

It is critical that these agricultural pollutants be included in CARB state inventory systems in order to support CARB's implementation of emission reductions according to key state mandates such as AB 617. (CPR)

Comment: Direct the staff to develop systems that consider the pollutants that communities are facing. This means not excluding important sources of air pollution, particularly agricultural sources of air pollution from the statewide inventory tools. (PAN)

Comment: Include agricultural sources. This is something that people have been asking for years. We think that pollutants that communities face should not exclude those agricultural sources from the statewide inventory tools. (CCA)

Comment: And we are though and our community residents are concerned about the exclusion of certain agricultural sources from these amendments. And so we ask the Board to direct staff to create systems that capture these agricultural sources and other air pollutants that disproportionately impact rural disadvantaged communities throughout California. (LCJA)

Comment: We also need to include in the list air agricultural sources and pesticides as toxic air contaminants, because California communities that serve data systems and assessment methods that take into account the pollution burden that they actually face. (PSRLA)

Comment: include agricultural sectors as well, because of the impacts on the various communities in such areas. (SFPSR)

Comment: We support updating the commercial sectors of the proposal based in part on business records. Updating to a more realistic -- realistic version of commerce today. We support including agricultural sources and develop systems that consider the pollutants that communities actually face and not include important sources, particular -- and not exclude important sources, particularly agricultural sources (CEC)

Comment: Please do take into account agricultural sources, like pesticides. (CG)

Agency Response: Agricultural sources of airborne emissions are an important concern. Stationary industrial sources of agriculture-related emissions, such as food processing plants, are subject to the same levels of reporting, regulation, and controls as other industrial sources. However, it is true that CTR includes reporting exemptions for specific agricultural operations, and EICG includes exemptions for field application of pesticides. None of these exemptions are new, and they were not added as part of the amendments to either regulation, so the comments are outside of the scope of the rulemaking and thus are not subject to a formal response or other action, such as modifications to the requirements.

However, this is an important topic, so we will provide some feedback to the comments received regarding the exemptions. For CTR, irrigation pumps at agricultural operations are exempted because they are not typically operated at a discrete facility location, but are usually located remotely, in or near agricultural fields. CTR and EICG are designed as facility-based reporting programs, and don't address most comparable, widely dispersed emission sources. Additionally, many districts implement a registration program for agricultural engines in lieu of issuing permits to operate for such devices; therefore, many agricultural pump engines would not be subject to CTR reporting regardless, because CTR applies only to emissions sources that have been issued permits to operate by a local air district. Furthermore, such equipment is most commonly not operated in locations where people live or work in densely populated groups, so direct pollution exposure is limited. These elements lead to the exemption of the

source type for CTR reporting. Under CTR, agricultural burning is also exempt from reporting (and it is also not subject to EICG). Although agricultural burning is a significant source of particulate matter emissions in certain regions of the state, the practice of burning agricultural waste and residue is widely dispersed, occasional and sporadic, and cannot be effectively addressed through stationary source facility reporting programs. The emissions from agricultural burning are currently estimated and mitigated through other CARB and air district programs, such as The Smoke Management Guidelines for Agricultural and Prescribed Burning, as described in California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 2.

The third exemption regards the use of pesticides during field-applications, which are not subject to CTR or EICG reporting. The logic is similar to that regarding agricultural burning, in that field application of pesticides are not "facility-based" and are highly variable. Also, there are not robust emissions estimation methods for the many chemical types, application methods, and field conditions that occur, which would allow accurate reporting of the amount of active ingredients that move off site, into the air, either during application, or later, through wind-blown dust or other mechanisms. That said, CARB is committed to working with the Department of Pesticide Regulation, academic researchers, community members, and others to address ongoing concerns regarding emissions from pesticide applications. For example, the amounts of toxic active pesticide ingredients that are applied are available from DPR at a highly disaggregated level (to Township, Range, and Section in most cases), and VOC carrier chemicals are included in CARB's emissions inventory. In summary, staff believe that CTR and EICG are not the appropriate mechanisms to address those concerns at this time, but are committed to continued engagement with other agencies and the public to better characterize emissions, associated risks, and appropriate mitigation measures for agricultural sources. This is further codified in the EICG and CTR Board Resolutions, with the following instruction: "BE IT FURTHER RESOLVED that the Board directs CARB staff to work with the California Department of Pesticide Regulation, CAPCOA, air districts, and other stakeholders to create a single, unified list that includes all relevant toxic air contaminants, including agricultural chemicals and pesticides, with the goal of cross-linking pesticide and other toxics emissions databases to provide a unified site to access air toxics emissions data." The CTR Resolution is available here: <https://ww2.arb.ca.gov/rulemaking/2020/proposed-amendments-reporting-criteria-air-pollutants-and-toxic-air-contaminants> and the EICG Resolution available here: <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>.

A-2.17. Multiple Comments: Expand/Decrease Applicability - Open Burning

Comment: Open Burning. It is not clear if emissions from open burning are to be reported §93401 (b)(2)(B) of the CTR expressly exempts agricultural burning, but nothing is mentioned about non-agricultural burning for other types of vegetation

management. Additionally, it is not clear if forest management burning is considered agricultural burning.

Some air districts issue permits for open burning (which may take place at facilities that have traditional permits to operate). Districts don't typically refer to open burning permits as "permits to operate" (the term used in the General Applicability §93400(a) of the CTR), but there is no definition of "permit to operate" in the proposed regulation. With no definition, open burning permits are permits to operate at an open burning location. A burn project emitting 4 tpy of any pollutant falls into the CTR via §93401(a)(4)(A). The CTR's definition of "permit" does not preclude open burning permits. The definition of "facility" includes "any physical property...having one or more sources...." Further, "source" is defined as "any physical unit, process, or other use or activity that releases a criteria air pollutant or toxic air contaminant into the atmosphere." It technically sounds like open burning should be reported.

Regarding open burning at facilities with other district-permitted emissions sources, would standard vegetation management burning for wildfire danger reduction or ditch, road and right-of-way maintenance be considered as fugitive emissions? Fugitive emissions are required to be reported. The definition of "fugitive emissions" is "those emissions from a source which could not reasonably be expected to pass through a stack, chimney, vent, or other functionally-equivalent opening." Open burning is not excluded. Emissions from open burning are highly condition-dependent, annually variable and impossible to quantify with enough certainty to make decisions or draw conclusions for AB 2588/EICG/CTR purposes.

The proposed regulation should be amended to prevent confusion and potential lawsuits. (NSAQMD)

Comment: Agriculture exclusions. Both of these can be significant sources. Note that burning is excluded EVEN IF Permitted. Note that burning is excluded EVEN IF permitted.

(2) This article does not apply to, and emissions reporting is not required for the sources specified in subsections (A), (B), and (C) below. Any emissions associated with the specified sources are excluded from facility applicability determinations.

~~(A)(2) This article does not apply to, and emissions reporting is not required for, Emissions from the combustion of diesel fuel or other fuels in internal combustion engines that are used for irrigation pumps (including booster pumps and groundwater well pumps) at agricultural operations.~~

~~(B)(3) This article does not apply to, and emissions reporting is not required for, Emissions from open burning of fields, or open burning of agricultural wastes or agricultural residues that is subject to burn permitting by a local air district.~~

(AK1)

Agency Response: In response to the first comment, the exclusion language was modified to include exclusions for, "permitted open burning including prescribed forest burns and permitted open burning of debris on-site," to be consistent with the other similar open burning exemptions. Regarding the second comment, open burning can be a source of significant emissions. However, the burning is not typically performed at a specific industrial facility site, or on a consistent or ongoing basis, so these emissions are beyond the scope of CTR, which focuses on permitted facility-based emission sources. Agricultural burning is addressed through other CARB programs.

A-2.18. [Comment: Notification of Exemption](#)

§ 93401(c)(2): *The notification must be submitted no later than May 1, or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which the emissions data report was due.*

Comment: It is not clear if this is a one-time notification or an annual notification. For example, if a facility that reported NO_x emissions greater than 4 tpy in prior years has NO_x emissions of 3.5 tpy in the current reporting year, must they prepare an inventory to show they are exempt from reporting for the current data year? What happens the following year? Must a facility submit a new inventory each year to show they are exempt from reporting? If so, the exemption from reporting is not useful. (SMAQMD)

Agency Response: When initially submitting a notification of cessation, the facility operator must provide documentation that applicability requirements are no longer met. In most cases this will be a submitted emission inventory for the year in which the facility is below applicable thresholds or criteria. Additional annual submissions are not required under CTR to document that the source does not meet applicability. However, it is the responsibility of the facility operator to resume reporting should they meet applicability again as specified in 93401(c)(3), or, CARB or the district may request facility information needed to confirm that a facility is no longer subject to CTR as specified in 93401(d).

A-2.19. [Comment: Response Time too Short - Agency Request Applicability Determination](#)

Section 93401(d). Determination of Nonapplicability. This proposed change allows for an extension of up to 30 days (beyond an initial 30 days) for a facility to respond to requests for information. A total timeframe of 60 days may still be inadequate, depending on the complexity of information requested and the timing of the request relative to reporting deadlines. Any request from CARB or an air district should be no later than the beginning of the data year in question. (WSPA1)

Agency Response: Under the original amendments, staff included the option to grant an extension of up to 30 additional days to respond to a data request. Based on this comment's concern that the extension length may be too short in light of the complexity of information requested and/or the timing of the request

relative to reporting deadlines, under the 15-day modifications, the extension was modified to be up to 60 days, providing an overall potential response time of up to 120 days, which will be sufficient for foreseeable situations.

Furthermore, CARB would like to explain that, in considering any requests for extension of the time to provide information in response to a CARB or Air District request, CARB or the Air Districts would consider on a case-by-case basis the circumstances surrounding the responders' collection of information described in proposed section 93401(d). This proposed section details the types of information CARB or the Air District will request to determine whether the regulation applies to certain entities. Thus CARB or the Air District will consider whether and how that information can be collected and provided within 30 days based on factual circumstances.

A-3. Section 93402 – Definitions

A-3.1. [Multiple Comments: Definitions](#)

Comment: §93402 – Definitions. *Facility* – Please replace the reference to Standard Industrial Classification (SIC) codes with North American Industry Classification System (NAICS) codes as NAICS codes are being more widely used by local air districts as the standard. NAICS codes are also used when determining Source Classification Codes (SCC) for the California Emission Inventory Development and Reporting System (CEIDARS) database maintained by CARB. (SCAQMD)

Comment: *Particulate Matter* – Please add to this definition a reference to total PM since Section 93404(c)(1)(A) allows local air districts to require reporting of total PM. This change would also be consistent with EICG. (SCAQMD)

Comment: A definition for “Produced” should be added with specific relevance to sections 93404(b)(1)(C)(13) and 93404(c)(1)(B), and addressing toxic air contaminants which are intended products of a chemical process or reaction, including intermediates used downstream in a subsequent facility process. (WSPA1)

Comment: § 93402(a): *“Facility” means any physical property, plant, building, structure, or stationary equipment, having one or more sources, located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control.*

Comment: The definition of “Facility” should specify that it is classified under a single SIC code. Districts may have separate facilities that are contiguous or under common control but are categorized by EPA and a district as different facilities. CARB should align this definition or include a statement “or categorized by the district as a separate facility” so districts do not have to combine existing facilities for the purpose of

reporting. That would be difficult to implement within district permit databases. (SMAQMD)

Agency Response: This response individually addresses four comments related to definitions with CTR. The first commenter requests that the reference or requirement defined in CTR to report SIC codes be removed and replaced with reporting NAICS codes. Staff considered this suggestion but did not modify the regulation. This is because SIC codes have a long history of usage for emission inventory reporting, and the resource impact of continuing this legacy reporting is minimal, considering the benefits of maintaining continuity when analyzing data over multiple years. CTR does require reporting of NAICS codes as recommended by the commenter, so that information will be available for use as suggested by the commenter. CARB staff plans to include guidance on SIC and NAICS characterizations in the near future, and information on comparing SIC codes to NAICS codes can be found online, for example at <https://www.naics.com/naics-to-sic-crosswalk-2/>.

The second comment refers to the Particulate Matter (PM) definition, and the recommendation to include a definition of Total PM. Because there is not commonly accepted definition of the term "Total PM," staff did not include a definition in CTR. Instead, in situations where relevant questions occur regarding Total PM data, staff will work with districts and facility operators to provide a resolution.

The third comment requests the addition of a definition for the term "Produced." Staff did not add the term because it is commonly understood what "produced" means (e.g., manufactured, generated, synthesized, created). Staff is readily available to answer any specific questions should facility operators or others be uncertain if they are in fact producing something or not that may be subject to reporting.

The final comment applies to the "Facility" definition. Staff agrees that incorporating the SIC code into the Facility definition increases clarity of the definition and reduces unintended consequences, so the change has been incorporated. In addition, because reporting of both SIC and NAICS codes are required under CTR, as part of the 15-day changes, the definition was further enhanced to include a similar stipulation NAICS codes. Specifically, that a "Facility" is classified under the same two digit SIC code or under the same NAICS code.

A-4. Section 93403 – Emission Reporting Requirements

A-4.1. [Comment: Expand/Decrease Applicability To Include Quadrennial Reporting](#)

Reduced Reporting for Small Toxic Emitting Facilities. Section 93401(a)(4)(C) has emissions reporting applicability for facilities emitting airborne toxic air contaminants,

listed in Table A-3 in Appendix A of the regulation. The initial reporting years are shown in Table A-1. According to the ISOR rationale for Table A-1, facilities classified under sector phase 1 in Table A-3 will report emissions in an initial reporting year but not again until four years later, then annually thereafter. In effect, this initially amounts to quadrennial reporting for these facilities. Many of the facilities in Table A-3 tend to be small businesses with limited resources and technical expertise, and emissions may not change substantially year by year. We should consider making permanent this less burdensome quadrennial reporting schedule for these small emission sources, as had been practiced under the Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program (EICG). (VCAPCD)

Agency Response: The commenter is correct that in order to provide a slower and less resource intensive phase-in to full implementation of reporting, Sector Phase sources are initially subject to reporting, but then get a break from reporting again, until additional phases are incorporated into the program. This approach allows districts and CARB to perform outreach, provide assistance, and collect data from subsets of facilities, rather than attempting to incorporate them all simultaneously. However, from the inception, CTR has always been intended as an annual reporting program, providing up-to-date and accurate data every year for community members, scientists, and others. Annual data is one of the key motivators for developing CTR, and we are unable to incorporate the requested modification. Instead, after each of the sectors has been sequentially brought into reporting, all sources must perform annual updates of their emissions data, after having provided sufficient time for CARB, districts, and facility operators to establish mechanisms and tools to make the reporting process as effective as possible. For the districts with AB 617 selected communities (i.e., District Group A in Table A-2), annual update reporting for each source subject to Table A-3 (after the phase-in period) begins with 2026 data reported in 2027. For facilities in other air districts (Group B), overall annual reporting for the source categories in Table A-3 (after the phase in period) begins with 2028 data reported in 2029.

A-4.2. [Multiple Comments: Release Location Data](#)

Comment: Air Pollutant Release Location Data. The current version of the proposal requires that release location be reported as a general requirement. Release location data should not be a general requirement since many facilities would not qualify for Abbreviated Reporting (for which release location data is exempted), and also due to the fact that this data would just be collected and not used at this point in time. This requirement will be onerous for many facilities with multiple sources and is highly subject to inaccurate and erroneous reporting. This data would be very difficult for local air districts and CARB to review and audit. Facilities will already be submitting emissions data which can be screened first by local air districts or CARB. If health risk concerns arise based on evaluation of specific toxic pollutant quantities, this should then be the trigger to require additional information on release locations. Language regarding release location data should be globally changed throughout the regulation

to be required only if specifically notified to do so by CARB or the local air district. We therefore recommend that CARB drop or change this requirement. (SCAQMD)

Comment: Additional Data Requirements. The proposed amendments to the CTR expand the data required to be reported to CARB. Under CTR Section 93404(b)(1), *Full Report Contents*, in addition to emissions data and process descriptions, facilities would be required to report Release Location Data. The additional data required includes geospatial coordinates, stack parameters (height, diameter), exhaust parameters (gas velocity and temperature), and descriptions of the physical configuration of the release point. The District believes that the Release Location Data should not be a default requirement. (SJVAPCD)

Comment: Section (b)(1)(D). This section requires emission release data reporting but is only necessary if an HRA threshold is triggered, resulting in unnecessary labor for CARB, air districts and facilities. Suggest that these reporting elements not be required unless specifically requested by local air district. (DoD)

Agency Response: Based on comments received, staff has modified the release location data requirements. Specifically, under the modified section 93403(b)(3)(A), release location data is no longer mandatory for any of the "additional applicability" facilities subject to reporting per section 93401(a)(4) which includes facilities subject to the criteria pollutant based thresholds and those subject to reporting under the Table A-3 sectors. This change was incorporated because many of the "additional" sources subject to reporting will have simple release point data (because they are generally small facilities), and the approximate release location information can be determined from the facility location information. Also, smaller facilities are less likely to require air dispersion modeling to determine potential health risks. However, in order to address smaller sources which are of concern, a provision was added to the section to allow CARB or the local air district to request release location data for sources which may be of interest or concern, so that dispersion modeling may be conducted, when necessary. For the final comment, under section 93403(a)(2)(A), staff has provided additional time for the referenced sources to provide the release data, i.e., extended to 2022 data reported in 2023. However, we are unable to exclude release reporting data for high priority toxics facilities because they are some of the sources of most concern within communities throughout California. The comment is also incorrect in that it only references HRA facilities. Release location data is also required for GHG and Criteria Pollutant facilities subject to CTR, not just Elevated Toxics facilities (and others, if required by CARB or districts).

A-4.3. [Multiple Comments: Report Based on Earliest Process Phase-In](#)

Comment: Appendix A. Applicability Thresholds and Lookup Table for Facilities Subject to Reporting Per Section 93401(a)(4). Comment: It is our understanding that if one piece of equipment or process triggers reporting by exceeding the threshold in

Table A-3, the entire facility's equipment and processes would be subject to reporting. There is no clear benefit of reporting all emissions when it comes at such a potentially significant cost. We recommend limiting reporting to the emission unit/process that exceeds the applicable threshold if no other rule applicability thresholds are exceeded. (IEA)

Comment: §93403(b)(1) – Additional Applicability Facilities. We would like clarification on what happens in the case that a facility is subject to more than one reporting phase. We asked this question during the CARB Workshop on September 30, 2020, but the response provided by CARB staff was not clear. We suggest that the clarification be added in this section of the regulation and possibly as a footnote to Table A-1 as well. (SCAQMD)

Comment: Rationale for Section 93403(b)(4). Requiring facilities to report for all processes, not just those that trigger applicability, diminishes the benefits the ISOR attributes to the proposed phase-in schedule. (WSPA1)

Comment: Table A-3. CARB has indicated that if one piece of equipment triggers reporting, all of the facility's equipment and processes would be subject to reporting. Please clarify whether that is the case. If it currently the case, consider limiting reporting to the emission unit/process that exceeds the applicable threshold if not other rule applicability thresholds are exceeded. (DoD)

Agency Response: Staff considered the included comments and determined that we are unable to make the requested changes. In most cases, the regulation is written such that once any applicability criteria is met, any permitted emission source (or source subject to district reporting) is also subject to reporting, i.e., once in, all in (section 93404(b)(4)). Without this approach, it creates a confusing and very difficult to implement applicability criteria. With the approach suggested by the commenters, subsets of facility sources at the same site would report over time, providing incomplete and misleading annual emissions data for the facility. To avoid confusion, each report would need to be annotated, indicating which sources were reported, and which sources are subject to later applicability provisions. The approach is not workable, which is why the once in, all in approach is used. And, even if certain sources are brought in "early" as proposed, it is only a slight acceleration of the inevitable, from the time applicability would be triggered for any other sources subject to reporting. There is one exception to this requirement, which is for Sector Phase 3B for the waste sector. In this limited case, reporting is not required until 2028 data reported in 2029, even if other sources, such as backup diesel generators are on site. In these limited cases, it was logical to delay reporting of ancillary support equipment until the complete reports for the prime emissions sources for the sites become subject to reporting.

A-4.4. [Multiple Comments: Reporting Extensions for May 1 Submittal](#)

Comment: Section (c)(1). We recommend adding wording to provide an opportunity for extending the reporting deadline by 30 days beyond May 1, if approved by CARB or the district as we are concerned about the lack of flexibility for reporting deadlines given the size of the equipment that we are required to report on.

Specific Requested Revision: (1) Submittal to the Local Air District. Owners and operators of a facility subject to this article must submit annual emissions reports to the local air district by May 1 of the year immediately following the data year, unless approved by the local air district and CARB to submit emissions reports directly to CARB as specified in 93403(c)(2). For one or more facilities, a local air district may ~~specify a different submittal date which supersedes~~ extend the May 1 submittal date by 30 days, if the district is able to provide the data to CARB no later than August 1 of the year following the data year. The local air district will determine the format in which the facility report contents are submitted to the district. (DoD)

Comment: (c)(1): *Owners and operators of a facility subject to this article must submit annual emissions reports by May 1 of the year immediately following the data year.*

Comment: We recommend adding: "unless an extension is granted by CARB or the District."

Owners and operators of a facility subject to this article must submit annual emissions reports to the local air district by May 1 of the year immediately following the data year, unless approved by the local air district and CARB to submit emissions reports directly to CARB as specified in 93403(c)(2). For one or more facilities, a local air district may specify a different submittal date which supersedes extend the May 1 submittal date by 30 days, if the district is able to provide the data to CARB no later than August 1 of the year following the data year. (IEA)

Agency Response: Creating a process in which facilities could individually request and receive extensions by CARB or districts would be cumbersome and difficult to implement and track. Instead, CTR provides the flexibility shown in the regulation text provided by the commenters, in which "a local district may specify a different submittal date" as long as certain conditions are met. This approach provides broad flexibility in the reporting timing at the local district level, without requiring additional state or air district bureaucracy. Therefore, the suggested revision was not incorporated.

A-4.5. [Comment: Calendar Year Based Reporting](#)

§ 93403(c)(1) – staff should clarify that district reporting schedules are based on the calendar year and not rolling 12-month periods. This ensures consistent statewide reporting periods. (CCEEB)

Agency Response: Yes, staff agrees that reporting under CTR is required to be on a calendar year basis, reporting annual emissions from January 1 to December

31. The requirement to base reporting on calendar year is specified in the CTR definition of "Emissions report" or "report," which states, "The emissions report is for the submission of required data for the calendar year prior to the year in which the report is due." Also, the CTR definition "Data year" means the calendar year in which emissions occurred, further underscoring the requirement for calendar year based reporting.

A-4.6. [Comment: Reporting Deadlines August 1 for Districts](#)

Flexibility of Reporting Deadlines: The District recommends CARB consider different reporting deadlines that will allow districts to implement the CTR regulation as part of their annual permit reporting and inspection process. Specifically, changing the August 1 deadline to at least eighteen months after the data year would allow Districts enough time to properly review emission data and upload accurate emissions information to CARB. Submitted data will inevitably have errors that can be corrected with enough time to properly verify, such as during the annual inspection and permitting processes.

Not providing adequate time to properly verify emission data accuracy prior to submittal to CARB could lead to unvetted and possibly erroneous information being posted on a public-facing information portal. It is also less efficient in the long run if Districts must resubmit corrected information discovered later. The District encourages CARB to consider the unintended issues and inefficiencies that may occur due to the current reporting deadlines. (SMAQMD)

Agency Response: In setting the reporting deadlines in CTR, staff had to balance two elements. First, there is the real-world necessity to provide sufficient time for reporters and air districts to do the work required to prepare, process, and review emissions reports. Second, there is an urgency to make the data publicly available as soon as reasonably possible. Ideally, people want to know what was emitted today, not a year and a half ago. As proposed by the commenter, reports for 2022 emissions would not be submitted to CARB until July 2024. For decades air districts have submitted emissions reports during the year after facility emissions occurred, and staff is certain that they will be able to successfully continue doing so.

Community members in particular deserve to know what is being emitted by who as soon as possible. CARB and district staff also need facility emissions data to meet their program needs in protecting communities. Therefore, staff is not revising the regulation to modify the August 1 deadline.

Regarding the comment that, "submitted data will inevitably have errors," yes, that will be true regardless of how many delays are provided for review. Which, is also an argument to get the data out and publicly posted as soon as reasonably possible, to have more people scrutinizing it. And, should errors in posted data be discovered, there are pre-existing mechanisms in place to correct and revise such data.

A-4.7. [Comment: Verification and Review by Facility](#)

§ 93403(c)(1)(A) – this subsection allows an air district to quantify facility emissions based on activity data reported by the owner or operator. CCEEB strongly urges ARB to add a process step that allows a facility to review, clarify, and verify district generated reports before the data is approved by ARB and made public. This helps ensure accuracy and transparency, and allows a facility to correct any quantification errors. (CCEEB)

Agency Response: Staff agrees that air districts should provide the option for facility operators to review district-computed emissions data submitted to CARB under CTR. However, staff declined to include a formal global review process requirement for all submitted reports because it would add needless delays and bureaucracy to the reporting process, with limited benefits to accuracy and transparency.

This is because in many cases in which air districts compute facility emissions for sources under their jurisdiction, they are essentially providing a service for the facilities, so facility operators do not have to do it themselves. The districts use underlying methods and data that are almost always readily available to facility operators. For example, if emissions for an emergency generator are computed based on annual hours of operation or fuel use, the type of engine, and the associated emissions per hour for the engine, the air district would perform a simple multiplication to compute the annual emissions. In this situation, it would not be a productive use of resources for facilities or districts to incorporate a one-size-fits-all formal back-and-forth review and verification process, because the potential for inaccuracy is minimal.

That said, facility operators should and do have the right to review district-generated emissions data, and they also have the option to compute and submit their own emissions estimates to be reviewed and approved by their local air district, should they not want to use district estimates. Also, should errors be identified in submitted data anywhere in the process, while data is with the districts or with CARB, existing mechanisms exist to allow incorrect data to be updated, which is in the best interest of the reporting facility as well as the regulating agencies. In the future, CARB intends to launch a revised data system for CTR reporting, that would include the ability for a facility operator to access and review any district-generated emissions results prior to having those results submitted to CARB and made available to the public.

A-4.8. [Multiple Comments: Quantification Methods - General](#)

Comment: A reporting regulation should be based on a clear understanding of what is emitted from a process from established emission factors or source testing.

Reporting for common equipment such as natural-gas fired boilers and gas stations cannot be based upon each reporter researching how to calculate emissions. This

approach is not consistent with the AB 617 requirement to establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants. (MBARD)

Comment: § 93403. Emission Reporting Requirements General Comment. We suggest that CARB allow annual emissions reporting to continue indefinitely using existing district programs and methods. For example, in San Diego County, regulated facilities provide usage data to the District. The District then calculates the emissions. Other Districts have their own established methods. These methods and programs have worked for years for both the air districts and regulated facilities and provide reliable emissions data. (IEA)

Comment: CalPortland supports these items as well and hope that these reasonable requests can be accommodated. We have been assured that procedures adopted by Air Districts will be independent from the State, since implementation has been delegated to the Air Districts-we would appreciate if this can be confirmed in the Board Meeting later this month. CPC encourages CARB staff to state this in the rule itself and in any staff reports under consideration so that it will be crystal clear to all that seek to comply with any new regulatory construct. (CalPortland)

Comment: Lack of Updated Test Methods and Quantification Methodologies. The proposed amendment to the EICG will potentially add over 900 pollutants that must be quantified and reported. This greatly expands the scope of the EICG, and the proposal does not provide any guidance as to whether quantification methodologies exist for many of these pollutants. While requiring this level of additional reporting is challenging, we believe that our agency is well situated to adapt our programs and systems, recover some costs, and implement this expansion in the timeframe proposed. However, the lack of guidance regarding whether a quantification methodology exists for a particular listed compound, and what those methods are, creates a much larger problem. Local air districts would be left with only requiring the reporting of the mere presence of the compounds by way of throughput or material content data without any way to determine emissions. Such information would be minimally useful without the characterization of the emissions or its impact on risk evaluations. We further note that there have been no updates to the existing CARB test methods relating to stack testing or laboratory analyses. Updated test methods should be provided given that so many new compounds are proposed for adoption, or reporting requirements should be delayed until those methods are established. (SCAQMD)

Comment: As outlined above, ACP leadership and members have experience with monitoring and capturing certain fugitive air pollution emissions under the existing regulations of volatile organic compounds (VOCs). Even our experience with "using emission isolation flux chambers." This was our work cited above with South Coast AQMD and San Joaquin APCD.¹ However, we have no experience speciating these VOCs at the facility level. *This will be a step change for the California compost industry!*

¹ http://www.valleyair.org/Grant_Programs/TAP/documents/C-15636-ACP/C-15636_ACP_FinalReport.pdf (ACP)

Comment: Phased or Tiered Implementation: Phasing the implementation of these new research and reporting recommendations could allow the regulatory implementation to be based on the tiers of toxicity of the chemical list that is based on the LOD (level of detection) + LOE (level of exposure) system dynamic model. This could put this regulatory recommendation on a defensible path that is directly relevant to, and based on, existing California compost production operations.

Recommendation: To determine a list of compounds actually emitted from the compost production sector, we request a delay in reporting emissions for Appendix A-I compounds until our members are able to complete the following steps, supported by public funding from CARB, OEHHA, CalRecycle, or other appropriate government capital: Perform the qualitative screening step (i.e., identify detectable compounds at appropriate LOD); Obtain certified sampling and laboratory methods needed to quantify actual emissions; Complete a sector-wide pooled emissions study that determines LOE. (ACP)

Comment: On behalf of CASA, I would like to thank staff for working so closely with the wastewater sector for confirming our interpretation of the proposed amended regulations, which provides the adequate time to perform an extensive statewide characterization of emissions from wastewater treatment plants across California, which is that pooled emissions estimation effort that was referenced in staff's presentation. We estimate that the study will take about five years at a cost on the order of and at least \$10 million. While we do appreciate having an achievable compliance path forward, we do remain concerned that such a study could immediately be outdated by the development of test methods for any of the thousands of compounds in the proposed list of toxic compounds.

In other words, the proposed amended regulation requires the use of unapproved sampling, test methods and toxicity information that could yield highly erroneous emission estimates. (CASA1)

Comment: There's no evidence or even methods to estimate or quantify the presence of the compounds considered under these amendments. We propose that CARB focus on facilities that can control the raw materials used in their processes. Emissions from these facilities can be estimated with safety data sheets, supplied with these raw materials. Once a list of known toxic compounds used by the facilities in California, the waste sector will be able to require pre-treatment of the proposed contaminants prior to processing in a compost facility or other waste treatment facility. (CACP)

Agency Response: Although there are several comments included under this response, the comments are grouped because they have a related theme, which is that the amended CTR and EICG regulations require changes to what has been done in the past, as was intended. Most of the issues raised in the comments point to deficiencies in past practices which are being addressed by the

amendments. For example, a goal is to develop more uniform methods, over time, for common equipment such as natural gas fired boilers and gas stations, to enhance the consistency and comparability of emissions data. Similarly, the request to continue indefinitely using district programs and methods is what has led to the inconsistent and incomplete reporting we are currently faced with and are trying to address. Air district independence is important, but also important is the ability to effectively compare data collected statewide, regardless of region, without having to make district-specific adjustments based on method inconsistencies.

Staff acknowledge that the amendments do require reporting of substantially more pollutants by the facilities that emit them, and that facilities are required to be responsible for determining what they emit and how much they emit. However, this is a reasonable expectation for a responsible facility operator who tracks much of the underlying data already. These expectations are now included as reporting requirements in the amended regulations. However, staff understand that such new action requires planning, which is the reason for phasing in the requirements, the sectors subject to reporting, and the inclusion of additional toxics over six years, as is described more fully in other responses on timing and phase-in. Additionally, CARB is working with CAPCOA to provide emissions quantification guidance and emission factors which may be used to comply with reporting requirements for many common facility types such as gas stations, and for more complex facilities like landfills and petroleum refineries. Some variability in quantification methods may still exist; for example some facilities may measure the emissions of a chemical in real time, while another may use an activity-based emission factor for the same process. However, the transparency of such information will also be improved by the proposed amendments.

It is no longer defensible to provide additional delays beyond the timing in the regulation amendments. Specific to the comments raised by the compost industry, with 15-day modifications incorporated, the industry is not subject to the updated CTR reporting requirements until 2028 data reported in 2029, eight years from now. This is a reasonable delay for the industry to address the requirements to quantify and report their emissions; staff do not agree that further time is needed. Staff knows that it is necessary to include fixed and known deadlines, with reasonable time provided, to provide the impetus needed to make progress, so no further modifications were made to the phase-in schedules for the compost or other industrial sectors beyond those incorporated in the 15-day modifications.

Finally, there are comments related to reporting only substances that have existing quantification methods or are known to be emitted. Again, a key element of the amendments is to provide the impetus, with plenty of time, for facility operators to develop methods as needed, and to accurately quantify and report their emissions, which is not an unreasonable expectation, especially from

the perspective of those who are exposed to the emissions. Although some emissions are relatively straightforward to quantify (such as the evaporation of solvents using a mass balance approach), some are difficult to quantify, and will require additional investigation and analysis, which is why the provision of reporting the amount of a substance used or produced on site can be reported alternatively in such cases, until reliable quantification methods are developed. The amount of a chemical used or produced will provide insight into the maximum amount of a substance that might possibly be emitted under the circumstances, and this understanding will inform the process and prioritization of emissions quantification method development. As mentioned for the compost sector, the overall waste sector categories (i.e., Sector 3B in Table A-3 of CTR and Table E-3 of EICG), have until 2028 emissions data reported in 2029 to comply with the full amended requirements.

A-4.9. [Multiple Comments: Quantification Methods - Toxics - Best Available](#)

Comment: Another cause of concern is that these additional chemicals do not have valid emission factors. This can be a challenge for facilities trying to report accurate numbers. In addition, many chemicals that are proposed to be added do not have dedicated source testing procedures. This would prevent LADWP and other facilities from performing source tests on new substances to obtain realistic emission factors. For example, in an effort to properly quantify emissions, LADWP conducted source tests on large combustion turbines for formaldehyde, benzene, and polycyclic aromatic hydrocarbons (PAH). Doing so resulted in emission factors that are about 80% to 90% less than SCAQMD's Annual Emission Reporting (AER) default factors. The lack of accurate emission factors is a detriment to facilities that aim to maintain accuracy in their operations and reporting. (LADWP)

Comment: LADWP recommends that CARB re-examine the scientific basis of similar chemical functional groups, and that CARB only require reporting of chemicals that are reasonably known to be emitted at that facility. In addition, before a chemical is added for reporting, LADWP requests that CARB develop a source testing procedure. (LADWP)

Comment: SCAP's wastewater members provide environmentally sound cost-effective management of more than two billion gallons of wastewater each day and in the process convert waste into resources such as energy and recycled water. SCAP has been working closely with the California Association of Sanitation Agencies, who you've heard comment earlier, on this CARB initiative. The wastewater sector is different than other industrial sectors you'll likely be hearing from today. Unlike facilities that purchase raw materials from various vendors that come with safety data sheets, which is a toxics ingredients listing, the municipal wastewater sector's raw sewage is generated from society waste without safety data sheets. We must rely on approved sampling and testing methods to determine emissions from our facilities. Unfortunately, most of the over 10,000 compounds proposed in these regulations do not have approved sampling or laboratory test methods. Let me repeat. The number

of new compounds is over 10,000 compounds, which includes the PFAS functional groups with no approved test methods for error at this time. This is a nuance that many stakeholders may not be aware of and we want to stress the importance of this point, especially due to the unique nature of wastewater facilities. Accordingly, we respectfully ask that you regulate the municipal wastewater sector and other waste sectors in general differently than other industrial sectors. We fully support the CASA submitted comment letter detailing specific recommendations regarding a proposed phased approach for CARB staff consideration. (SCAP)

Comment: There are a few things that concern me. I'm coming from a laboratory perspective in terms of method development and method analysis. And one of the things that jumps out at me is the proposed amendment regulations require the reporting rule over 10,000 compounds, if we include functional groups in these compounds. That's not the hundreds that are being proposed, but literally over 10,000 would be a conservative estimate. With the inclusion of these functional groups, we'll have almost an infinite number of components that we are likely going to be asked to look for. Most of these compound are currently not regulated. There are currently no published analytical methods in existence for the majority of those compounds. These compounds cannot be quantified without methods that are reviewed and promulgated. And standards which are a very important part of the analytical process are likely not going to be available for the laboratories around to perform these analyses. Without the list of recommended or approved methods, it is also not possible to detect or accurate -- accurately estimate or identify these compounds. (LACSD1)

Agency Response: The primary themes addressed in this group of comments pertain to the requirements for reporting toxic substances, particularly those toxics that do not have previously established emission methods, are not already known to be emitted by a facility, or those containing specific functional groups. Facilities located in California have a responsibility to provide accurate and transparent data regarding their air emissions and the toxic chemicals they are exposing people to. So, the comments regarding the removal of requirements that require reporting of toxics because sometimes it will be difficult or they will cost money cannot be accommodated, so no changes were made.

However, recognizing that there are challenges in estimating toxics, and that mis-estimated data can sometimes be worse than no data at all, the regulations have several mechanisms to help ensure successful implementation. For example, both CTR and EICG allow use of "best available data and methods" for estimating emissions, which provides substantial flexibility in performing emission estimates, such as emission factors, material balance, source testing, manufacturer data, and more, without rigid prescriptive quantification requirements.

Specific to the waste sectors and their unique challenges, staff has put them on a extended phase-in timeline, such that they are not subject to reporting the full list of additional substances until 2028 data reported in 2029. This extension was

provided to allow them the additional time needed to develop the methods and data needed to effectively estimate the source emissions. Also specific to the wastewater sector concerns, as part of the 15-day modifications to CTR, in order to help focus resources for the large substance group known PFAS, staff added Table B-4, which identifies the specific PFAS substances of most concern which are subject to evaluation for quantification. Staff expects that with the phase-in delays (both overall and for the waste sector) and simplifications provided (e.g., use of best available data versus required source testing), industry sources will be able to effectively comply with the amended requirements.

A-4.10. Comment: Quantification Methods - Standard Methods

One of the other concerns that we may have to delve into is the fact that, if we are allowed to develop methods on our own, different utilities may come up with different ways of analyzing these compounds, different reporting limits. So the data that would be generated would not be comparable. And I think that could lead to very difficult issues when it comes to regulations. (LACSD1)

Agency Response: The amendments to CTR (and to a similar extent EICG), provide a framework to move towards increased consistency, and are meant to address previous longstanding inconsistencies between air districts, facilities, and methods. The amendments will in no way make the existing issues worse. However, staff is aware that this will not be accomplished quickly. One reason for providing a multi-year phase-in of additional facilities and requirements is to provide the time needed to implement the mechanisms needed for greater consistency and transparency, working together with our community, scientific, district, and industry partners.

A-4.11. Comment: Quantification Methods - Validation

We also appreciate the staff presentation in that it recognizes how much work remains to be done in terms of developing the procedural and technical framework for which the reporting programs can move forward. For example, you've heard a lot this morning about testing and the needs for methods to quantify the thousands of new compounds coming into the program. But if you step back a bit, you'll see that we don't even have a process defined that says how a facility is supposed to work between CARB and its district to validate new test methods. (CCEEB1)

Agency Response: The comment does not address a specific regulatory revision or issue, so no regulation changes are necessary. The regulations are not designed to establish a process for the validation of test methods. However, as has been done for decades, the air districts and CARB will continue working with industry to develop, identify, and validate test methods used for the quantification of airborne emissions.

A-4.12. Multiple Comments: Change in Ownership

Comment: §93403(e)(2)(A) – Reporting Responsibilities During Changes in Ownership. Submittal of multiple reports for the same Facility ID and reporting data year is not possible in our current Annual Emissions Reporting webtool. Even if this were possible, combining multiple reports will require additional work by staff as the calculation methodology for each device and process would need to be reviewed for each report to ensure consistency prior to aggregating. Also, the permitting process for a change of ownership takes time and may be completed near or past the reporting deadline, resulting in the current facility owner being left with little or no time to submit the emissions report in a timely manner and potentially subject to late surcharges. We recommended that the new owner be responsible for reporting the entire data year. (SCAQMD)

Comment: Section 93403(e)(2). Reporting Responsibilities During Changes in Ownership. These proposed changes imply that a change in ownership during a data reporting year obligates both the previous and new owner/operator to submit an emissions report for the respective periods of operational control. This interpretation is inconsistent with annual emissions reporting under the MRR, EPA/TRI, and most air district reporting programs. At a minimum, the CTR should explicitly allow the new owner or operator the option to report emissions data for the entire data year. (WSPA1)

Comment: § 93403(f)(3): *Reporting Responsibilities During Changes in Ownership*. The owner or operator at the time of a reporting deadline specified in this article must comply with the requirements of this article.

If an ownership change takes place between January 1st and the May 1st reporting deadline of a given calendar year, the prior owner or operator is responsible for submitting the emissions data report covering the previous data year, as applicable.

If an ownership change takes place at any time during a data year, the new owner or operator must submit an emissions data report in the following year, as applicable, that covers the period of time between the new owner's first day of operational control, and the end of the data year. The previous owner or operator must submit an annual emissions data report for the facility for the period of time during which the previous owner had operational control.

Comment: The intent of the revision is that the new owner would only be responsible for emissions reporting in a data year from the time that they began operation to the end of the data year. We agree with this concept. However, the revisions also make previous owners responsible for emissions for the part of the data year that they operated the equipment. While this sounds appropriate in concept, once a change of ownership takes place the permits are canceled, negating annual emissions reports that are for permitted pieces of equipment. This is best illustrated in § 93401(c)(1) which allows for a facility to be exempt from reporting requirements based on the fact that they are no longer applicable. An example cited in this section is that the permits

have been cancelled which is precisely what happens when a change of ownership takes place. In addition, once a change of ownership takes place, more often than not, the District has no more contact with the previous owner. Thus, this requirement is not practical to implement and will be unenforceable. (SMAQMD)

Agency Response: These comments raise many important concerns. Therefore as part of the 15-day modifications to CTR, the Change of Ownership requirements of section 93403(e) were revised to address the feedback provided. Now options are provided, based upon concurrence of the local air district, so that facility operator may either submit a single consolidated report if there is a change of ownership, covering the entire year, or reports may be split across a data year based on ownership. These updates provide the flexibility requested by the commenters, while still collecting complete emissions data for the year.

A-4.13. [Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - Bi-Annual Reporting](#)

Comment: General. The Department of Defense requests that ARB consider a bi-annual reporting requirement, instead of an annual requirement. Reporting biennially will be more practical and will allow facilities to focus on "ground-level" improvements to move the needle, such as updating equipment that will help California and the various air districts meet their air quality attainment goals. Reporting biennially would meet the regulation's intent while making it feasible for facilities to implement. (DoD)

Comment: § 93403. Emission Reporting Requirements. New Proposed Subsection under § 93403. Emission Reporting Requirements. We request that CARB add a new sub-section into the Emission Reporting Requirements (§ 93403) to allow for remote facilities to report on a biannual basis and to eliminate required annual reporting for facilities that can demonstrate no significant change in operation over the reporting cycle.

Specific Requested Revision: Create new sub-section under § 93403. Emission Reporting Requirements entitled "*Reduced Reporting for Remote Facilities or No Significant Changes in Operations:*"

1. *Owners or operators of a GHG, Criteria, or Elevated Toxics Facility subject to reporting per sections 93401(a)(1), (2), or (3) which are remote facilities exceeding 1 mile from a receptor, shall submit Emission Reports on a biannual schedule.*
2. *Owners or operators of a GHG, Criteria, or Elevated Toxics Facility subject to reporting per sections 93401(a)(1), (2), or (3) which can certify and demonstrate no significant change in operations within that annual reporting cycle, is not subject to the annual emissions report requirement. (DoD)*

Agency Response: Staff declines to make the requested modification to allow bi-annual reporting. One of the primary principles of the CTR program is the requirement for annual reporting, to allow emissions evaluations each and every

year, consistent with H&SC Section 39607(b)(2). Those using the data, including community members, cannot have gaps in the data, and potentially miss substantial emissions during "off" years. Also, the suggested mechanisms for implementing such a program would be administratively and technically unmanageable, requiring annual assessments of source-to-receptor distances, and annual assessments for operators to "certify and demonstrate no significant change in operations within that reporting cycle." For many sources, performing these evaluations would likely be as much, if not more work than simply reporting emissions each year.

A-5. Section 93404 – Emissions Report Contents

A-5.1. Comment: Sources - Architectural Coating

Unclear requirements for architectural coatings – CCEEB has requested but not yet received clarification from staff as to whether emissions from architectural coatings would need to be reported. This question could also be combined with our question about leased spaces; for example, if a tenant uses paint in leased space, would the facility need to track and report associated emissions? (CCEEB)

Agency Response: The first part of the question has separate answers for CTR and EICG. The CTR regulation requires reporting of emissions data for "permitted" processes, therefore the reporting of emissions from architectural coatings would only be required if they are used in a permitted activity. An example might be the construction of pre-manufactured homes, in which architectural coatings are applied and the equipment used is permitted. For EICG implementation, more information can be found in the response to this comment in the EICG FSOR. The second part of the question related to leased space is addressed in the response to *[the EICG FSOR, Section A-1.61., "Comment: Applicability - Leased Spaces and Facility Definition"]*.

A-5.2. Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - When Changes, Bi-Annual Reporting

Comment: While we believe a bi-annual reporting requirement will benefit everyone, the impetus for our comment relates to unique features of military installations. Operations military installations do not tend to vary significantly from year to year, because major changes require advanced funding and planning across the large federal system. Therefore, emissions generally do not change significantly within a 12-month period. Reporting biennially would be more than sufficient to capture variations in emissions while requiring less resources – both financially and staff resources. Reporting biennially is also twice the current frequency under AB 2588, as such, substantially increasing the data and information that would be available to the public. (DoD)

Comment: (d): "Use of Best Available Data and Methods". Annual emissions reports prepared pursuant to this article must provide the any changes to emissions calculation method, the source of the reported emissions factor, and the control efficiency, as applicable, using best available data and methods, that are used to compute emissions of criteria air pollutants and toxic air contaminants. If some or none of the above information has changed from the previous year, no additional information is required to be submitted."

Facilities should not be required to submit this information annually if the information has not changed. We recommend clarifying that only new or revised information should be added. (IEA)

Agency Response: Staff understands that in certain limited circumstances bi-annual or something less than annual reporting would provide reduced effort for facility operators. But, a key principle of CTR is the requirement for annual reporting, to provide our citizens with up-to-date annual emissions information for all facilities subject to reporting. Therefore, staff did not implement the suggested modification to allow less frequent reporting. Also, the commenters do not seem to be considering that implementation of a non-annual system would place additional burdens on reporters because every year they would be required to determine and document that facility information has "not changed" or has "not changed significantly," with the need for CARB and districts to establish what is meant by not changed or not changed significantly. Would the criteria be facility based, process or unit based, or based on certain pollutants, such as those that have high toxicity? These questions and others would require additional resources to resolve each year, for each facility subject to reporting, which provides additional justification for not making the suggested updates to the annual reporting requirement. In many cases, for facilities with minimal annual changes, the effort required to submit a report would be less than the effort required to determine and document that there was not a "significant" change in emissions.

In addition, AB 197 (H&SC Section 39607(b)(1)) requires CARB to update stationary source emissions data, at the subcounty level, at least once a year, and to provide this information on the CARB internet web site, so providing annual updates was determined as the baseline requirement for CTR.

A-5.3. Comment: Reporting Would Be Made Difficult or Burdensome - Full Report Contents

Section 93403(a)(2). Annual Emissions Reporting. Additional data reporting requirements following phase-in periods are expected to be difficult for facilities and air district to meet, including certain data elements in section 93404(b)(1) Full Report Contents (e.g., SCCs, acquisition methods for activity level data, applicable emission factors, emission calculation methods, control efficiencies, emission limits, toxics used/produced when best available data/emission estimation methods are not

available). Little or no district information has been provided yet to facilities as to how and in what format this additional data will need to be reported. For facilities already subject to CTR reporting for data year 2020, little time is left in the current calendar year to be informed of new requirements in a timely manner. The phase-in provisions of section 93403(a)(2) should be extended by another year to allow adequate time for air districts to define data collection formats and for facilities to collect the required information. The same extension should also apply to section 93404(d), which obligates facilities to report a general description of activity data used to calculate emissions.

In addition, as noted above, we have observed that some air districts frequently change reporting requirements. This practice will add complexity and confusion to the new reporting burdens under the proposed changes to the CTR and the AB 2588 Emission Inventory Criteria and Guidelines Regulation and should be avoided to the extent possible. (WSPA1)

Agency Response: To address some of the comments, staff has made several accommodations both in the originally proposed amendments and the 15-day modifications. Specifically, for facilities such as those represented by the commenter (i.e., the Western States Petroleum Association, WSPA), the reporting of emissions release location data is deferred until 2022 data reported in 2023. Also, reporting of additional toxic substances in Appendix B, Table B-2 is delayed until 2022 data reported in 2023. The additional toxics listed in Table B-3 are not subject to reporting until 2026 data reported in 2027. These updates are provided to give additional time to ease into the new requirements.

Staff also removed the requirement to report the, "Permit or rule emission limits(s) [please see *Section A-5.7., "Comment: Limit Reporting - Permit Limits"* for more information], and limited reporting of control efficiency to only situations in which the data is used in quantifying emissions [please see *Section A-5.6., "Multiple Comments: Limit Reporting - Control Efficiency"* for more information]. These changes also reduce reporter workload, as well as the ability to use "best available data and methods" per 93404(d) in cases where fully established methods are not available.

Regarding the overarching request for an overall delay in implementing the reporting process, to allow more time to understand and comply with the requirements, that change was not made. For sources such as those represented by WSPA, the core reporting requirements have been known since before the original CTR was adopted by the CARB Board in December 2018, which became effective January 2020. Community members and others have justifiably lost patience with further delays in implementing the CTR reporting requirements. Staff has received significant criticism already, regarding how delayed the program is, allowing six years for full program implementation, which does not even start until the amendments become effective in January 2022.

The requirements will initially require additional work, some changes in current practices, and more outreach and training. Staff is committed to help facility operators and districts to continue keeping the CTR program successful, both now, and into the future with full implementation.

A-5.4. Comment: Reporting Would Be Made Difficult or Burdensome - SCC Codes

Using spreadsheets and databases to try to categorize everything into SCC codes - which were developed in the 1970s and are both outdated and incomplete - is burdensome and does not add value for complex sources such as refineries. The corresponding format of "activity data × emission factor = emissions rate" may be useful for relatively simple sources that are not monitored, but does not work well for sources that: a) do not fit neatly into an existing SCC code (or for which the code is ambiguous), b) are more complex, c) have more complex computational methodologies (such as for storage tanks), or d) have continuous emissions monitoring systems (CEMS). In these contexts, the proposed approach only results in greater workload (see example in Attachment A). It is for reasons such as this that CARB's MRR program - which only addresses a handful of pollutants, rather than thousands - does not require these types of structures.

Attachment A: Example for a Single Gasoline Storage Tank: Consider the simple case of a single gasoline storage tank, a common source at a refinery or bulk terminal. The tank will contain different Reid Vapor Pressures (RVP) of wintertime gasoline (e.g., 10-14 psi CARBOB) in different months (depending on proximity to the ozone season and type of facility), and then store summertime gasoline RVP (e.g., 6 psi CARBOB) for the remainder of the year. Different SCC codes exist for storing RVP 13, 10, and 7 gasoline, but not for any other RVPs. There are also different SCC codes for tanks with 67,000 barrel capacity and 250,000 barrel capacity.

Additionally, there are separate SCC codes for working losses and standing losses (and the units of the activity data are different). Having to break out emissions for each gasoline tank six ways (working & breathing for each of the three listed RVPs) is a burdensome effort that will require facilities to arbitrarily split emissions or develop a new methodology from scratch. It also seems unlikely to produce useful information given that the actual RVPs are not equal to the three for which SCC codes exist. Even assuming facilities arbitrarily assign or split emissions, or develop a new methodology to assign SCC codes, if different facilities use different assumptions (likely), the resulting emission factors will be inconsistent, limiting the utility of the data.

The proposed amendments to the CTR and the AB 2588 Emissions Inventory Criteria and Guidelines Regulation include "any activity level" reporting thresholds for some sources, capturing even de minimis or intermittent emissions. For example, there are additional methods that can be used to calculate emissions from "landing" a floating roof to swap out one gasoline RVP for another - that activity is represented by a distinct SCC code. Painting the tank would require another SCC code (and TAC speciation profile, which a facility would need to obtain from the painting contractor)

for emissions from the paint and additional SCC codes for any engine-powered equipment used by the contractor (reflecting engine technology and operating parameters). If a tank is taken out of service for scheduled or required maintenance, it must first be degassed, requiring yet another SCC code (and a speciation code for the combustor, etc.).

The foregoing example indicates the overwhelming amount of additional work and data the proposed regulations would require for just one tank that is already required to implement "all feasible" control measures pursuant to Health and Safety Code section 40914(b)(2). Moreover, all other potential sources identified in the above examples are already subject to separate regulatory requirements designed to limit emissions from those sources. Complex facilities may have 50 to 100 tanks and dozens of other sources. It is unclear how successful facilities and air districts would be in compiling the data required by the proposed regulations or what value it will add to existing reporting programs. (WSPA1)

Agency Response: Staff is unable to make the requested revision to remove the requirement to include SCC codes when reporting data. As mentioned by the commenter, SCCs were developed in the 1970s, and continue to be regularly used in reporting emissions data at the state and federal levels. To maintain consistency with past data reporting, and to allow for comparisons between past and future emissions data, the SCCs are needed to allow the data sets to be linked for evaluation. For sources in which assigning an SCC is difficult or ambiguous, as described in the commenter's example, CARB staff will work with reporters and local air districts to find a workable solution, through source aggregation or other mechanisms, that meet the CTR requirements.

A-5.5. Comment: General - SCCs Outdated and Should be Removed

§ 93404(b)(1)(B)4: Source Classification Codes (SCCs): CCEEB recommends that the reporting of outdated federal EPA SCCs be made optional or, alternately, that requirements be refined so as to distinguish between relatively simple sources that lack monitoring and those that are more complex and, as such, rely on established computational methodologies and/or continuous emissions monitoring in support of state-of-the-art control systems. For the complex sources, SCCs will vary over time for a single source, and the reporting of these changes is both burdensome and incompatible with current quantification systems, yet does nothing in terms of quantification accuracy or transparency. As such, we believe this section should be removed or modified. (CCEEB)

Agency Response: See the response to Section A-5.4., "Comment: Reporting Would Be Made Difficult or Burdensome - SCC Codes". The reporting of SCCs are necessary to meet federal reporting requirements and to retain consistency with past CARB and district reporting practices. Staff will work with industry to address the specific situations in which SCC identification or reporting required by CTR poses challenges.

A-5.6. [Multiple Comments: Limit Reporting - Control Efficiency](#)

Comment: Reporting of emission unit control efficiencies. Section 93404(b) of the proposed regulation requires that the control efficiency of all emissions control devices be reported. PG&E requests that the regulation be updated to clarify that this reporting of control efficiencies is only required in situations where it is relied upon in order to estimate emissions from the emissions unit. (PG&E)

Comment: § 93404(b)(1)(C)11 and 94404(d): Control Efficiency – CCEEB disagrees with the addition of “control efficiency,” for all control devices. First, for an annual reporting program, this information would be time consuming to collect, yet changes nothing in terms of reported emissions. In some cases, as with selective catalytic reduction (SCR), continuous emissions monitoring is already done; reporting control efficiency as proposed would require an entirely new and likely costly methodology, with no added benefit. CCEEB recommends these sections be removed, or if put forward, made optional. At a minimum, the proposed regulatory language oversimplifies how information would be reported across the various types of sectors and control systems; staff should engage with sector-specific representatives to understand how it could be streamlined and more practicably implemented. (CCEEB)

Agency Response: This is a helpful suggestion and staff agrees that the collection of control efficiency data is not useful or beneficial for all situations. Therefore, as part of the 15-day changes staff modified the requirement to include the additional text shown underlined, which limits reporting of the data to those situations in which it is actually relevant for performing emission estimates. "11. The control efficiency of all emissions control devices, if the control efficiency is used to quantify emissions. If no control device is used, or if the reduction in emissions resulting from use of the device is not required to quantify emissions, the control efficiency is not required to be reported."

A-5.7. [Comment: Limit Reporting - Permit Limits](#)

§ 93404(b)(1)(C)12: Permit Limits: similar to control efficiency, this requirement seems to oversimplify the concept of “permit limits.” A source could have multiple limits established by various district rules, or a permit limit could apply to a group of sources. Moreover, this information is not needed to quantify emissions and can already be provided by the air districts. CCEEB recommends it be removed or, at a minimum, made optional. (CCEEB)

Agency Response: In consultation with other CARB staff and air districts, staff agrees that the requirement to report "Permit or rule emissions limits(s)" may be deleted, so it was removed as one of the 15-day modifications. The information would have been complex and difficult to compile and report, and the information can be obtained from air districts and other sources in those specific cases in which is needed. Therefore, the requirement was removed.

A-5.8. Comment: Expand Abbreviated Reporting - Report Contents

Instead, the District recommends CARB revise the proposed amendment to limit the reporting to the Abbreviated Report Contents as described under Section 93404(b)(2) for all facilities, and to only require Full Report Contents when needed to perform a facility specific analysis such as a health risk assessment. (SJVAPCD)

Agency Response: Staff is unable to incorporate the proposed modification to allow simplified, abbreviated reporting to any sources subject to CTR reporting. This is because facilities subject to CTR are very diverse, with some being simple and straightforward with few emission sources, and others being complicated and challenging to evaluate. The abbreviated reporting provisions are specifically provided for sources which are generally uniform, and for which emissions can be accurately estimated using minimal data inputs. Some examples include retail sale of gasoline and diesel-powered emergency generators, which typically only require, annual gallons of gasoline dispensed or total annual hours of operation, respectively, to estimate emissions from the individual sources. It is not possible to provide a universal simplified abbreviated reporting approach for the variety of sources subject to CTR. It would also be an administrative burden to evaluate CTR sources each year to determine if they would or would not meet a generalized abbreviated reporting requirement, based on currently unspecified criteria. This is why the CTR abbreviated reporting requirements directly specify six sectors that may use abbreviated reporting, to provide clarity, while also providing the option to petition for the inclusion of additional activities for abbreviated reporting.

A-5.9. Comment: Unpermitted Emissions - District Discretion

(c)(1): "Emissions. For permitted processes and devices (and at the discretion of the air district for unpermitted processes and devices) the annual direct and fugitive emissions of the following air pollutants must be reported.

Comment: This regulation is intended to capture permitted emission units and processes. However, it contains language that allows the local districts to expand the scope to nonpermitted units at their discretion. In the interest of achieving ARB's stated goal of a uniform state-wide reporting program, we recommend eliminating these provisions because they encourage non-uniform reporting requirements and will result in a complete lack of standardization from one air district to the next. (IEA)

Agency Response: The referenced language is not included in the text that was modified under the amendments, so no modification is necessary. However, for background, staff agrees that a purpose of CTR is to achieve a uniform state-wide reporting program. Nevertheless, there will still be district variability. For the specific pre-existing text mentioned, air district staff requested this flexibility and it was included in the originally adopted CTR. The text to incorporate reporting of emissions from unpermitted sources was included because if the district already requires the data to be collected and emissions quantified (so no

additional costs or resources necessary), it is in the interest of the public and regulatory agencies to include such emissions data in submitted CTR reports.

A-5.10. Comment: Reporting Directly to CARB Not Authorized

At the very minimum CARB must recognize they were directed and authorized only to collect data from Air Districts and the provisions requiring operator reporting to CARB should air districts fail should be removed. (CalCIMA/CalAPA)

Agency Response: Staff disagrees with this interpretation. There are no specifications within Assembly Bill 617 (AB 617), Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2, or other relevant rules or legislation which directs CARB to only collect data from air districts. The opposite is true, in that section 39607.1(b)(2) states, "The state board shall require a stationary source to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using the uniform statewide system of annual reporting..." Also, H&SC Section 39607(b)(2) states, in part, "(The state board shall:) Make available on the state board's Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state broken down to a local and subcounty level for stationary sources..." and, "The emissions reported shall include data on the emissions of criteria pollutants and toxics air contaminants emitted by stationary sources as provided to the state board by districts." However, the statute does not establish that the state board can only acquire such data from districts, and is entirely silent on the manner in which facility-level greenhouse gas emissions are collected. In addition, it is not possible to have a functional reporting program if there is no recourse for CARB to collect facility data should an air district not collect or provide data required under CTR, therefore no updates were made to the proposed amendments based on this comment.

A-5.11. Multiple Comments: Present, Used, or Produced - Provide Guidance on Best Available

Comment: Determination of substances that require reporting. CARB has taken the position that facilities bear the burden of determining which additional Appendix A substances must be reported, and that this obligation is independent of the guidance provided in Appendix C. We request that CARB confirm our understanding that emissions estimation, whether through source testing or another method, is only required for substances the facility operator reasonably expects to be part of the facility emissions profile based on process knowledge. (WSPA)

Comment: Section II.H.(5) – related to our comments on needed guidance for SDSs, CCEEB asks for general guidance on how a facility is meant to quantify the amount of substance present, used, or produced, but for which there are no emission tests or

quantification methods. As written, and lacking specific guidance, this language is overly broad and difficult to interpret for compliance purposes. (CCEEB)

Comment: Rationale for Section 93404(c)(1)(B). This addition obligates the facility to report the amount of a toxic substance produced or used if no best available method exists to estimate emissions. No context is provided as to how, when, or by whom such determinations will be made. This comment also applies to section 93404(b)(1)(C)(13). Facilities should not be subject to enforceable requirements without being given the information necessary to comply with those requirements. Additionally, in this case, facilities should not be required to report amounts of toxic substances produced or used in the absence of evidence that those substances are likely to be emitted from the facility. (WSPA1)

Agency Response: It is correct that facilities have the responsibility for evaluating which toxics they may be reporting. It is unclear what other entity would be in a better position to do so. It is also correct that operators are not required to evaluate for the presence of every single listed substance, but should focus their activities on reasonably expected substances based on process knowledge, consistent with the degrees of accuracy listed in Tables B-2 and B-3. For the second comment, as part of our 15-day modifications to CTR 93404(c)(1)(B), staff added the following language to provide additional direction: "Purchase records, substance inventory reconciliation, direct measurement, or other methods may be used to estimate amounts used or produced." A similar "used or produced" provision is provided in EICG Section II.H.5, however it does not include the examples because the Hot Spots program is primarily administered by air districts, so they will identify which data is acceptable, which staff expects to be the same as or similar to the CTR added 15-day text.

The determination as to if "best available" methods exist initially falls to the responsibility of the reporting entity, who is typically in the best position to make such an evaluation. Should guidance be needed or questions arise, air district and CARB staff scientists and engineers are available to assist regarding determinations or methods, which could not reasonably be universally spelled out in regulatory language for the thousands of real-world situations that exist.

A-5.12. Multiple Comments: Present, Used, or Produced - Remove Requirement

Comment: §93404(b)(13) – Reporting Amount Produced or Used for a Toxic Substance. This requirement was newly added to the most current version of the CTR and requires facilities to report the amount of a toxic substance that is produced or used at the facility if no best available data and methods exist to quantify emissions. The Annual Emissions Reporting webtool does not accommodate this type of reporting, and there is no time to program, test, and add this functionality prior to the start of the reporting season (January 1, 2021) to report 2020 data in 2021 as required in §93403(a)(1)(B). We therefore recommend that CARB drop this requirement. (SCAQMD)

Comment: Section II. Applicability. In lieu of excluding substances from Appendix A-1 for which quantification methods are not available, the proposed amendments allow facilities to report the amount present, used, or produced at a facility. To alleviate the quantification dilemma, the proposed rule should include two additional changes: first, the requirement to report the amount that is "present" should be removed. The amount "present" can include unintended or unknown trace or de minimis amounts, and if there is no quantification method, a facility cannot report the amount present. Second, the term "produced" and "production" should be limited to intended production (e.g. process intermediate) and specifically exclude unintended by-products which may be present in unknown trace or de minimis amounts. Absent this clarification, facilities would still be unable to quantify the amounts in question. (WSPA)

Comment: The reference in section 93404(c)(1)(B) to a substance being "present" should be removed (i.e., the reference to "used or produced" alone is sufficient and consistent with section 93404(b)(1)(C)(13)). (WSPA1)

Comment: Data Collection vs. Release from Source. While it is CARB preferred option to report substance production, use, or other presence if emission quantification method does not exist, this continues to present unreasonable burdens reporting use to this level of details, regardless of whether these substances are airborne (i.e., release from sources at the facilities) and the extent to which potential associated risks posed to the public health. (CMC1)

Agency Response: Regarding the first comment, the requirement to report the use or production of newly added substances does not become effective until 2023, when the 2022 emissions must be reported for the earliest group of facilities (based on district group and industry phase), so that provides until early 2023 to program, test, and add this functionality to the reporting system. As a point of clarification, for any reporters currently subject to reporting under the existing CTR and EICG requirements, the "present or is used or produced" provisions also do not apply for those sources until 2022 data reported in 2023.

The other comments pertain to concerns regarding reporting of materials being "present" or "intended production." Staff disagrees with the recommendations to remove reporting materials present because even if present substances are not routinely emitted, they may be during an emergency or accident, and they could be relevant for future analysis. Facility operators have a responsibility for knowing which toxic chemicals are present, used, or produced at their business locations, and the reporting of such substances will provide an important resource in knowing what chemicals are being used in the environment now and into the future. This is also true regarding the idea of excluding "unintended by-products," which would under some situations to be of most concern, considering their potentially ambiguous nature. Also, to underscore, all substances in the universe are not subject to reporting, only those dangerous

substances included on the CTR and EICG toxics lists (which granted, are not trivial, but they are not infinite).

CARB staff agreed to modify the EICG to say that if no emission quantification method exists to quantify emissions of a substance at the time of its effective phase, the facility operator does not need to find a means to calculate the actual emissions to the air, but rather only needs to report the amounts used, produced, or otherwise present – this can use methods and information that is known from their facility’s processes. Reporting of amounts used/produced (i.e., not merely “noting that there is presence”) is an essential part of the provision. The provision allows considerable flexibility in allowing a facility to estimate these used/produced/present amounts in broad ways and expressed in dimensional units that are most appropriate for their processes, and most readily known to the facility. The intent is to allow the facility to report a readily quantifiable value from process knowledge, as a means of providing context or bracketing the potential levels of emissions. Having these usage amount estimates is important to ensure the ability to screen for any potentially significant concerns, to protect public health, while offering a simplified reporting option to the facility. For a combustion process, for example, it might involve characterizing the extent of fuel used and the amount of product processed, as a surrogate that could at least give a bound on potential emissions (e.g., if assumptions were applied to gauge the possible emission rates of various chemicals). If no amounts at all were reported (for use/production/presence), then there would be no information to ascertain even an approximate potential for emission levels or public health impacts.

A-5.13. Multiple Comments: Present, Used, or Produced - No Method

Comment: Workload Concerns. Though the proposed phase-in schedule is a step in the right direction, the collective efforts of CARB staff, air districts, and facilities in ensuring these new substances are accurately reported will be an enormous undertaking. To ensure accurate results, facilities will be compelled to perform source tests, which will take time, and in some cases source test methods will need to be developed. LADWP must schedule source tests around outage schedules, maintenance plans, and personnel availability. To ease the workload, LADWP encourages CARB to allow facilities to use a pooled testing program for sources to develop an accurate and robust set of emission factors. In addition, LADWP recommends that CARB review and update the existing default emission factors, some of which are based on data dating back 20 to 30 years.

Specifically, LADWP recommends that CARB create new emission factors based on more recent equipment manufacturer and source test data, in order to reflect the actual emissions performance of equipment and sources in use within California today. (LADWP)

Comment: The addition and reporting of toxic air contaminants that have no estimation methods could inflate prioritization scores and provide a false sense of alarm within the community [§93404(c)(1)(B)]. With the adoption of the proposed amendments to AB 2588, the list of chemicals subject to emission reporting will be significantly expanded. There will be at least 200 new chemicals for which emissions are required to be reported starting in the 2023 reporting year, and at least 700 or more in the 2026 reporting year. Being required to report emissions of these new chemicals, in the absence of source testing procedures, accurate emission factors and health risk values, is very concerning. The proposal to assign default emission factors to these new chemicals based on chemical family could potentially result in over-reporting of emissions, and reporting of emissions that do not actually exist. Based on the July 10, 2020 webinar with the Scientific Review Panel, the new chemicals will be assigned an interim health value until a more accurate number is developed, and CARB plans to make the interim health values publicly available on their website. LADWP is concerned that these interim proposed health values along with estimated emissions of the new chemicals will inflate facility prioritization scores and result in facilities being categorized as "high risk" and subject to public notification requirements. This could create a false sense of alarm within the community and result in public relations issues. LADWP suggests that CARB limit the emission reporting requirements for the new chemicals to those that have a scientific-based emission quantification method available. Emissions should not have to be reported for chemicals that do not have an established quantification method. (LADWP1)

Agency Response: CARB staff recognizes that emission estimation methods may not be available for many of the chemicals that are subject to reporting under the CTR amendments. To address this concern, the regulation allows the reporting of the presence, use, or production (and the amounts used or produced) for chemicals for which an emission estimation method is not available (93404(c)(1)(B)).

Moving forward, CARB is planning to undertake a project jointly with the Office of Health Hazard Assessment (OEHHA) to develop provisional health values for substances in Appendix A of the EICG (which was used to generate the CTR substances lists) that currently lack official health values. However, the purpose of this exercise is to use the provisional health values in conjunction with the reported emissions of these chemicals (or the amounts used or produced) to allow OEHHA to identify the substances that should be given priority in terms of developing official health values.

A-5.14. [Comment: Limit Substances Based on Method Availability](#)

We support CARB's rationale for limiting emissions reporting for newly listed substances only to those substances for which emissions quantification methods are available (ISOR, pages 24-25). For the same reasons, CARB should also limit the list of substances in Appendix A-1 (substances for which emissions must be quantified) to

those for which quantification methods are available, and include references to the applicable methods for each substance. (WSPA)

Agency Response: Please refer to Section A-9.9., “Comment: Sectors With Chemicals Without Health Risk Values”, Section A-10.11., “Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available” and Section A-1.22., “Comment: Provide Working Groups for EF, Risk, Chemicals” in response to why emissions of chemical substance must be reported under CTR even without an official OEHHA established health value. Additionally, CTR section 93404(c)(1)(B) states that if no emission quantification method exists to quantify emissions of a substance at the time of its phase-in, the facility operator only needs to report the amount used, produced, or otherwise present at the facility (however, the availability of emission quantification methods should be re-evaluated at the time of the next facility update reporting cycle).

A-5.15. Comment: Reporting Would Be Made Difficult or Burdensome - All Toxics

Feasibility of Proposed Amendments. Based on the structure of the proposed CTR amendments, we are concerned that CARB has not considered key lessons from past decades of experience with emission inventories (inside and outside of California). In particular: Requiring reporting of emissions for *all* pollutants from *any* potential source might be useful for research purposes but is not practical or even possible in the context of routine reporting from every facility in the state. By failing to prioritize the most significant pollutants and sources, enormous amounts of effort will be wasted by facility personnel on quantification and reporting, by air district staff required to evaluate the data, and by members of the public attempting to interpret the data. For example, the five refineries in the Bay Area have recently been subjected to multiple revisions of emissions inventory guidance (more than 100 pages) and have been required to submit refinery-wide inventories for the past four years. These inventories primarily cover permitted sources, not every potential source at a refinery. The subject facilities have had to invest heavily in contractor services because facility staff do not have the bandwidth to complete comprehensive inventories in the short amount of time allowed by the District. Despite all of this effort and expense, not a single component of these inventories has been approved by the District.

Decades of experience have demonstrated that some sources do not contribute meaningfully to emissions burden or facility risk. In the interests of maximizing the air quality benefit of facility and air district investments in emissions reporting, and providing useful information to the public, CARB should re-focus the proposed regulation on sources that have the potential to meaningfully impact air quality in AB 617 communities. Exemptions for some low-level unpermitted sources are necessary and consistent with applicable statutes and federal and state programs. For example, the Title V permit program defines “insignificant sources” including but not limited to office and janitorial supplies; the Toxics Release Inventory (TRI) program exempts

laboratory chemical usage and CARB's MRR regulation includes a 5% "de minimis" threshold.

There are number of other sources that are not significant contributors to facility emissions, such as evaporative emissions from diesel generator fuel tanks and hot water heaters. This same prioritization approach should also apply to individual pollutants. For example, reporting requirements for toxic air contaminants should continue to focus on risk-driving substances because the emissions of these substances define the potential impact of the facility on nearby communities. It is for this reason that Districts have developed simplified speciation profiles for common sources such as natural gas-fired external combustion¹ and gasoline evaporation.²

¹ BAAQMD's "Emission Factors for Toxic Air Contaminants from Miscellaneous Natural Gas Combustion Sources"

(https://www.baaqmd.gov/~media/files/engineering/policy_and_procedures/tacemfacfromnatgascombustion.pdf?la=en) lists only three TACs.

² SJVUAPCD's AB 2588 "Hot Spots" Air Toxics Profiles (available from <https://www.valleyair.org/busind/pto/toxics.htm>) list just three TACs for gasoline and diesel storage tanks (Toxic Profile IDs 23 and 24). (WSPA1)

Agency Response: The question does not address a specific element of CTR which would warrant a change to the regulation, but instead provides a philosophical discussion regarding the levels and types of reporting under CTR. For clarification, CTR does not require reporting of emissions from unpermitted sources, which is a misconception in the comment. CTR also does not require reporting emissions of "all pollutants from any potential source." Instead, the CTR program focuses on reporting for permitted sources, which are presumably those large enough to be potentially significant emissions sources. And for these sources, facility operators are provided options and flexibility in quantifying emissions. This allows for differing levels of intensity in estimating emissions, potentially using, as mentioned by the commenter, simplified speciation profiles for common sources such as natural gas-fired external combustion and gasoline evaporation, whereas more intensive direct source testing or continuous emissions monitoring might be used for the sources of greatest potential concern. Therefore, the current CTR requirements in general do allow the options discussed by the commenter.

A-5.16. Comment: Waste Sector - Status Quo and Two-Step Process

CTR: § 93404(c)(1)(B). Emissions Report Contents. Emissions and Sources. Emissions and Sources. Annual emissions reports *for a facility* must include the emissions and sources as specified in 93404(c)(1) and (2). Emissions. For permitted processes and devices (and unpermitted processes and devices, if emissions reporting is required pursuant to district rules or policies), the annual direct and fugitive emissions of the following air pollutants must be reported. Alternatively, at the discretion of the local

air district, sufficient activity-level data must be submitted for the air district to calculate such emissions.

...

Toxic air contaminants in units of pounds per year, except for radionuclides which must be reported in units of curies per year. The list of reported toxic air contaminants must include those chemicals that are actually emitted by the facility, based on existing quantification methods. If a toxic air contaminant substance is present or is used or produced at a facility in a way that may result in airborne emissions, one of the alternatives identified as "best available data and methods," as defined in this article, must be used to quantify the emissions, as applicable. If an air district determines that none of the alternatives listed would provide a reasonable, technically justified emissions estimate, and no other method can be determined that will provide such an estimate, then the presence of the toxic air contaminant and the amount used or produced at the facility during the data year must be reported without an estimated quantitative emissions value.

This provision is applicable to the waste sector (wastewater, composting, recycling and landfilling) since these facilities cannot control or estimate the amount of Appendix A-1 compounds received for treatment. This provision acknowledges that only those compounds that are "actually emitted by the facility" with established quantification methods are to be reported. As noted above, the wastewater sector is unable to quantify additional Appendix A-1 compounds until the completion of the statewide two-step process and must rely upon the two-step process as the "best available data and methods." CASA interprets this section to allow the wastewater sector to continue status quo reporting until the completion of the statewide pooled emissions study. In other words, compounds being characterized in the statewide study would not be reported in response to the CTR until the completion of the two-step process. (CASA)

Agency Response: The commenter seeks clarification regarding the reporting requirements for wastewater emission sources that are already subject to CTR reporting under the GHG, Criteria, or Elevated Toxics applicability criteria (93101(a)(1)-(3)). Staff confirms that yes, for these sources, status quo reporting continues until the 2028 data reported in 2029 (or until new and updated emissions factors are established through source testing or other studies), as specified in Tables A-1 and B-1. Until that time, facility operators must prepare and submit data reports using best available data (i.e., current methods and emission factors) and the pre-existing toxics list identified in the version of CTR effective January 1, 2020. See also the response to *Section A-10.26., "Comment: Waste Sector - Two-Step Source Testing Process and Status Quo"*.

A-5.17. Comment: Sources - Not Practical for Facility Wide

§ 93404. Emissions Report Contents. General Comment: The regulation requires emissions to be reported by source. This methodology will not work for facilities with a

facility-wide cap. For such facilities, alternate reporting methodologies approved by the local district or ARB should be used. An example is test cell facilities, where emissions are reported based on the number and size of engines tested not specifically by individual test cell. (IEA)

Agency Response: This comment addresses preexisting requirements, not amended text, so no regulation modifications are necessary. In response to the comment, for the example provided, under CTR such a facility would continue to report at the level of source aggregation (or disaggregation) currently reported to the district for criteria pollutants and toxics, or to CARB under the greenhouse gas mandatory reporting program. The requirement to report by device and process under CTR is not meant to disrupt existing facility reporting structures and staff welcomes any facility-specific reporting or implementation questions.

A-5.18. Multiple Comments: Burdensome to Report Portables

Comment: The University of California (“University”) reiterates the comments submitted in its comment letter of March 6, 2020. As many other regulated entities have also noted, the proposed requirements of subsection 93404(c)(2)(C) would impose exceptional and unreasonable burdens on institutions such as the University and would provide data of questionable quality, given the University’s lack of control over and insight into the use of the majority of these engines and devices, most of which are onsite at University premises for construction projects. The University respectfully suggests that the responsibility for such data collection, if required at all, should be placed on the owners of these engines and devices, and the data required could include the date and location of usage in order to serve the regulation’s objective of determining the health risk posed to specific communities and sensitive receptors.

Exemplifying the challenges that the regulation as drafted would pose to the University, one University of California campus estimates that 15 large construction projects and over 20 small construction projects take place every year at that campus, and each contractor for these projects may use up to five or more engines per day that exceed the proposed regulatory threshold of 50bhp. These engines are typically owned and operated by subcontractors, and as the general contractor assumes responsibility for coordinating these subcontractors, the University has virtually no visibility into these operations and would need to hire additional staff for the sole purpose of tracking portable engine and device usage. The University’s campuses and medical centers estimate that they may need to hire one full-time staff member per location to handle this additional data collection and reporting burden. Given that the University of California has ten campuses and five medical centers, the University may be forced to hire up to 15 additional full-time staff if the regulation is adopted as currently drafted. (UC)

Comment: Tracking Portable Engines. Reporting requirements for facilities with portable diesel fuel engines greater than 50 horsepower on site regardless equipment

ownership or permit status. This also impose exceptional burdens on facilities to collect the emission and activity data due to lack of the control over these engines not owned by the facility. (CMC1)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods”, as defined in the regulation. This approach for the estimation of emissions should reduce the burden imposed upon the facilities by allowing, for example, the facility to obtain a best estimate of the number, size and hours of operation of such engines that are used on site by contractors. Emissions estimates may then be calculated using a reasonable assumption or average regarding the emission factors associated with the devices.

A-5.19. Multiple Comments: Burdensome to Report Portables/PERP

Comment: Emissions Related to Unpermitted Processes. Per Section 93404(c)(2)(b), emissions related to the unpermitted processes need to be reported if such emissions are required by the local air district. In addition, section 93404(c)(2)(c) also calls for additional reporting requirements for facilities with portable diesel fuel engines (> 50 horsepower) in use on site regardless equipment ownership or permit status. Again, this would impose exceptional burdens on facilities to collect the emission and activity data for these engines not owned by the facility. (CMC)

Comment: Rationale for Section 93404(c)(2)(C). CARB underestimates the difficulty of facilities gathering emissions data for portable diesel engines greater than 50 hp regardless of whether the facility owns the engine. We reiterate our earlier request that CARB either reconsider modifying the PERP program to augment collection of emissions data for portable diesel engines or work with the air districts and engine owners to develop a more suitable alternate reporting mechanism. (WSPA1)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods”, as defined in the

regulation. This approach for the estimation of emissions should reduce the burden imposed upon the facilities by allowing, for example, the facility to obtain a best estimate of the number, size and hours of operation of such engines that are used on site by contractors. Emissions estimates may then be calculated using a reasonable assumption or average regarding the emission factors associated with the devices.

A-5.20. Multiple Comments: Revise Portable Language

Comment: For these reasons, the University strongly urges the California Air Resources Board to eliminate or revise proposed subsection 93404(c)(2)(C) to alleviate the unreasonable burden that it would generate for large public institutions and others in the regulated community. (UC)

Comment: Portable Diesel-Fueled Devices at GHG and Criteria Facilities. The proposed amendment limits emissions reporting from portable diesel-fueled devices at facilities that are required to otherwise report due to exceeding the GHG and criteria pollutant reporting thresholds (GHG and Criteria Facilities). We request that you add provisions to allow local air districts to require reporting of total emissions (not just VOC, PM, and NO_x) for this equipment category if already generally required under its existing reporting requirements and program. Some local air districts, such as the South Coast AQMD, require that the full suite of emissions from all equipment and processes be reported, and requiring only a subset for GHG and Criteria Facilities under the CTR would lead to inconsistent emissions data for this equipment category. (SCAQMD)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected by the CTR portable equipment reporting requirement are larger facilities (i.e., MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than smaller facilities. Including portable equipment for these larger facilities allows for evaluation of emissions occurring within the entire facility footprint. The reported portable emissions, when considered with emissions from other sources at the facility, allows for a more complete evaluation of if the facility may have impacts on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods,” as defined in the regulation.

In our 15-day modifications to the proposed amendments, the language limiting pollutants to VOC, PM, and NO_x was removed to not conflict with existing air district practices and to require more complete reporting.

A-5.21. Comment: PERP - Insufficient Data Collected for Portables

Inaccurate View of Community Risk. The CTR amendments will not make emissions and health risk from most portable engines registered in PERP or mobile sources available to the public. Omitting these sources will create an inaccurate picture of risk and emissions.

The CTR amendments seek detailed information about stationary sources that is already available to the public rather than information on sources that are not available to public.

The diesel engines that are registered in CARB's Portable Equipment Registration Program (PERP) can operate for thousands of hours per year next to sensitive receptors without the public notice required for district permitted equipment. There is no emissions record or risk assessment done on these PERP Registered engines. For mobile sources, CARB has determined that vehicles can be the greatest contributor in some communities to criteria, GHG, and toxic emissions, yet this data is not part of CTR.

The District recommends that CARB work on making emissions and risk data on these sources publicly accessible.

Rather than adopting these amendments at this time the District recommends CARB continue working to upload the existing stationary source emissions data in CEIDARS into the Pollution Mapping Tool or other database system to allow the public to access the existing data, including PERP and mobile source data, to give the public the most accurate emissions and risk information in their communities. Chemicals and sectors should be incorporated into the EICG once we have the tools to access risk from them. (FRAQMD)

Agency Response: The CTR focuses on facility-based emissions. Mobile sources (such as cars and trucks), while part of the whole emissions picture, are inventoried separately due to inherent differences in how they operate. PERP equipment is not currently inventoried at the facility-level, however the CTR amendments require facility-based emissions reporting for PERP-registered engines at facilities that report to the MRR program, or emit over 250 tons of a criteria pollutant in a district with nonattainment areas. The data reported under CTR for portable diesel equipment can be attributed to the facility only and would include PERP-registered equipment but also other portable diesel equipment used at the facility. The CARB Mapping Tool has been updated to include on-road mobile emissions, and will include the emissions reported through the CTR amendments, as additional facilities report emissions over time.

A-5.22. Comment: PERP/Mobile Sources Exemption

Using CTR and EICG to Gather Data on Non-Stationary Sources. Section (§) 93404(2)(C) of the CTR and Section VIII.G. of the EICG require extensive reporting for

portable equipment and mobile sources, respectively, that go well beyond statutory requirements to report stationary source emissions at a facility. In both cases, sources owned and operated by third parties would become the responsibility of a facility, even if the facility has little or no control over those sources.

CCEEB agrees that emissions data for mobile sources and portable equipment are lacking, and that data collection for these sources is far behind stationary source reporting. However, we disagree with the use of the CTR and EICG rules to accomplish these goals as this approach fails to collect data for the preponderance of emissions. For example, the vast majority of portable emissions would *not* be included under the CTR requirements.⁴ For this reason, we urge ARB to redirect its efforts to its Portable Equipment Registration Program (PERP), where much of the portable equipment is already tracked. This is a far more efficient and targeted approach, and one that would better characterize portable equipment emissions.

For mobile sources, the proposed EICG amendments would be limited to only some activity at a facility, and then would primarily only account for dust – not tailpipe emissions. The vast majority of mobile sources, whether on-road or off-road, would be missed. ARB is advancing new technologies and techniques for mobile source data collection, including but not limited to the use of telemetry and on-board diagnostics systems, hotspots air monitoring and geofencing pilots, and fleet reporting through the Truck and Bus rule, the Advanced Clean Trucks rule, and other mobile source rules at ARB. CCEEB believes that additional data collection opportunities will arise through the Advanced Clean Fleets rulemaking. We strongly urge ARB to refocus its data collection efforts to these more comprehensive and relevant programs rather than trying to paint an incomplete picture of mobile sources using very limited facility information. We must note that not only do we believe the data collected will be incomplete and uneven in coverage, but the administrative burden involved is also significant and could, for some facilities, be highly impractical.

⁴ For example, more than 11,000 pieces of portable equipment are currently registered in ARB's PERP program. Reporting of portables used onsite temporarily at major source facilities would only capture a small fraction of this equipment, but accurate tracking of third-party contractors would be onerous, time consuming, and hard to administer on an ongoing basis. (CCEEB)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the "best available data and methods", as defined in the regulation.

The CTR focuses on facility-based emissions. PERP equipment is not currently inventoried at the facility-level but is inventoried at a broader-level (e.g., county). There will be a difference between data reported to CARB under the PERP program and reported under the CTR proposed amendments. The data reported under CTR for portable diesel equipment can be attributed to the facility only and would include some PERP equipment but also other portable diesel equipment used at the facility. Data collected at the facility-level will provide greater utility and transparency for the public regarding emissions occurring in their communities.

A-5.23. Comment: PERP - CTR & EICG

Diesel Engine Reporting Requirement. LADWP believes that the requirement to report emissions from portable diesel engines greater than 50 horsepower at large facilities should be captured under CARB's Portable Engine Registration Program (PERP) regulation where it belongs, rather than in the EICGR. LADWP recommends that the reporting of portable diesel engines be kept out of the EICGR, and that CARB expand the PERP rules to incorporate additional reporting requirements, as necessary. This will focus the EICGR on stationary emission sources and correctly place the reporting burden for portable equipment on the equipment owner/operator rather than the facility where the portable equipment happens to be operated. (LADWP)

Agency Response: Diesel particulate exhaust emissions are an identified human carcinogen. Portable diesel engines produce emissions which harm public health, and when used at a facility, their emissions are no less harmful than if they were produced by permanent stationary equipment. Because of their high potential for health impacts, the portable equipment used on site must be treated in the same way as stationary equipment, which must be reported. Therefore, for consistency and to be health protective, staff declines to make the suggested change.

Emissions data collected through the PERP program mentioned is not typically facility specific, and is not consistently collected statewide. Therefore, the PERP data is not useful in determining the portable equipment diesel exhaust emissions associated with a particular facility.

Further, it is not practical or beneficial to require portable equipment owners to report the emissions when they are renting or leasing their equipment to facility operators. Specifically, how and what would they report if the data is not tied to a specific facility or operator? For example, would they provide an annual report of each site in which their equipment operated and the associated emissions at each site? If so, this creates difficulties in linking those emissions to the facilities in which the emissions occur, as would be necessary to provide complete-picture facility emissions. The place and timing of where portable equipment "happens to be operated" is within the purview and the approval of the facility operator, and as such, that operator is responsible for the emissions; therefore, the

emissions should be directly reported with any other reportable emissions generated at the facility site.

Lastly, to reduce the burden of reporting portable equipment, and to provide time to understand the potential reporting impacts, reporting for the equipment is only required for the largest facilities in the state, namely, those subject to GHG or Criteria facility applicability criteria (sections 93401(a)(1-2)). These are the sources expected to have the highest concentrations of consistent usage of portable equipment, such as at refineries during system workover activities.

A-5.24. Multiple Comments: Portables PERP Exemption - CTR

Comment: Excluding PERP Equipment (CARB run registration program). It is curious that PERP equipment outside of major sources; already permitted and regulated by the state and the air districts, is excluded. Some PERP equipment has substantial use and therefore emissions. We would like to understand the justification for the exclusion of PERP equipment (other than PERP equipment at major sources which air districts are currently required to inventory). (MDAQMD)

Comment: Excluding PERP Equipment (CARB run registration program). It is curious that PERP equipment outside of major sources, already permitted and regulated by the state and the air districts, is excluded. Some PERP equipment has substantial use and therefore emissions. We would like to understand the justification for the exclusion of PERP equipment (other than PERP equipment at major sources which air districts are currently required to inventory). (AVAQMD)

Comment: Exclusion of PERP Equipment (CARB Operated Registration Program). I would like to echo a concern of one of my colleagues. PERP equipment operated outside of major sources are excluded from the CTR revisions (this equipment is currently permitted and regulated by State and Air Districts; thereby making it easier to inventory). Some PERP equipment have substantial use and emissions. We are seeking justification as to why PERP equipment (save for PERP equipment operated at a major stationary source, which Air Districts currently inventory) were excluded from CTR revision. (EKAPCD)

Comment: Additionally, the proposed amended language does not explicitly exempt portable devices subject to CARB's Portable Equipment Registration Program (PERP) from reporting under the CTR. The South Coast AQMD does not require the reporting of PERP emissions in its Annual Emissions Reporting program to avoid double reporting since these emissions are already reported to CARB. Requirements for reporting under the CTR could also result in discrepancies in reported values between the two programs. (SCAQMD)

Comment: Reporting of emissions from portable engines or devices should be removed from the CTR amendments, and implemented through the Portable Equipment Registration Program [Section 93404(c)(2)(C)]. CARB is proposing to add the following paragraph to Section 93404 of the CTR regulation that would require

facility owners/operators to report data for portable engines or devices operated on their facility any time during the data year, regardless of ownership.

§ 93404. Emissions Report Contents

(c)(2)(C) Portable Diesel-Fueled Engines and Devices at GHG and Criteria Facilities. Except as provided in section 93404(c)(2)(D), emissions of PM, ROG (or VOC) and NOx from portable diesel-powered engines or devices rated at 50 maximum rated horsepower (brake horsepower (bhp)) or above and operated at a GHG and/or Criteria Facility (sections 93401(a)(1-2)), regardless of equipment ownership or permit status, if the engine or device is operated on site at any time during the data year. The data of 93404(b)(1) does not need to be provided for portable engines or devices, unless required by the local air district. The use of best available data and methods, including the use of engineering estimates, may be used to quantify emissions from portable engines, and the emissions data from multiple engines may be aggregated if approved by the local air district. Alternatively, the activity data necessary to estimate the emissions from such portable diesel-powered engines shall be reported to the district, and the district may quantify the emissions on behalf of the facility. Reporting of emissions from such engines begins with 2022 emissions reported in 2023.

LADWP recommends deleting this entire paragraph from the CTR amendments, and instead collect emission data for portable engines or devices under CARB's Portable Equipment Registration Program (PERP) regulation. This approach is strongly preferred for the following reasons: The PERP regulation applies to the owner/operator of the portable engine or equipment unit. The owner/operator of the portable engine or equipment unit is much better suited to report usage data than the owner/operator of the location where the portable engine is operated. Collecting emission data for portable engines or devices under the PERP regulation will provide a more complete picture of portable engine or equipment emissions statewide, rather than the piecemeal approach of requiring GHG and Criteria facilities to report portable engine usage that occurs on their facility. GHG and Criteria facilities may not have the information necessary (e.g. fuel usage rate and emission factors) to calculate and report PM, ROG, and NOx emissions from the portable engines.

Second, AB 617 explicitly gives CARB authority to collect or gather emissions data from stationary sources, but not mobile or portable sources, under the uniform statewide system of emission reporting. This limitation is expressly stated in the new addition to the Health and Safety Code adopted by Section 1 AB 617, as provided below:

(b) (1) The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source [emphasis added].

(2) The state board shall require a stationary source [emphasis added] to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using

the uniform statewide system of annual reporting developed pursuant to paragraph (1).

Finally, it should be noted that previous versions of the PERP regulation required annual reporting of portable engine usage, including annual hours of operation and a list of the counties in which the engine operated during the year. In 2010, the annual reporting requirement was removed for registered engines, except for registered engines with a daily and/or annual operational limitation such as low-use engines. The annual reporting requirement under the PERP regulation was an effective mechanism for gathering emissions data from portable engines statewide, and could easily be reinstated by CARB. (LADWP1)

Agency Response: CTR's proposed requirement of reporting emissions from portable diesel-powered equipment over 50 brake-horsepower (including PERP equipment, but not *exclusively* PERP equipment) will affect the largest sources in the state – and includes facilities reporting to the MRR program and those facilities emitting greater than 250 tons per year of a criteria pollutant in a nonattainment area. These larger facilities generally use more of this equipment than other facilities, and when considered with the emissions from the other sources at the facility, is expected to have an impact on the local community and nearby receptors that is relatively higher than that of smaller facilities. Smaller facilities use these equipment types as well, but generally in smaller quantities and for a limited time, thereby limiting the impact that these sources may have. The PERP program is a voluntary registration program, and does not apply to portable engines that are permitted by a local air district. Also, PERP equipment is not currently inventoried at the facility level. Therefore, the existing PERP program does not capture the facility-level emissions for all diesel-powered portable engines in a way that can be used for the evaluation of facility-specific health impacts. Emissions data on portable diesel equipment use gathered through these proposed amendments may inform any future rulemakings and amendments.

The data reported under CTR for portable diesel equipment can be attributed to the facility only and would include some PERP-registered equipment, but also other portable diesel equipment used at the facility. Affected facilities control the types of portable equipment units brought onsite, even if indirectly, by contractors or others that may own and operate the equipment. Therefore, the facilities do bear responsibility for airborne emissions, due to contracted work, that occur onsite with a facility's permission. While collecting emissions or activity data from such sources may require additional work on behalf of the facility, there are no prescribed methods in CTR that are required to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions from portable diesel equipment in a manner that uses the "best available data and methods", as defined in the regulation. This relieves the facility of the necessity to establish complex or burdensome systems for data collection from these devices, and allows a best estimate of activity data, and/or assumptions

regarding the number, size and type of engines used on site by contractors (or averages of these figures) used to quantify emissions estimates from these sources. This limits the burden on facilities and districts to quantify and report these data.

The text of AB 617 intends “stationary source” to mean at the facility-level (Section 39607.1(a)(2)). However, as described earlier, the proposed amendments have been developed to address numerous CARB programs, including those related to AB 197, AB 2588, and AB 617, under CARB authority granted through additional laws, including H&SC Section 41511.

A-5.25. Comment: Reporting Portables is Responsibility of Owner - CTR

In addition, LLNL is concerned with the proposed requirements in §93404(c)(2)(C) – which adds new regulatory language requiring GHG and Criteria Facilities to report emissions from portable diesel- powered engines or devices rated at 50 maximum rated horsepower or above, regardless of equipment ownership or permit status. LLNL is capable of tracking and reporting LLNL-owned portable diesel engines used on the LLNL campus. However, it would pose an exceptional and unreasonable burden on institutions such as LLNL to track and report emissions from contractor- owned portable diesel engines. Contractor-owned portable diesel engines are primarily used on the LLNL campus to support contractor-led construction projects. LLNL respectfully suggests that the responsibility for such data collection be placed on the owners of the engines and devices. (LLNL)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods”, as defined in the regulation.

A-5.26. Comment: Reporting Portables is Responsibility of Owner - District Discretion & Responsibility

Reporting of emissions from portable diesel engines greater than 50 horsepower. We appreciate CARB’s inclusion of new language giving air districts discretion to require reporting by any facility if it determines that routine and predictable emissions from portable engines “have the potential to pose a significant risk on their own, or in combination with other nearby sources or facilities.” (EICGR, page 83). As we discuss further in our comments on diesel engine reporting requirements, we maintain that engine owners should bear the responsibility for emissions quantification and reporting because they are the entities that control engine use and because this

approach would produce the most comprehensive and accurate representation of health risk from these sources. (WSPA)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods”, as defined in the regulation.

A-5.27. Multiple Comments: Reporting Portables is Responsibility of Owner/PERP

Comment: ISOR Section XI. Diesel Engine Reporting Requirements. The ISOR states that proposed reporting requirements for portable diesel engines greater than 50 horsepower are based on the assumption that these components are “directly under the control of the operator.” This may not be the case, particularly where contractors bring their own portable equipment into a facility to perform maintenance work. In these cases, actual operation of portable equipment may be at the discretion of the contractor and beyond the control of the facility operator. In these circumstances the contractor is the owner of the portable equipment and should be responsible for reporting emissions to the air district.

CARB has taken the position that the PERP program is not a suitable mechanism for equipment owners to report emissions from portable diesel engines. If a suitable mechanism does not currently exist, one should be developed by CARB and the air districts. (ISOR, page 57) (WSPA)

Comment: Reporting of Portable Diesel-Fueled Engines. Section 93404(b) requires the reporting of emissions from portable diesel-fueled engines above a rated 50 horsepower at GHG and/or Criteria facilities as defined in the proposed regulation, regardless of equipment ownership or permit status. The reporting of portable diesel-fired engines outside of the control of PG&E is overly burdensome and tracking the usage and location of these engines will be problematic. As such PG&E requests that CARB remove or reconsider this reporting obligation.

Additionally, PG&E would also like to note that the PERP program designates utilities as Providers of Essential Public Service (PEPS) and does not require the engines to be reported (PG&E is classified as a PEPS). Based on these record-keeping exemptions, there may not be enough records available to calculate actual emissions from PG&E-owned PERP equipment. For the reasons above PG&E recommends that portable equipment emissions not be included in the CTR for facility emissions reporting or, at the very least, ARB should include an exemption for PEPS in order to maintain consistency with the PERP program. (PG&E)

Comment: How can a facility report usage of portable equipment that is not under their direct control (i.e., construction contractors)? Portable equipment should be excluded from these regulations, with any new requirements for portable equipment being addressed by a revision to the PERP regulation. (CASA)

Agency Response: Affected facilities control the types of portable equipment units brought onsite. The facilities affected are larger facilities (MRR-reporting facilities and facilities emitting greater than 250 tons per year of a nonattainment pollutant) that generally use more of this equipment than other smaller facilities, and when considered with the emissions from the other sources at the facility may have an impact on the local community and nearby receptors. There are no prescribed methods to calculate emissions from portable diesel equipment, and affected facilities may calculate emissions of portable diesel equipment in a manner that uses the “best available data and methods”, as defined in the regulation.

A-5.28. Comment: Implementation of Amendments - Best Available Data

Define interagency process for determining “Best Available” data and methods for CTR Appendix B-1 and AB 2588 EICG Appendix A-I. Until ARB has developed and approved testing and quantification methods for A-I substances, staff proposes applying “best available” methods and data. CCEEB agrees with this approach, but notes that the process to determine what is, in fact, a “best available” method has not been defined, nor does either rule specify which agency or agencies are to make these determinations. That is, it is unclear how facilities must work with the local air districts and ARB to quantify emissions for unknown substances with no approved test methods. See CTR §§ 93402, 93404(b)(1)(C)13 and EICG Section II.H.(5).

Ideally, work being done now by CAPCOA and ARB to develop Article 2 of the CTR regulation will provide needed guidelines and requirements for sector-based emissions reporting. Added to this work will be development of substance-specific test methods and health values, as discussed in the point above. Over the interim, CCEEB recommends that ARB direct facilities to work with the respective local air district to make “best available” determinations, since in most cases, the districts will be responsible for reviewing and approving emissions reports. This also expedites development of guidelines, as the districts will be able to assist and augment ARB staff in furthering technical review of appropriate test methods.

For pooled source testing, which we address later in our comments in more detail, CCEEB recommends that ARB be the primary point of contact for groups of facilities within a sector that may be located in more than one air district. If all facilities in the group were in a single air district, then the district would be the primary point of contact and would work in coordination with ARB to review and approve test methods, protocols, and testing results. (CCEEB)

Agency Response: The concept of best available data and methods is included in the previously existing CTR and EICG and is not a new concept or requirement

added under the amendments. Therefore, no specific updates are necessary to address the comment which is outside the scope of the amendments. However, under CTR, there are additional specific references to the use of best available data, specifically in reference to toxics reporting, so we are providing an explanation regarding the expected process for use of best available data. In the second paragraph of the comment, the idea provided in the recommendation is correct, that facilities should first work with air districts in making “best available” determinations. This is most effectively addressed at the local air district level because districts have direct contact with reporting facilities, are the initial regulatory agency responsible for reviewing emissions data, and they work closely with facilities under their jurisdiction to provide appropriate guidance, requirements, and methods for estimating emissions data. Of course, CARB staff are available and willing to collaborate with districts to resolve any questions regarding best available data.

Regarding the first part of the comment, the use of the “best available” data concept is included within CTR and EICG to provide appropriate flexibility to those subject to reporting, but with ongoing regulatory agency oversight. The flexibility provided removes the need to establish, within a regulatory framework, the exhaustive and likely overbearing requirements needed to specifically address the thousands of unique situations that exist in quantifying and reporting facility emissions data. Similarly, a specific approval or review process for best available data was not included within the regulations. This is because air districts have been working with facilities that they regulate for decades, and they have the knowledge and expertise to work individually with facilities, using the processes appropriate within each of the 35 districts, to assist in making best available data determinations. Also, although not requirements of EICG or CTR, district and CARB district staff have ongoing partnerships (which also include additional stakeholders) to develop standardized emission estimation methods for key industrial sectors, to further assist businesses in identifying best available data and methods, and to enhance data consistency statewide.

A-5.29. Comment: Waste Sector - Quantification Methods & Toxicity Data

Comment: Wastewater treatment facilities will need to perform a two-step process on all identified potential sources because these facilities cannot control the amount of Appendix A-1 compounds they receive and no emission quantification methods currently exist for most of the Appendix A-1 compounds. (RegionalSan)

Agency Response: Staff agrees that the wastewater sector has unique challenges in effectively and accurately quantifying their emissions. For this reason, additional time has been provided for these sources with the creation of the 3B sector as shown in Table A-1 of CTR and E-1 of EICG. By pushing the reporting out to 2028 data reported in 2029, staff is providing the time necessary (nearly 6 years) for the development of a pooled source test program and updated emission factors for the sector. Also, under CTR more time has been provided for

reporting PFAS substances, extending the time until 2028 data reported in 2029 (see Table B-1 of CTR). See the responses to *Section A-9.5., “Multiple Comments: Waste Sector - Phase-In by Sector”* and *Section A-9.6., “Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing”* for additional information relevant to this comment.

A-6. Section 93406 – Confidentiality

A-6.1. [Comment: Confidential Business Information](#)

§ 93406: Confidentiality. Although State code and the “public right to know” principle applies to facility-level emissions data, data at the device and process level could need to be protected as confidential business information, especially when activity data is also made available. CCEEB requests a more detailed discussion of how confidential information will be protected. (CCEEB)

Agency Response: Device and process level emissions and activity data are necessary for transparency, for analysis by CARB to evaluate statewide impacts and mitigation, and for performing quality assurance and accuracy checks of reported data. Facility operators have the option to request that device and process level data be considered confidential information under the provisions of 93406(b). Additionally, while facility-level emissions data are considered public records pursuant to California Government Code Section 6254.7(e), activity or throughput data are considered confidential business information and CARB does not routinely make facility level activity or throughput data available to the public.

A-7. Section 93410 – Implementation by CARB and by the Local Air Districts

A-7.1. [Comment: Allow Public Input on Implementation](#)

Section 93410(b). Implementation / Agreements. This proposed new section allowing CARB and an air district to enter into an agreement should specify that public participation will be solicited on any matters related to implementation, enforcement and data sharing. (WSPA1)

Agency Response: Staff agrees that any potential agreements developed under the provisions of the section should include public participation, and commits to that process. However, we were unable to include specific language to that effect, because it would require identifying the specifics of the process to be followed, including approval criteria. Instead, as public agencies, we welcome community, industry, and other engagement, and look forward to input, should such agreements be developed. Also, should agreements be formalized, for transparency, it is our intent to publicly post the agreements on the CARB website. Agreements of this nature, such as Memoranda of Understanding do

not create new, nor negate existing, authorities or enforcement criteria that are already established by State law or regulation.

A-7.2. [Comment: Verification and Review by Districts](#)

Enforcement of CTR Regulation: The regulation does not require verification of emission data accuracy. While the facility must sign an attestation, there is no requirement for data verification by districts, something that could be accomplished, for example, during compliance inspections. The District suggests this step be considered as a best practice. District's will naturally verify data through the inspection process, however, as previously mentioned, the reporting deadlines in the regulation render this impossible. (SMAQMD)

Agency Response: Air districts are responsible for establishing and implementing permitting processes for the air emission-producing sources under their jurisdiction. They also have local, state, and federal responsibilities for collecting emissions data from these sources and making the data available to the public. Therefore, the air districts have a critical role in collecting and managing required emissions data, however CTR does not require air districts to verify data reported by the facility.

For those air districts who are unable to meet their obligations for collecting emissions data, CARB, under 93405(c) of CTR, may perform emission report audits by requesting facility data, and performing in-person on-site or remotely implemented audit activities. With this mechanism in place, it was unnecessary to require a costly one-size-fits-all verification process for those districts or facilities needing additional assistance or evaluation. Districts may, under their own authority, collect and verify activity and emissions data during inspections or other activities; if errors or omissions are found during such activities, any data that was inaccurately reported to CARB previously can be corrected by contacting CARB staff.

A-7.3. [Comment: Response Time too Short - Public Request Applicability Determination](#)

Section 93410(f). Implementation / Request for Determination of Applicability. This proposed new section allows any member of the public to request clarification of a facility's permit status and CTR applicability. CARB's determination of applicability within 60 business days is an unreasonably short period of time, and will further burden air districts and facilities, particularly in the months leading up to a reporting deadline. It also creates a potential conflict with the 60- day timeframe for facility response proposed in section 93401(d) for determinations of nonapplicability. (WSPA1)

Agency Response: Sixty days does provide a tight timeframe for providing a response to a request under the provisions. However, in many cases community members have been waiting years to know what is being emitted by facilities in

their neighborhoods. Sometimes, depending on the complexity of the facility, it may be difficult to make a determination within 60 days, but that's what CARB staff is committing to. Also, it is worth noting that these types of requests are not anticipated to be submitted regarding large facilities such as refineries, food processing plants, large metal plating, or large auto body and paint shops. Those types of facilities will all be fully incorporated in the air district permitting process, and there will be little or no ambiguity regarding their applicability to CTR. Instead, this provision will typically be used for small operations, that may be unknown to the local district, or for operations that are permitted by the district, but for which there are questions as to why they are not subject to reporting under CTR.

A-7.4. [Comment: Requests for Determinations of Applicability](#)

Section 93410 (f) Request for Determination of Applicability. Rule applicability determinations should be addressed by CARB as requested by a facility or air district. Citizens do not need to be given the authority to request an applicability determination in the CTR language. The public has the right to request records such as a permit application completeness letter or engineering evaluation which could include permit status information. However, an air district is not required to create a record that does not exist to satisfy a citizen request (Gov. Code, § 6252). Our recommendation is to remove this language from the regulation and allow the public records regulations to cover citizen requests. (MBARD)

Agency Response: Staff declines to make the change to remove the provisions of 93410(f), allowing citizens the option to request CARB to help determine if a facility within their community may be subject to reporting under CTR. The provision does not require an air district to "create a record that does not exist to satisfy a citizen request," but instead requires that CARB coordinate with districts to make a determination. Some of the justification for adding the provision is to address community member concerns that air districts are potentially not permitting or evaluating certain sources of interest that may be under their jurisdiction. The provision also provides a mechanism provide answers to citizens regarding why a facility that is already under district jurisdiction may not be subject to CTR reporting. The provision adds an additional mechanism for opportunities to identify sources of potentially harmful airborne emissions, which also provides benefits to air districts as they help to serve those they are entrusted to protect.

A-8. *Section 93421 – Abbreviated Reporting*

A-8.1. [Multiple Comments: Support for Abbreviated Reporting](#)

Comment: We are appreciative that the Air Resources Control Board has provided abbreviated reporting for construction aggregate facilities as well as adopted an

implementation schedule that should somewhat reduce the burden of this regulation. (CalCIMA/CalAPA)

Comment: Again, we are thankful that the Board is proposing some reductions to your initial draft and allowing some construction aggregate facilities abbreviated reporting. (CalCIMA/CalAPA)

Agency Response: CARB staff expresses thanks for the encouraging comments regarding abbreviated reporting. Staff looks forward to working with the California construction aggregate industry in moving forward with the reporting program.

A-8.2. Multiple Comments: Abbreviated Reporting Petition Process

Comment: Petition for additional qualifying activities for abbreviated reporting. Section 93421 of the proposed regulation includes a provision for petitioning additional qualifying activities for abbreviated reporting. PG&E requests that the petitioning process allows for an opportunity to provide feedback from the petitioners, thereby allowing for transparency and uniform reporting across the state. (PG&E)

Comment: PG&E also requests that CARB explicitly outline the approval process for petitions to report additional qualifying activities for abbreviated reporting. PG&E recommends criteria that will be used to justify the approval of such a petition be clearly stated in the regulation. The Proposed Amendments do not currently state how petitions will be evaluated which makes it difficult for entities to prepare petitions or even understand what may be eligible (PG&E)

Comment: Abbreviated Reporting: District's should be granted discretion to add additional facility types without the need for approval by CARB under section § 93421(b). We suggest additional applicability facilities be allowed to provide abbreviated reporting when deemed appropriate by districts, especially when districts calculate emissions on behalf of the facility. (SMAQMD)

Comment: If CARB maintains that Districts should not be able to independently approve additional abbreviated reporting activities, we strongly urge CARB to reduce the onerous nature of the petition process listed in §93421(b) and, as an alternative, consider language that allows CARB to maintain an accessible list of all approved additional qualifying activities and avoid Districts submitting duplicative petitions. (SMAQMD)

Agency Response: Staff must retain a CARB-based approval process for the inclusion of additional abbreviated reporting activities as specified in 93421(b). This is necessary because of the importance of moving more strongly towards uniform reporting data and specifications throughout the state. It is not beneficial to the public, CARB, or even the districts to establish an inconsistent patchwork of abbreviated reporting requirements and sources. Any abbreviated report data

should have a similar data basis to allow comparability, consistency, and transparency statewide, which would not occur if each district could set their own requirements using criteria of their choosing. Therefore, no change is made to the requirements.

However, although it is unnecessary to incorporate a requirement into the regulation, staff agrees with the idea proposed by SCAQMD by which CARB maintains a list of previous approved additional qualifying activities (and reporting requirements), which could be used to significantly streamline the submittal and approval process.

It is expected that the petition process will include input and feedback from petitioners as suggested, to add to uniformity and to refine any reporting requirements. The primary difference between abbreviated reporting and "full" reporting is that for abbreviated reporting, the only data that a facility is required to provide is the necessary throughput or activity data to quantify emissions for the data year. No stack or release point parameter physical data (height above ground, stack diameter, etc.) is required for abbreviated reporting unless requested by the district or by CARB. In most cases, CARB would still be able to acquire the general location, source type (engine, etc.), process type (fuel combustion, etc.), SIC code for the facility, and other information, from the district-issued permit. Staff disagrees with the characterization that the approval process is not clearly stated in the regulation. Section 93421(b) explicitly specifies data to be provided for a petition, i.e., "Such requests must include the name of the process or activity to be requested as a qualifying activity for abbreviated reporting, the requested activity data parameters to be used for quantifying emissions, the method and emission factors, as applicable, to be used to quantify emissions, the requested alternative activity data collection schedule, as applicable, and a justification for the request." Further, "In making a determination for approval or disapproval of the request, CARB will evaluate the proposed activity, quantification method, and activity data collection schedule, as applicable, to determine whether the proposed data acquisition process meets the general requirements of this article." In this case, "general requirements of this article" is referring to complete, consistent, and accurate emissions data, in keeping with the existing reporting requirements of CTR. If there are no additional concerns regarding the complexity of the facility or potential impacts to public health, and the methodology for collection emissions data is sound, CARB does not anticipate any problems approving requests for additional qualifying activities for abbreviated reporting.

A-8.3. Comment: Abbreviated Reporting Frequency

(b): Petition Process for Requesting Additional Qualifying Activities for Abbreviated Reporting, and for Requesting Alternative Schedules or Alternative Parameters for Acquiring Activity Data for Qualifying Activities.

Comment: We appreciate that ARB has added a provision for requesting alternative schedules and additional activities to be included for abbreviated reporting. We agree with the 90-day ARB review timeline, after which, if no response is provided, the facility owner/operator, or district, may apply the requested alternatives.

We recommend that the scope of this petition be broadened, as proposed below, to include short-term and long-term exemptions based on factors such as the amount and nature of emissions and proximity to receptors; less frequent reporting schedules; and other program flexibilities.

Petition Process for Requesting Less Frequent Reporting for Qualified Facilities. A facility owner or operator, or a district, on behalf of facility owners or operators, may submit a request to CARB that less frequent reporting be approved for remote facilities, facilities with stable emissions that certify to less than 10% change in annual operations or emissions, or facilities that fit other criteria that would qualify them for less frequent reporting. Such requests must include the justification for the request. Requests shall be submitted to the email address in section 93403(f) and, if applicable, the emissions inventory staff of the local air district. If CARB approves the request in writing or via email, or if CARB does not respond to the request within 90 days, the facility owner or operator, or district, as applicable, may consider the request approved. (IEA)

Agency Response: The requested change to the regulation was not incorporated because annual data is a primary component of CTR, even for abbreviated reporting sources, which are numerous and spread throughout the state. In addition, the process outlined by the commenter for abbreviated reporters would be, in most cases, as much or more effort as meeting the reporting requirements. Under CTR the abbreviated reporting requirements are minimal, requiring the update of only one data point each year (such as fuel use), if there are no changes in the overall facility operations. The process suggested by the commenter would require not only computing the emissions for the year and evaluating the proximity to new receptors (with likely modeling to determine exposure levels), but also submitting a justification to CARB or the district for review, analysis with a approval or rejection determination, and an agency response with a rationale for the determination. This adds an unjustifiable administrative burden on facilities, CARB, and districts, versus just having the sources submit their one data element each year. See also *Section A-4.13., "Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - Bi-Annual Reporting"* for additional information.

A-8.4. Comment: Consider Changes to Abbreviated Reporting

In addition, we believe it is essential for CARB staff to have some flexibility as this process moves forward. We recommend that this section be left open-ended, so staff has the flexibility and opportunity to introduce additional mechanisms and processes for abbreviated reporting that reflect the realities of CARB staffing. This section may

require changes including a specific review action such as: After the end of the first (second) reporting period, CARB staff shall meet with stakeholders to conduct a review of the processes and options for requesting abbreviated reporting and consider changes to the program. (IEA)

Agency Response: For the Group A districts, which are typically more industrialized with higher population densities, the 4 tpy threshold was retained. The 4 tpy reporting threshold aligns with the South Coast Air Quality Management District's (SCAQMD) criteria pollutant permit threshold for stationary sources. In terms of facilities within the state, the SCAQMD has the most permitted sources (substantially more than other districts), which is part of the rationale for choosing 4 tpy. Many other districts have a 5 tpy permitting threshold, therefore establishing a 4 tpy threshold would not be a substantial difference or workload variation for such districts, when compared to a higher threshold.

A-8.5. [Comment: Expand Abbreviated Reporting to All 93404\(a\)\(4\)\(A\) Sources](#)

MBARD recommends allowing all sources meeting the additional applicability requirements in §93401(a)(4)(A) to submit abbreviated reports. (MBARD)

Agency Response: Staff is unable to incorporate the commenters suggestion to provide simplified, abbreviated reporting to any sources subject to reporting due to exceeding the respective 4 ton per year (tpy) or 10 tpy applicability thresholds. This is because facilities meeting these criteria will be very diverse, with some being simple and straightforward with few emission sources, and others more complex. The abbreviated reporting provisions are specifically provided for sources which are generally uniform, and for which emissions can be accurately estimated using minimal data inputs. Some examples include retail sale of gasoline and diesel-powered emergency generators, which typically only require, annual gallons of gasoline dispensed or total annual hours of operation, respectively, to estimate emissions from the individual sources. It is not possible to provide a universal simplified abbreviated reporting approach for the variety of sources subject to the 4 or 10 tpy emission thresholds.

A-8.6. [Comment: Expand Abbreviated Reporting to Include Autobody Shops and Dry Cleaners](#)

IEA recommends that Abbreviated Reporting should apply to auto body shops and dry cleaners in addition to the ones already listed to be consistent with AB 2588 industry-wide survey sites that include gas stations. (IEA)

Agency Response: During the regulation development process staff considered the inclusion of auto body shops and dry cleaners for inclusion in the abbreviated reporting provisions of CTR. For auto body shops, we determined that their operations are too complex and variable to be estimated using simplified metrics such as "gallons of coating per year" or something similar. This is because each

coating and each product used by an auto body shop has unique formulations, with unique emission profiles. In addition, body shops may have differing levels of control technologies, which also need to be accounted for in performing emission estimates, which cannot be easily implemented under an abbreviated reporting approach. For dry cleaners, they have been subject to scrutiny, emissions controls, and reporting requirements for decades. As such, there was not a need to provide an a special "abbreviated" reporting mechanism under CTR. In addition, as with auto body shops, the solvents used, control technologies, and other factors vary across dry cleaner facilities, making it impractical to provide an effective simplified abbreviated reporting option.

A-8.7. [Comment: Expand Abbreviated Reporting to Include Emergency Water Pumps](#)

In addition, LADWP recommends that abbreviated reporting should apply to all direct-drive emergency water pump engines (e.g. fire suppression, potable water distribution, wastewater collection, flood control, etc.). Below is the suggested rule language.

§ 93421. Abbreviated Reporting: Diesel-powered emergency standby generators and direct-drive emergency water pump engines including standby fire pumps engines, potable water, wastewater, and flood control pumps.

Total annual hours of operation. (LADWP1)

Agency Response: Staff agrees that under certain circumstances, diesel power water pumps used in an emergency capacity as described by the commenter are likely good candidates for abbreviated reporting. It is exactly for cases such as this that staff included the provisions of CTR section 93421(b), which provides a petition process for including additional activities under the abbreviated reporting provisions. This mechanism allows facility owners (or air districts on behalf of owners) to submit a request to CARB which would allow use of an abbreviated reporting mechanism for additional processes or activities not already specified under CTR 93421(a). The information required for submitting the request and the criteria that are evaluated to approve the request are described in 93421(b). With this flexibility under CTR, it is not necessary to modify the regulation to address the request in the comment.

A-8.8. [Comment: CARB Workload Burden Abbreviated Reporting](#)

§ 93421. Abbreviated Reporting. General Comments. According to District staff, 40% of facilities could apply for abbreviated reporting, which could be as many as 27,000 facilities. How will the CARB accommodate the additional workload associated with reviewing these requests in a timely manner? One suggestion would be to add language to this section that provides an opportunity for facilities that have minimal or no changes in their emission reports over the previous year, to submit a form that simply documents there have been no significant changes since previous year or over

a 3-year period (to allow for some operational/emissions variations). Examples of criteria for consideration would include remote facilities and distance from receptors, facilities with stable operations with less than 10% change in operations or with an emission change of less than certain amount per year (e.g., < 2 tons/year change a single pollutant). (IEA)

Agency Response: Under the abbreviated reporting provisions, facilities identified in 93421(a) are not required to "apply" for abbreviated reporting. They may use the abbreviated reporting provisions if they are in one of the listed sectors (e.g., combustion of natural gas, retail sale of gasoline) without any pre-application or approval. Regarding the second part of the comment, staff declines to make changes to allow variable reporting frequencies because of the burdens it would create. See responses to *Section A-4.13., "Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - Bi-Annual Reporting"* and *Section A-5.2., "Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - When Changes, Bi-Annual Reporting"* for additional information.

A-9. Appendix A – Applicability Thresholds and Lookup Tables for Facilities Subject to Reporting Per Section 93401(a)(4)

A-9.1. [Multiple Comments: General Support - Phase In](#)

Comment: The extended timeframes for air districts to prepare may be helpful. (CalCIMA/CalAPA)

Comment: We do appreciate that CARB is allowing more time to work through all of these implementation challenges (CCEEB1)

Agency Response: Staff appreciates the support. Substantial time was spent working with stakeholders to find the correct balance of collecting data as soon as reasonably possible, but also providing sufficient time for successful implementation of the full program requirements.

A-9.2. [Multiple Comments: Extend Phase-In Schedule](#)

Comment: The Monterey Bay Air Resources District (MBARD) appreciates the opportunity to be involved in the revisions to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) and the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Regulation (EICG). We also appreciate the time CARB has spent engaging in receiving feedback from the air districts. However, MBARD believes a slower approach to implementing these rule revisions will allow for establishing the appropriate level of review and the ability for CARB to create a uniform statewide system for reporting as directed in AB 617. We are in support of CTR and EICG; however, we are concerned that the proposed path

forward undermines the success of these proposed revisions for the regulated community, air districts, CARB, and the public. (MBARD)

Comment: A slower implementation approach would lead to more successful compliance with the reporting requirements. MBARD suggests allowing medium and rural air district more time to implement the regulation. As mentioned above, the staff time necessary for medium and rural air districts to help sources meet the reporting requirements is not feasible. (MBARD)

Comment: LLNL notes extensive proposed amendments to the CTR Regulation. It will take some time for the regulated community and local air districts to comprehend the amended requirements and make changes to their operations to comply with the regulatory amendments. LLNL respectfully requests the CARB Board and CARB staff to consider amending §93403(a)(1)(A) to extend the “*Annual Emissions Reporting Using Existing District Program and Methods Phase-In Period*” by one calendar year. This would allow GHG and Criteria Facilities subject to reporting per §93401(a)(1) and (2), to report 2020 data in 2021 using existing local air district programs and methods. The regulated community is already late into collecting calendar year 2020 data. With all these changes to the CTR Regulation happening late in the year, it would be an extraordinary burden for GHG and Criteria Facilities – as well as the local air districts – to switch to a different reporting structure than the existing established local air district emissions reporting programs and methods for 2020 data reported in 2021. Without the additional phase-in period that LLNL is requesting, the potential for reporting errors by both the regulated community and the local air districts will likely be significant. (LLNL)

Comment: Data Elements in Section 93404. Per the requirement in Section 93403(a)(2), annual emissions reporting must be submitted following the requirements in section 93404. The data elements required in section 93404 are extensive, while there has been little information provided to facilities regarding detailed reporting format. This put a significant amount of uncertainty and compliance burden on facilities and leaves insufficient time for facilities to implement all the reporting requirements especially for those facilities subject to CTR reporting for the 2020 data year. Extension of the phase-in provisions of section 93403(a)(2) should be considered. (CMC)

Comment: The proposed implementation timeline be extended (EDC AQMD)

Comment: Regulation Implementation Timing: The District appreciates CARB’s revision to the regulation that delays implementation of the fourth criterion Sector Phase 1 data year by one additional year. However, due to the COVID-19 health crisis and the economic ramifications to all business and local and state government sectors, we request that the implementation start date of the fourth criterion be further extended by at least one additional year, i.e., submittal of 2023 data in 2024. This will allow affected sources, local air districts and CARB to gauge economic impacts and better prepare for data collection and submission. (SMAQMD)

Comment: Part II - List of Remaining Concerns. Rule Concerns that Affect All Industry Types (Not Just the Cement Industry). Issue #1 - No AB 2588 reporting changes should go into effect before the 2022 report, based on emission year (EY) 2021 data (whether involving new or existing chemicals). (CCMEC1)

Comment: Additional time for initial reporting. PG&E's system includes thousands of miles of pipelines in addition to compressor stations, boosting stations, storage facilities, and other supporting infrastructure. Given the extent of additional reporting requirements that need to be assessed for the new Appendix A chemicals across its facilities, PG&E believes that initial reporting obligations, currently due as early as May 1, 2023, does not provide sufficient time to collect data in an accurate manner. As such, PG&E recommends that additional time, beyond the May 1, 2023 date, be considered for initial reporting. (PG&E1)

Comment: Phased Implementation. LADWP supports the phased implementation approach for the new reportable substances. However, there are still concerns with the schedule. Nearly 200 substances will be added during Phase 1, which starts in January 2023. This does not allow sufficient time to develop health reference values (HRVs), source testing procedures, and valid emission factors. LADWP recommends that CARB revise the implementation schedule to allow sufficient time for the scientific development of accurate HRVs and emission factors. Recognizing the potential complexity of revising or reversing HRVs or emission factors once established, LADWP further suggests that CARB complete all necessary scientific reviews and procedures up front in order to ensure the accuracy of all default values. (LADWP)

Agency Response: In response to the comments, as part of the proposed 15-day changes, additional time was added to phase-in implementation of the requirements for those sources in rural and medium sized air districts, as identified in District Group B of Table A-2 of CTR and Table E-2 of EICG. Specifically, for sources subject to reporting due to applicability under Table A-3 of CTR or E-3 of EICG, reporting is not required until mid-2025, based on 2024 data. This provides air districts and facility operators over three years to prepare for report submissions and processing. This should be more than adequate, particularly with the benefits of the experience gained by facility operators, CARB, and districts, from emission data reporting by sources in District Group A, which are subject to initial reporting in 2023 based on 2022 data.

Furthermore, in addition to the delays in initial reporting, individual industry processes are also brought in over time, as shown in Table A-1 of CTR and E-1 of EICG, with sectors being phased in from 2024 to 2028 for District Group B, and 2022 to 2028 for District Group A, with reporting by the final groups not required until 2029. This will provide more than enough time for everyone to understand, implement, and comply with the updates to CTR and EICG, while also providing plenty of time for CARB and districts to provide outreach to affected industries to they will be fully understanding of the updated requirements.

A-9.3. [Comment: Following Phased Implementation Approach](#)

And we will definitely follow the phased and tiered implementation approach that's being proposed by staff. (ACP1)

Agency Response: As in the prior response, staff appreciates the support, and that the commenter intends to meet the requirements of the regulation.

A-9.4. [Multiple Comments: Timelines Are Long for Phase-In](#)

Comment: This process has had ample outreach and there's been lengthy deliberation. We now have compliance timelines proposed that are, in my opinion, quite lengthy. We're looking at a phase in so that we don't have full-blown implementation until 2026. So I would say we need to get started right away and we urge the Board to approve this today. (CCA)

Comment: The question of the stationary sources of air toxics and also the -- even the mobile sources to a great -- to a great degree is a question of accumulation in communities of color and lower income. And so, in some sense, these emissions are distributed into these communities disproportionately and are inherently a question of environmental justice. And so to address these sources is to address an injustice and I -- I think it's important to bring to this some sense of urgency because of that. I understand what Chair Nichols said about we have to balance interests, and of course you do. I mean, there has to be a phase-in for these steps. You know, the idea of starting with a bigger district and so on. That all makes sense. I feel like it's stretching out very far in time, though now. And, you know, you're balancing that greater ease, or convenience, or processing time against longer exposure to really the most toxic air pollutants in the communities who can least absorb that burden. And that -- it's hard to balance those things, but I think that has to be part of how we think about this. (AK2)

Agency Response: Staff agrees that the phase-in schedule may seem lengthy, starting with 2022 data and not having full implementation until 2028 data reported in 2029. There are real-world limitations that must be considered when implementing the far reaching changes in the scope of affected facilities under CTR, and the large number of additional reportable toxics under EICG, which directly affects CTR reporting. Therefore, it was necessary, for the success of CARB, districts, and industry to ease into the requirements, rather than trying to process a large number of new sources and substances simultaneously. This helps to ensure more complete, more accurate, and more accessible and helpful data, although it will take more time to acquire it. See also *Section A-9.2., "Multiple Comments: Extend Phase-In Schedule"* the staff response for commenters requesting additional time for the phase-in.

A-9.5. [Multiple Comments: Waste Sector - Phase-In by Sector](#)

Comment: As a provider of essential public services, EMWD is also a member of the California Association of Sanitation Agencies (CASA). EMWD appreciates CARB's continued engagement with CASA, and consideration of the wastewater sector's perspective on the proposed amendments to the CTR and EICG. EMWD strongly recommends a phase-in approach, with a sector by sector implementation. A phased implementation will allow the time needed to ensure the regulations work for air districts, facilities, and the public.

We support the concerns, interpretation, and recommendations expressed in the attached CASA comment letter. These recommendations include, but are not limited to, the following: EMWD recommends a sector-by-sector phase-in approach, where a sector currently able to estimate emissions using Safety Data Sheets would commence reporting, followed by other sectors. This will establish a listing of compounds potentially present in the waste stream.

EMWD requests that CARB work with CAPCOA on comprehensive implementation guidance before adoption of the final CTR and EICG regulations.

EMWD requests that CARB clarifies the interpretations discussed in the attached CASA letter as part of the 15-day change process by adding language into the EICG and CTR.

We appreciate the opportunity to comment on the proposed amendments to the EICG and CTR, and further appreciate your willingness to consider the recommendations above and detailed in the attached letter transmitted by CASA on November 16, 2020. (EMWD)

Comment: Phased Regulation. IEUA proposes that CARB institute a phased approach for CTR compliance, focusing initially on sectors and facilities that can control the raw materials used in their processes. One approach may be to select a manufacturing sector with known inputs that can be quantified through Safety Data Sheets (SDS) and test them first to better understand the relation to the emissions. With this gained knowledge, it would make sense to subsequently phase in other sectors – moving from those sectors with the greatest control over raw materials in their processes to those, like the waste sector with little to no control over source materials. This is a prudent approach promoting improved scientific discovery helping to define effective methods for pre-treatment programs that can be enhanced to limit contaminants in the wastewater and composting sectors. (IEUA)

Comment: CASA recommends a sector-by-sector phase-in approach, where a sector currently able to estimate emissions would commence reporting, followed by other sectors, which would establish a listing of compounds potentially present in the waste stream. For example, some sources can use Safety Data Sheets to estimate emissions of Appendix A-1 compounds that currently do not have approved sampling or laboratory methods. Such facilities should report use of these compounds before the

wastewater sector (and waste sector at large), because we cannot reliably estimate emissions of these emerging compounds at this time. In turn, this sector-by-sector process would provide the time needed by air districts to develop methods and programs to accommodate such a radical expansion of the reporting program. Once such an 'emerging chemical' list can be compiled, the wastewater sector and regulators would be in a position to identify potentially toxic compounds for source control or establishing pretreatment programs. Such a list could then be used to help focus the pooled statewide sector-specific two-step testing efforts, as we have proposed for the wastewater sector. This overall approach should be carefully prioritized and phased by sector, beginning with applicable manufacturers and ending with receivers including the wastewater sector. (CASA)

Comment: Our concerns with items 20-12-2 and 12-3 are related to the fact that wastewater agencies must assume that any of the substances listed in Appendix A1 could be found in wastewater effluent -- influent and thereby present in emissions. Therefore, wastewater agencies, including biosolids composting agencies, would need to take on the arduous effort of testing or forever 10,000 compounds on the list by 2023 in order to achieve compliance. Unlike manufacturing facilities, which can estimate emissions using safety data sheets, as recommended by CARB staff, wastewater agencies are challenged to identify the specific constituent makeup of sewage influent. Unfortunately, sewage does not come with safety data sheets. We understand that CARB staff recently offered verbally to allow more time to perform extensive statewide characterizations of emissions from each waste sector across California. While we appreciate having an achievable compliance path forward, we remain concerned that such a study could immediately be outdated by the development of test methods for any of the thousands of compounds referenced in the proposed list of toxic compounds. In other words, the proposed amended regulation would require the use of unproved sampling, test methods and toxicity information that could yield highly erroneous emission estimates. Reporting of improperly quantified compounds could have a significant negative consequence for our agency. For example, a higher facility prioritization score under AB 2588 could potentially lead to wrongful public notification and the imposition of misinformed and therefore -- thereby unnecessary risk reduction plans for an agency like ours. We do recommend a better approach is needed. We appreciate the intent of staff's phased approach outlined in the proposed amended regulation. However, such an approach provides no relief to the municipal waste sector. Since we do not know what compounds are in streams entering our facilities, requiring subsets of compounds to be reported actually increases the amount of testing required for our sector. And therefore, we request the 15-day change process include our recommended sector-by-sector approach, where industry would estimate emissions using safety data sheets as a first step in the process. We do have a couple of other requests. And I want to reference a letter submitted to CARB on November 16th, 2020 documenting our comments. (IEUA1)

Comment: We greatly appreciate staff's confirmation that the expanded list of compounds would not need to be reported by our sector until the completion of a

comprehensive statewide pooled emission testing program for the wastewater sector. However, such an approach may be premature, given the vast majority of these compounds do not have approved sampling or laboratory test methods. Instead, we believe our recommended sector-by-sector approach would be a more efficient strategy and good public policy. Such a strategy could begin with the major source manufacturing sector by relying on safety data sheets, as recommended by CARB staff, to estimate use of compounds that cannot be quantified by laboratory testing. The wastewater sector would benefit by knowing what compounds could be in received sewage. Please note that wastewater treatment plants are required to implement pre-treatment programs to limit toxics received by our facilities. Our proposed phased approach could target new toxic compounds while establishing a list of toxics in sewage. This approach would be more manageable for air districts in assessing potential emissions one sector at a time, rather than being overwhelmed by all sectors reporting estimates of emissions for compounds that cannot currently be quantified. In conclusion, I wanted to emphasize that the waste sector is different than all other sectors and should be treated differently. We provide further recommendations, including our phased approach, in the comment letter submitted by CASA. (SCAP1)

Comment: Accordingly, we urge to delay applicability of these amended regulations until all other sectors can meaningfully report emissions of this expansive list of emerging chemicals. (CACP)

Agency Response: These comments request a “sector-by-sector” approach, which has several aspects. First, staff agrees with the need for a phase-in of sectors subject to reporting, rather than having all sectors become subject to reporting simultaneously. Staff has incorporated a sector-based phasing approach, with start dates that fall between 2022 and 2028, and that phases in facilities (and also chemical lists) first in the larger districts (including districts with AB617 communities in them), and then providing later start dates for the smaller and medium districts. This helps ensure a manageable implementation process for districts, facilities, and CARB. (See Tables A-1 and A-2 of CTR; and see Table E-1, Table E-2, and Table 2 in Section II.H. of EICG).

In a further accommodation to comments received, CARB’s proposals establish an additional Sector Phase (Phase 3B) which provides more time for sources in the waste sector. This specific change was incorporated during the 15-day modifications to allow additional time for these waste-handling sources to develop methods to quantify their emissions, because they function as recipients of toxics from outside sources, and have greater uncertainty regarding their potential emissions, making effective quantification more difficult.

The comments asked to ensure time to provide implementation guidance, which CARB and the districts are committed to providing.

Based on follow-up discussions, CARB staff is aware that the “sector-by-sector” comments were also seeking to further delay reporting for waste-sector facilities and limit (screen out) chemical reporting based on which chemicals were reported from industrial/commercial sectors that are “upstream” of the waste-processing facilities. Staff does not agree with this aspect of the comment. That approach for targeting chemicals would not be comprehensive, and would not adequately characterize the potential toxic impacts from waste-sector facilities, and would not be protective of public health. The particular industrial/commercial sectors that are explicitly included in the EICG and CTR reporting programs are not the complete universe of “upstream” sources of toxic chemicals that ultimately enter wastewater and landfill facilities. In fact, everyday residential consumer use and disposal of myriad products is a significant contribution to toxic chemicals that ultimately enter wastewater and solid waste facilities, and could be emitted from waste processing. Households and consumer wastes are not “sectors” subject to EICG or CTR reporting, so their chemicals would be missed in a “sector-by-sector” approach to identifying chemicals. Therefore, staff does not support that approach to screen for chemicals expected from waste-processing facilities.

Instead, the EICG amendments include provisions for a “two-step” quantification process, which has been developed with extensive consultation with the waste-sector, and which waste-sector facilities can use (either individually or by pooling resources to do joint testing), as a much more appropriate approach. This “two-step” approach allows for two sequential proposals, which first screen for the priority chemicals at the facilities (using less costly qualitative/semi-quantitative screening methods), and then follow with targeted testing (and/or estimation) methods to quantify these emissions. The “two-step” process provides a great deal of flexibility for waste-sector facilities to propose and adapt sampling, testing, or estimation methods for emission quantification, in consultation with CARB and the air districts.

The EICG and CTR amendments also allow simplified alternatives in the event there is truly no available testing or estimation method that can be used (or adapted) to quantify a chemical’s airborne emission amounts. In those cases, facilities can simply report amounts of usage, production, or other presence of the chemical, utilizing data that is more readily known and tracked by the facility (such as through its purchase records for that chemical).

[A-9.6. Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing](#)

Comment: Concerns. As written in the amended CTR, the public waste sector would need to test and report for the comprehensive list of compounds by 2023 in wastewater influent and source emissions, which is not scientifically possible to accomplish, as is discussed above. Undertaking a pooled emission study and subsequent reporting methodology for the public waste sector would be the logical

approach for achieving meaningful compliance results. However, the amended regulation does not provide any regulatory certainty to allow appropriate time for a pooled emission study to take place by the required reporting year under this new regulation. This is concerning as, once again, a vast majority of compounds to be reported for do not have established sampling or testing methods.

The lack of approved methods could lead to overestimated analyses for certain compounds or could require the use of blanket default emission factors that are overly conservative for these toxic compounds, which may or may not be present in our sector's operations. Reporting of improperly quantified compounds could result in unintended consequences such as a higher facility prioritization score under AB 2588, potentially leading to wrongful public notification(s) and the imposition of misinformed and thereby unnecessary risk reduction plans on public agencies that could, at best, impose unnecessary costs on drinking water and sanitation services, or, at worst, prohibit basic sanitation, water recycling and biosolids composting services altogether. (IEUA)

Comment: For Waste Sector, Complete Pooled Emission Study. IEUA urges CARB to amend the EICG and CTR to include a sensible regulatory compliance pathway for the unique conditions of the public waste sector, providing sufficient time to first complete a pooled emissions study. This study would identify a narrowed list of reportable compounds for which public waste agencies like IEUA could realistically detect, measure and report for compliance purposes. (IEUA)

Comment: Wastewater Sector's Interpretation of How the Proposed Amended CTR and EICG Regulations Allow Status Quo Reporting during the Two-Step Process. CASA appreciates CARB's engagement and willingness to consider the wastewater sector's perspective on and interpretation of the proposed amendments to the CTR and EICG regulations. CASA has met extensively with CARB staff, but still has implementation concerns in the following areas:

Having enough time to complete a statewide pooled emissions study (coordinating amongst CASA members statewide, obtaining approval from CARB, CAPCOA and/or air districts to perform the complex study that could take 5 years).

The ability to continue reporting annual emissions without the inclusion of new air toxics as the statewide pooled emissions study is executed (i.e., business as usual, BAU).

In previous discussions, CARB staff indicated that EICG Sections II.H, IX.G and IX.H provide both 1) a mechanism for all sources to be captured by the sector-specific pooled emissions study and 2) the basis for alternative reporting deadlines through the duration of the pooled emissions study. However, while we appreciate the discussion, we believe modifications to the existing regulatory language are merited to improve the clarity and intent of the sections. (CASA)

Comment: We echo CASA’s request to clearly document 1) an approach that would allow the wastewater sector enough time to complete a statewide pooled emissions study (RegionalSan)

Comment: ...the ability to continue reporting annual emissions without the inclusion of new air toxics as the statewide pooled emissions study is executed. (RegionalSan)

Agency Response: Please refer to the response to *Section A-9.5., “Multiple Comments: Waste Sector - Phase-In by Sector”*. In addition, as requested by the commenters, CARB staff has provided additional time for the waste water sector to comply with the requirements of the regulation, due to the unique challenges these facilities are under, because they are receiving varied and unknown pollutants from outside their facilities. Because of this uncertainty and complexity, CARB staff established the Sector 3B as shown in Appendix A of CTR and Appendix E of EICG. Sources in this sector are not subject to full compliance of the amended requirements until 2028 data reported in 2029.

In addition, for wastewater sector sources that are already subject to reporting under CTR or EICG, full implementation of the amended requirements is not required until 2028 data reported in 2029. Meanwhile, these facilities are subject to status quo reporting, meeting the current existing reporting requirements, using best available data and methods, until the 2028 data year. Thus, the expectation is that these facilities will continue reporting data similar to what they have reported for their 2019 and 2020 data year submissions, until the 2028 data year, when the full list of toxics and other requirements must be considered and reported as applicable. Typically this applies to facilities subject to reporting because of GHG, Criteria Pollutant, or Elevated Prioritization Score applicability under CTR (i.e., 93401(a)(1)-(3)) or sources currently subject to reporting under EICG based on air district thresholds.

A-9.7. Multiple Comments: District Grouping

Comment: Table A-2. Change designation of Imperial County from Group A (Large and Medium districts) to Group B (Rural and Mountain districts). Imperial County is a sparsely populated rural area that does not fit the definition of a Large or Medium District. (DoD)

Comment: Delayed implementation for Sac Metro Air District: The District does not currently retain actual emission data for most of our permitted sources. Furthermore, our current database is not programmed to capture such data for future collection. While the District is seeking to upgrade our technology to store and track actual emission data, this will be a costly and lengthy endeavor. If the regulation is not delayed for other substantial reasons, we respectfully request to be moved from District Group A to District Group B to provide, at minimum, an additional year to put into place the necessary technology required for our District to implement the CTR regulation. (SMAQMD)

Agency Response: For the purposes of phasing in sources, it was imperative that those air districts with communities of most concern, as identified under the AB 617 program and approved by the CARB Board with district and community support, meet the amended requirements as soon as practical. It is inequitable and unnecessary to delay implementation any longer for communities in these air districts.

Imperial County is included in District Group A because it has one such high-priority selected community, and as such, implementation of the requirements, by moving it to District Group B, cannot be accommodated. Simply because some parts of the district are sparsely populated does not mean that there are not significant air pollution problems in the district that must be addressed.

With respect to the Sac Metro request, a key goal of the amended regulation is to begin to address exactly the issues the commenter mentions. It is no longer acceptable that an air district with known air pollution problems does not retain actual emissions data for most of their permitted sources. Similarly, in order to provide support to the communities they are entrusted to protect, it is a core district responsibility to provide a database or other tools necessary to store and track facility emissions data.

The requirements and amendments should not come as a surprise, as the process has been developed over several years, providing districts time to prepare. In addition, with the amendments, additional sources are gradually phased in over six years, incrementally adding sources, to provide CARB, districts, and reporters time to provide the outreach, training, tools, and other resources to provide successful implementation.

Regarding the specific request to move the Sac Metro district to District Group B, as with Imperial County, that is not possible because the district has an AB 617 selected community, and therefore the district must be prioritized for faster implementation. In addition the district has known shortcomings in their emissions data (as stated in their comment), and further delays in addressing these deficiencies is unfair to the communities affected by potentially unhealthy emissions in the region.

A-9.8. Multiple Comments: "Any Activity Level" Language

Comment: Threshold of "Any" Activity Level. THRESHOLD OF. Per Section 93401(a)(4) Appendix A, Table A-3, CARB's reporting threshold of "any activity level" applies to various sectors, which will impose additional cost and workload burdens on facilities with de minimis emissions or risk. Some air districts have also questioned the basis for the new reporting thresholds (4 tons per year, 0 tons per year) and suggested further study and data gathering on the actual emission and risk data before applying blanket requirements throughout the state based on the speculated data that is lack of support from the science. CARB has not demonstrated that these lower thresholds are necessary to protect public health. (CMC)

Comment: ISOR Appendix E – Requirements for Classes of Facilities Emitting Less Than 10 Tons Per Year of Criteria Pollutants. The ISOR indicates that the purpose of moving to “any activity level” designations for many sectors is to “provide confidence in the coverage of emissions data required for community right-to-know under AB 197” (e.g., Sector No. 23: Bulk petroleum storage and loading, bulk benzene storage and loading, and related wholesalers; “there is not a specific activity level reporting threshold for the category that would provide the confidence in coverage or completeness of emissions data required for community right-to-know under AB 197”; ISOR, page 122; see also Sector No. 40: Oil and gas extraction or production, ISOR, page 130). While AB 197 does require CARB to “inventory sources of air pollution” within the state and make this data available on its website⁵, there is nothing in the statutory language indicating sources are required to report any amount of emissions to local air districts or CARB.

More importantly, in this context the purpose of reporting emissions of toxic air contaminants is to communicate the potential risk presented by exposure to those substances, which is a function of both toxicity and exposure potential. The proposed “any activity level” policy is arbitrary and inconsistent with volume-based thresholds used for other sectors to screen out facilities with de minimis risk. It will impose additional cost and workload burdens on facilities to produce data that will not advance the purposes of either AB 2588 or AB 197. We recommend that CARB develop de minimis reporting thresholds using consistent, risk-based criteria for all Appendix A-listed substances.

⁵ Health and Safety Code § 39607. (WSPA)

Comment: Additionally, CARB’s proposed application of the “any activity level” reporting threshold in Appendix A (Table A-3) is arbitrary and inconsistent with volume-based thresholds used for other sectors to screen out facilities with de minimis emissions or risk. It will impose additional cost and workload burdens on facilities to produce data that will not advance the purposes of either AB 617 or AB 197. (WSPA1)

Comment: We do agree with the ISOR’s statement that “collecting release location data from certain smaller and relatively less impactful facilities, whose emissions present considerably less risk, would not justify the costs of collecting such information in many cases.”⁹ We also agree that expanding the program beyond what is currently proposed would accomplish little while significantly expanding costs. This same reasoning should be applied to many of the permitted sources in Appendix A, especially those assigned the “any activity level” reporting threshold designation. Gathering data at such de minimis levels is costly and would not serve any public health purpose identified in the ISOR.

⁹ ISOR, page 25 (WSPA1)

Comment: Rationale for Section 93401(a)(4)(C). The ISOR provides little explanation as to why the “any” activity thresholds are necessary for determining impacts to

communities. If CARB is committed to pursuing mandatory reporting for the permitted processes identified in Appendix A, it should provide clear and specific authority and policy rationale for each proposed threshold. It should do more than simply offering the blanket assertion that the proposed thresholds are necessary to accomplish programmatic goals. (WSPA1)

Comment: Rationale for Inclusion of Sector No. 1. The explanation for setting activity reporting thresholds is vague and does not identify any statutory authority for requiring such reporting. Further, CARB does not explain how “any activity level” involving certain substances (e.g., hexavalent chromium) would impact public health. Requiring a facility to report any activity level, rather than a level of emissions that presents a potentially significant health risk (based on the potency or toxicity of the substance), will invite speculation that the facility may be a threat to community. Available toxicity data should be used to set emissions-based reporting thresholds. (WSPA1)

Comment: Because the proposed reporting thresholds will require all our permitted facilities to report, representing a significant impact to businesses and air district resources, the District requests that CARB clearly explain the basis for the proposed thresholds for complete transparency about the need for reporting at these low and even zero threshold levels. (SMAQMD)

Comment: Facilities With “De Minimis” Emissions. Appendix E – Requirements for Classes of Facilities Emitting Less Than 10 Tons Per Year of Criteria Pollutants CARB’s reporting threshold of “any activity level” presented in Table E-3 applies to various sectors, which will impose additional cost and workload burdens on facilities with de minimis emissions or risk. The proposed “any activity level” policy is inconsistent with thresholds used for other sectors to prioritize high risk facility (or screen out facilities with insignificant risk level).

CARB’s ISOR stated “Limiting the activity level reporting threshold or the SIC or NAICS codes for this category would not provide confidence in the coverage of emissions data required for community right- to-know under AB 197.” While AB 197 does require “Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants...”, it does not require facilities to report any amount of emissions to local air districts. (CMC1)

Comment: As we talk about issues that are involved in these regulations, one issue that hasn't been raised yet, I want to raise with the Board is the zero reporting value that is included in this. The concept of a zero is an incredibly powerful thing when you're being asked to report on any known presence of a list that will eventually be 900 sub -- 900 plus substances plus the exist 400 that are already reported on, which is much more than the 10 referenced in the presentation. (CalcIMA1)

Agency Response: Table A-3 of CTR and Appendix E of EICG identify permitted processes subject to both regulations under their respective proposed

amendments. For those processes in which generally there is no minimum “safe” level of emissions, a reporting threshold of “Any activity level” was assigned to ensure that all facilities that have been issued a permit to operate by a local air district and are performing the operations are subject to reporting. Setting this reporting threshold is supported by the statutory authorities detailed in Resolution 20-31 which is incorporated herein. The “any activity level” threshold only establishes the applicability criteria, but does not require that “any amount” of an emitted chemical be reported. CARB has established an “Applicable Degree of Accuracy” for each chemical to be reported, as set forth in Appendix A-1 of EICG and Table B-3 of CTR. Emissions below one-half of the Applicable Degree of Accuracy are not required to be reported. Additionally, for CTR, only emissions from permitted processes are subject to annual reporting; under EICG, districts may consider any emissions sources in their implementation of AB 2588. With guidance from CARB and districts, CARB does not anticipate an unreasonable amount of cost for most facilities to comply with the regulatory amendments.

In some cases, the large number of pollutants emitted during a process, may include chemicals ranging from low to high OEHHA cancer risk, which does not allow for a simple de minimis activity level reporting threshold to be established. Additionally, when sector activities are extremely diverse and have the potential to emit many types of carcinogenic toxic air contaminants, again it is not possible to determine a specific activity level reporting threshold to provide the confidence in coverage or completeness of emissions data required for health risk evaluation and community right-to-know under AB 197, AB 617, AB 2588, and other programs. For other processes, a lower-limit activity level is established where possible, to exclude reporting of facility processes that are generally expected to have negligible adverse health impacts.

The originally proposed CTR amendments included a 4 ton per year (tpy) applicability threshold of any criteria pollutant emissions (except carbon monoxide). However, based on comments received, staff modified the criteria pollutant threshold for those districts in District Group B of CTR Table A-1, increasing the applicability threshold from 4 to 10 tpy in those regions. These medium sized and rural districts tend to have lower population densities and associated overall population emission exposures, particularly related to criteria pollutants, so it was justifiable to provide a less restrictive reporting threshold.

For the Group A districts, which are typically more industrialized with higher population densities, the 4 tpy threshold was retained. The 4 tpy reporting threshold aligns with the South Coast Air Quality Management District’s (SCAQMD) criteria pollutant permit threshold for stationary sources. In terms of facilities within the state, the SCAQMD has the most permitted sources (substantially more than other districts), which is part of the rationale for choosing 4 tpy. Many other districts have a 5 tpy permitting threshold, therefore

establishing a 4 tpy threshold would not be a substantial difference or workload variation for such districts, when compared to a higher threshold.

The implementation of the 4 and 10 tpy thresholds increases statewide equity in reporting across regions, industry sectors and sources, in which the focus is not only on the very largest or most toxic facilities. Collecting more accurate and disaggregated facility-based emissions data from stationary sources will aid in the evaluation of the relative contribution of these facilities to unhealthy ambient air quality, which is necessary to support CARB, district, and community priorities in reducing exposure to harmful air pollutants. Further, regardless of the criteria pollutant applicability thresholds and emissions, it is expected that the permitted process applicability thresholds of Table A-3 of CTR and Appendix E of EICG will require all facilities of interest to submit emissions data.

A-9.9. Comment: Sectors With Chemicals Without Health Risk Values

For example, in Sector 5: Fumigation of crops for market, several of these chemicals have not previously been required to report and/or risk values are not available, therefore it is unknown what impact they have on human health. The ISOR does not provide evidence that they have an acute health risk to humans. CARB should not include the use of a chemical with no health risk values in the Sector List when determining applicability in the CTR amendments as there is no off-ramp for facilities when the risk information is finalized and it is determined to have little or no risk. The air districts should not spend their limited staff time and resources quantifying emissions that are determined in the future to have little to no health risk. (FRAQMD)

Agency Response: From both a CTR and EICG perspective, it is imperative that we first understand how much of a given chemical substance is being emitted in order to prioritize the substances that need health values. This is a necessary first step in understanding the relative potential for public health impacts. In fact, learning about the nature and extent of emissions is one of the things that later helps the Office of Environmental Health Hazard Assessment (OEHHA) with their health value prioritization process. In addition, it is reasonable to assume that chemical agricultural fumigants that are designed to be toxic to insects, fungi and other agricultural pests, and are known to be toxic to other vertebrates, would likely be toxic to human beings as well, even if no numeric human health values have yet been established.

It is important to understand that there are a wide range of chemical substances missing from an inventory stand point, therefore it is important to include many new and emerging chemicals in industry within EICG's Appendix A and CTR's Table B-2 and B-3. From a CTR perspective and in light of AB 617, AB 197, and AB 2588, communities are interested in understanding what is being emitted in addition to understanding the associated risk of those emissions. The more information we can collect from an inventory perspective, the more informed the public can be moving forward. CARB needs to be as responsive as we can to

near terms asks in order to help in the planning of future health risk assessments and emission reductions at both the district level for EICG and community level for CTR.

Further, OEHHA and CARB are planning to develop non-regulatory provisional health values with the guidance from the Scientific Review Panel (SRP), and the methodology developed from OEHHA's Study of Neighborhood Air near Petroleum Sources (SNAPS), in order to characterize health values for a wider range of substances. This is a promising avenue to begin to quickly understand public health risks. For example, in the early days of the AB 2588 "Hot Spots" program, when there were not yet official cancer or non-cancer health values for some important substances, the California Air Pollution Control Officers Association (or CAPCOA) prepared default health values for a number of chemicals that had some available data. These default health values were found to be useful to facilities as well as districts, as a means to screen what types of emitting processes and chemicals were likely to be of either minimal concern for the facility, or alert them to potential instances warranting more careful consideration. CARB understands that it is critical to be able to evaluate a chemical's potential health impact but we first need to inventory new and emerging chemical substances in order to further the research and development associated with developing health values.

A-9.10. Comment: More Time for Review - Sector Groups Subject to Reporting

Sector Groups. The FRAQMD staff have not had sufficient time to review the rationale for inclusion of all of the sector groups, but it appears that most of the rationale is qualitative not quantitative. (FRAQMD)

Agency Response: Sector groups identified for reporting in Table A-3 of CTR and E-3 of EICG were selected based on an evaluation of the toxic air contaminant emissions that could typically be produced as a result of performing the permitted processes listed. The processes included are based on toxic emissions data already reported to CARB and the districts, or an evaluation of the process to determine if toxics of concern would be emitted by the process. If toxics of concern were reported, or reasonably expected to be emitted by the permitted process, then the process was included on the list.

A-9.11. Comment: Sectors: Concern Only Named Sectors to Report

Brings in some named sectors as specified in Table A-3 later in this document. Some are identified by NAICS code and some by name. CTR Section 93401(a)(4)(C): Activity levels or emissions levels published in Appendix A, Table A-3 for a permitted emissions process at a facility classified with a matching primary or secondary Standard Industrial Classification (SIC) code or North American Industry Classification System (NAICS) code listed for the permitted emissions process. If the SIC or NAICS codes have a designation of "Any" in Table A-3 for a permitted process, then reporting for the process is required regardless of the SIC or NAICS designation for the facility

performing the process, if the listed activity level reporting threshold is exceeded.
(AK1)

Agency Response: Table A-3 of CTR (and the corresponding Table E-3 of EICG) identifies 52 Permitted Processes that are subject to reporting. Although not explicitly stated, based on other feedback provided by the commenter, staff interprets the comment as a concern that there is not a universal requirement for every emission source to report, regardless of Permitted Process or emissions levels. The identified permitted processes included in Table A-3 includes all regulated sources reasonably expected to be a potential source of toxic air contaminants. This provides an effective and health-protective standard of applicability, while providing regulatory clarity to those subject to reporting, to allow them to determine if they are subject to reporting. It was not practical, beneficial, or feasible to include universal reporting for any source of emissions. Such an approach would divert resources from addressing existing and known sources of toxics and provide little if any benefit in addressing harmful emissions to the air.

A-9.12. Multiple Comments: Expand/Decrease Applicability - Remove Recycling Facilities

Comment: SWICS recognizes the challenges faced by CARB in modifying the AB 2588 Program to add the significant number of toxics proposed. Our members have been working constructively with CARB staff to recognize the unique challenges faced by the waste industry in complying with the AB 2588 proposed modifications. The waste industry is unique as an Essential Public Service in serving the residential, commercial and industrial sectors while balancing compliance with equally diverse regulatory requirements aimed at protecting human health and the environment. Many aspects of the proposed amendments to the EICG and CTR have been addressed through other coalition letters and communications. This letter focuses specifically on the impact of the proposed EICG on recycling facilities and material recovery facilities (MRFs). SWICS has concerns over proposals to include recycling facilities and MRFs in the Toxic Hot Spots Program. Essentially, the proposed language in Appendix E has the potential to make municipal solid waste (MSW) and the associated handling of MSW, a toxics hot spot. This step would be counterproductive to any effort to increase recycling rates and promulgate the very aggressive organics diversion programs in California. It should be noted that recycling is a control measure in the original AB32 Scoping Plan, and organic diversion from landfills (SB1383) fulfills the requirements of CARB's Short-Lived Climate Pollutant Program. SWICS recommends that recycling facilities and MRFs be removed from Appendix E and be excluded entirely from the Toxics Hot Spots Program.

Why should recycling facilities and MRFs be excluded from the AB 2588 Program? From a regulatory perspective it is important to separate the handling of MSW from management of MSW. Handling of MSW, whether dealing with a mixed waste,

separated recyclables or organics, begins at the curbside where waste haulers pick-up the material.

Generally, at this point the collected material is brought to a recycling facility or MRF for further handling and sorting. Handling does not alter the natural characteristics of organic material leading industry and regulatory mandates to focus on potential dust and odor emissions (nuisance issues). From the point of pick-up (e.g., residential curbside pick-up), there is a focus on preventing nuisance impacts. Recycling facilities or MRFs often have mechanized sorting equipment and even equipment to size-reduce organics for later processing. This also is considered part of the handling process and does not change the characteristics of MSW. Handling of MSW is always regulated through a series of local and state regulations cutting across many agencies; one of the foci of those regulations is nuisance (e.g., dust and odors). Even collection vehicles are generally sealed to minimize odors and dust.

After handling, sorted materials that are not sold for recycling into useful products are further managed. Management is different from handling in that the resultant material from the handling operations are processed in a manner that changes the character of MSW. Example of this are landfilling that may result in the generation of landfill gas, and organic digesters that may also generate biogas. These management processes have been part of the AB 2588 program from its inception.

Ramifications of including recycling facilities and MRFs in AB 2588? California has always been a leader in recycling of municipal solid waste beginning with AB939 in 1989 that required a 50% recycling rate by 2020, and AB341 that has a goal of 75% recycling rate by 2020. Likewise, the State has also been aggressive with organics recycling goals culminating in SB1383 that requires a 75% diversion of residential and commercial organics from landfills by 2025. As discussed previously, SB1383 grew out of CARB's Short-Lived Climate Pollutant Program. Meeting the aggressive 2025 diversion requirements in such a short time frame will require extensive changes to collection, sorting at MRFs and management of MSW and organics. In that short time frame 100's of new composting facilities and digesters will need to be permitted and sited. (SWICS)

Comment: Conclusion. SWICS request that recycling facilities and MRFs be removed from the proposed Appendix E and exempted from the AB 2588 Program. There already exist extensive regulations at the local and state level to control any odors and/or dust from these facilities and ensure protection of the health and welfare of surrounding communities. It is important for CARB to work with CalRecycle in not causing any impediments to recycling efforts which are an important part of the GHG control programs and aggressive recycling goals of the State. It is also important that CARB not label the handling of MSW as a potential toxics hot spot. This action could have the unintended consequence of permanently damaging the industry now and into the future. (SWICS)

Agency Response: Staff agrees that the waste sector has unique challenges in effectively and accurately quantifying their emissions. For this reason, additional time has been provided for these sources with the creation of the 3B sector as shown in Table A-1 of CTR and E-1 of EICG. By pushing the reporting out to 2028 data reported in 2029, staff is providing the time necessary (nearly 6 years) for facilities in waste-handling sectors to develop emission quantification methods which address the complexity and diversity of potential toxic emissions from the waste streams they process. Additionally, subsection IX.H(1)(d) of EICG is deleted. The proposed requirement for recycling and material recovery facilities to conduct source testing is withdrawn based on comments received that the universe of substances emitted from these types of facilities is likely to be limited and source testing not justified. CTR does not have source testing requirements so no change was needed to CTR.

A-9.13. Comment: Expand/Decrease Applicability - Compost Industry

All this is to say, that the compost industry is a partner with both State and Regional Environmental Protection Agencies, Water Boards and Air Districts as well as with our local county and city jurisdictions within the communities where we live, work and invest in building our local green businesses and municipal enterprises. We work together to build local, sustainable resilient economies that support genuine wealth creation, while not only protecting human health and the environment, but also enhancing both.

We understand that this regulation language and process “will be adopted at the Nov 19 Board Meeting.” However, we need to ask ourselves why and how compost producers are being included in this (ACP)

Agency Response: CARB values all partnerships with agencies, Air Districts and municipalities to address the impact of emissions from compostable organic waste. Composting organic waste produces emissions of criteria pollutants and their precursor chemicals which are subject to regulation. Additionally, piles of organic waste emit volatile organic compounds, some of which are hazardous to human health such as benzene and formaldehyde. Emission reporting is necessary to identify high-emitting composting sites where emission reductions may be achieved.

Industry representatives in the organic waste and recycling facility sectors effectively argued the point that implementation of the originally proposed CTR and EICG emissions-based applicability thresholds would be impractical, making effective applicability determinations very difficult and costly. Therefore, CARB staff worked with the industry to develop workable and health-protective applicability thresholds, and these changes were incorporated as part of the 15-day changes to CTR and EICG Tables A-3 and E-3 respectively. For composting (Sector 49), the updated threshold now applies to sources in which "Over 500 tons per year of material is composted." For recycling facilities (Sector 50), the

updated threshold is now for "Facilities where putrescible material is retained on-site for more than 24 hours prior to removal or disposal in a landfill." These updates address the commenters concerns. Also responses to *Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector"*, *Section A-9.6., "Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing"*, *Section A-10.21., "Multiple Comments: Waste Sector - Substance List"*, and *Section A-10.22., "Multiple Comments: Provide Enough Time to Complete Pooled Source Testing"* which also address concerns raised regarding emissions reporting and timing for the waste sectors, which includes composting.

A-9.14. Multiple Comments: Sector Applicability: Ethylene Oxide

Comment: 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. (SBAPCD)

Comment: 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 to 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. (SBAPCD)

Agency Response: The originally proposed CTR amendments included a 4 ton per year (tpy) applicability threshold of any criteria pollutant emissions (except carbon monoxide). However, based on comments received, staff modified the criteria pollutant threshold for those districts in District Group B of CTR Table A-1, increasing the applicability threshold from 4 to 10 tpy in those regions. These medium sized and rural districts tend to have lower population densities and associated overall population emission exposures, particularly related to criteria pollutants, so it was justifiable to provide a less restrictive reporting threshold.

A-9.15. Comment: Sector Applicability: Ship Building and Repair

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. (SBAPCD)

Agency Response: In the development of regulations, CARB staff are required to act in accordance with information and statements provided in formal regulatory documents, such as the mentioned ISOR (i.e., Staff Report), unless it is formally modified. The ISOR text from both the EICG and CTR ISOR documents for Sector No. 47 (now renumbered to No. 46 in the current draft) includes the following text: "all coating operations performed using handheld non-refillable aerosol cans only are excluded." Therefore, staff confirms that when applied to Sector No. 46 sources, i.e., Boat and ship building and repair, emissions associated with non-refillable aerosol cans are not subject to reporting under CTR or EICG, and are not subject to consideration when making applicability threshold determinations.

A-9.16. Comment: Sector Applicability: Medical Services, Hospitals, etc.

Table A-3. Sector 27 (Medical services, hospitals, and related facilities which use formaldehyde (or formalin), glutaraldehyde, ethylene oxide, or diesel engines). Add additional language to the "Activity Level Reporting Threshold": *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 alternatively, 5 hours per year of engine operation.* (SMAQMD)

Agency Response: The commenter suggests that instead of stating, "or 30 gallons of diesel fuel burned per year, or 5 hours per year of engine operation per year," that the final "or" be replaced with, "or alternatively,". This change is not necessary and does not provide additional clarity. Either 30 gallons or 5 hours trigger applicability for the sector (which is Sector 29 in the final amendments). However, staff did make a revision to the threshold, to exclude emergency use from the threshold determination, because it is not part of routine and predictable operations. Therefore, the text now reads: "or 30 gallons of diesel fuel burned per year, or 5 hours per year of non-emergency engine operation per year."

A-9.17. Comment: Sector Applicability: Composters and Recycling Facilities

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. (SBAPCD)

Agency Response: The implementation of the 4 and 10 tpy thresholds increases statewide equity in reporting across regions, industry sectors and sources, in which the focus is not only on the very largest or most toxic facilities. Collecting more accurate and disaggregated facility-based emissions data from stationary sources will aid in the evaluation of the relative contribution of these facilities to

unhealthy ambient air quality, which is necessary to support CARB, district, and community priorities in reducing exposure to harmful air pollutants. Further, regardless of the criteria pollutant applicability thresholds and emissions, it is expected that the permitted process applicability thresholds of Table A-3 of CTR and Appendix E of EICG will require all facilities of interest to submit emissions data.

A-9.18. Multiple Comments: Waste Sector - Compost Inclusion & Toxics Reporting

Comment: As you know, the State is seeking to remove 75 percent of the organics being disposed in landfills by 2025 to reduce greenhouse gas emissions, which will require a significant expansion of the composting infrastructure. Most recently however, we've gone the wrong direction in landfill diversion and in composting infrastructure and have seen our diversion rates fall from over 50 percent to well below 40 percent. CARB's proposed amended CTR and EICG bring increased uncertainty to this fragile industry. While we agree that there needs to be quantification and mitigation of all harmful constituents, our industry wants to make it clear that we're providing beneficial service to the State and local communities (CACP)

Agency Response: Staff agrees that the waste sector has unique challenges in effectively and accurately quantifying their emissions. For this reason, subsection IX.H of EICG is modified to create a phase-in group (Sector 3B) for facilities in the waste-handling sector that have been approved for conducting a two-step source testing process. This 15-day modification to create Sector Phase 3B is also incorporated into CTR to allow an extended phase-in period, as shown in CTR Table A-1 of Appendix A, and Table B-1 of Appendix B, to phase in toxics substance reporting. Additionally, subsection IX.H(2) of EICG is modified to clarify that facilities undergoing a two-step source testing process but which are already subject to quadrennial update requirements (under EICG) do not need to report the newly listed chemicals until they complete the two-step source test. This change is needed to provide certainty to the facilities about which pollutants they need to report in the interim, and is also reflected in CTR Appendix B, Table B-1.

A-9.19. Comment: Waste Sector - Solid Waste

In addition to the unknowns, AB 901 (Gordon, Chapter 746, Statutes of 2015) changed how organics, recyclable material and solid waste are reported to CalRecycle. The law requires the businesses listed below to report directly to CalRecycle on a quarterly basis on materials sold and transferred by a reporting entity. The CARB EICG reporting is not consistent with the AB 901 mandate reporting of the waste management hierarchy. AB 901 addresses reporting for the following: Recycling facilities, Compost facilities, Disposal facilities including landfills, Transformation facilities, Engineered municipal solid waste conversion facilities, Transfer/processing facilities, Contract haulers, Food waste self-haulers, Brokers, Transporters.

Further, the Solid Waste Information System (SWIS) database contains information on solid waste facilities, operations, and disposal sites throughout the State of California. The types of solid waste activities found in this database include landfills, transfer stations, composting sites, in-vessel digestion sites, engineered municipal solid waste conversion facilities, transformation facilities, and closed disposal sites. For each site, the database contains information about the location, landowner, operator activity type, regulatory and operational status, authorized waste types, local enforcement agency, inspections, and enforcement action record.

Both the CalRecycle AB 901 RDRS regulation and the SWIS database have direct and/or unintended effects on the quality and quantity of scientific data supporting the EICG Report amendments. (CWHC)

Agency Response: It appears that the commenter is saying that the requirements of AB 901 may produce some conflicts or interferences with the proposed EICG (and associated CTR) amendments. It is unclear if the suggestion is being made that revisions should be performed to AB 901 to avoid this, or if the commenter is only sharing concerns that staff should be aware of potential issues as EICG and CTR data are received. Regardless, nothing in the comments requires updates to the amended regulations.

A-9.20. Multiple Comments: Emergency Generator Threshold

Comment: Table A-3. Emergency generator thresholds of hours/fuel used should be only for routine maintenance and testing to be consistent with AB 2588. In other words, emergency hours and emissions should not be included when comparing to the threshold.

Emergency operation of standby generators are in response to natural or man- made disasters and are not time limited by permit condition. (DoD)

Comment: (a)(3): Emergency standby generators and direct-drive emergency standby fire pump engines – please clarify whether total hours include emergency operations. Currently, in San Diego County, we typically only report the hours for maintenance and testing, not the hours used for emergency purposes, since these hours/emissions are not routine. In addition, IEA recommends reporting diesel engine activity once every 4 years to be consistent with AB 2588. San Diego, for example, has over 2,000 diesel engines that are mainly emergency generators that only run for maintenance and testing. It is already difficult for air districts and facilities to report the emissions once every 4 years. We would recommend improving the reporting/review process before collecting annual data. (IEA)

Comment: Emergency generator thresholds of hours/fuel used should be only for routine maintenance and testing to be consistent with AB 2588. Emergency hours and emissions should not be included when comparing to the threshold. (IEA)

Comment: Treatment of Emergency Diesel Engines [§ 93401(a)(4)(C) and Appendix A Table A-3, Sector Number 8] In a previous comment letter (dated April 23, 2019), LADWP stated that the activity level threshold for the combustion of diesel oil is too low¹, and will trigger annual emission reporting by minor emission sources such as facilities that have an emergency back-up generator or water pump. For reliability purposes, the National Fire Protection Association (NFPA) recommends that emergency generators be tested at least thirty minutes per month. A year's worth of testing would equate to a minimum of six hours per year. In addition, South Coast Air Quality Management District's (SCAQMD) permit- to-operate for stationary emergency generators allows for at least 20 hours of operation per year for maintenance and testing purposes, depending on the engine emission rate. By setting the applicability threshold at five hours per year, this will significantly increase the number of facilities that will need to report under CTR. LADWP has approximately 85 facilities with permitted emergency generators and water pumps that previously have not been required to file annual emission reports, that would become subject to the CTR under the fourth applicability criteria. In addition, the CTR does not limit the emissions report to only permitted equipment, but also requires reporting of emissions from unpermitted processes and devices at the facility, including fugitive emissions. Therefore, each facility brought into the CTR emission reporting program by having a permitted emergency generator or water pump, will also need to survey and report emissions from any unpermitted equipment and processes (including incidental usage of paints and cleaning solvents), which will significantly increase the recordkeeping and reporting burden to capture insignificant emission sources. LADWP recommends adding a separate sector for facilities that only have emergency diesel generators or water pumps belonging to utilities, and setting the activity threshold for emergency engines at 30 hours per year. In addition, LADWP suggests limiting the emission reporting requirements for such facilities to only the permitted engines.

LADWP does not see value in the additional work it will take to keep records and report emissions from any unpermitted processes (e.g. incidental paint or solvent usage) at these facilities, which will be insignificant, or *de minimis*, relative to permitted emission sources. Limiting the reporting requirement to permitted equipment only will reduce the reporting burden and allow utilities to devote limited staff resources to critical work.

¹ For Tier 4 or higher diesel engines: 100 gallons of fuel combusted per year, or 5 hours per year of operation. For non-Tier 4 engines: 30 gallons of fuel combusted per year or 5 hours per year of operation. Combustion devices other than compression ignition engines: 100 gallons of fuel combusted per year. (LADWP1)

Agency Response: In some cases, the large number of pollutants emitted during a process, may include chemicals ranging from low to high OEHHA cancer risk, which does not allow for a simple *de minimis* activity level reporting threshold to be established. Additionally, when sector activities are extremely diverse and have the potential to emit many types of carcinogenic toxic air contaminants, again it is not possible to determine a specific activity level reporting threshold

to provide the confidence in coverage or completeness of emissions data required for health risk evaluation and community right-to-know under AB 197, AB 617, AB 2588, and other programs. For other processes, a lower-limit activity level is established where possible, to exclude reporting of facility processes that are generally expected to have negligible adverse health impacts.

A-10. Appendix B – Additional Substances Subject to Quantification and Reporting

A-10.1. Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both

Comment: The improvements that we suggest would be, first of all, bring the full list of the air toxics that are identified in the EICG report into the reporting for the criteria and toxics inventory. (CCA)

Comment: It's hard to move, you know, the scientific clock forward 30 years in one step. And a lot of what they're proposing here today would do that, which is much needed, but that doesn't make it easy to do. I think the -- these toxics lists are very important. And it's also going to be important to institutionalizing updating them or treating them, as one speaker said, as a -- as a -- something that can change over time. And also to bring all of the important toxics into both reporting systems. You know, I don't think we can play games with that. I think that that needs to move forward. (AK2)

Comment: support the staff proposals. And we do appreciate the staff's outreach and continuing work with stakeholders throughout this process. I think the opening slide really provided a clear explanation of the problem that the data is inconsistent and a complete list has not been updated since the 90s and the data is not available for many community sources. We believe that adopting the proposal today and that bringing the full toxic lists into both reporting systems are important steps in advancing the scientific understanding of chemical exposures and associated health effects and to better inform new programs to reduce toxic air contaminants that threaten health and add to disparities. Ultimately, the proposals will provide pathways to more comprehensive information on existing and newer chemicals, updated information from more sources of harmful pollution, and more publicly available data that people can use to really protect their health. (ALA)

Comment: We support an outdated lists -- updating. I'm sorry. We support updating all the outdated lists of air toxics. Now, the EICG has a complete revised list in the proposed rule. We encourage that to be adopted. However, the CTR has a revision and we would like to see that be a correct list and complete list and the complete list be again put into the CTR just like the other (CEC)

Comment: Please adopt a complete list of air toxics, which are included in the EICG report for the CTR as, well. (CG)

Agency Response: Updating the EICG toxics list after over 20 years was a substantial undertaking by CARB, OEHHA, and DPR, with oversight and input by the Scientific Review Panel on Toxic Air Contaminants. Staff is very appreciative of the support from the commenters on the expansion of the EICG substance list.

In addressing the comments related to including all EICG substances under CTR reporting, we want provide some background first. As originally planned, the amendments to both EICG and CTR were to be relatively independent, on separate timelines, with discrete rulemaking processes. However, as the rulemaking proceeded, it became clear that first, both rulemakings could be completed on similar time schedules, and second, there would be significant benefits to closely coordinating the amendments in terms of staff resources, cohesiveness, and improved understanding for stakeholders.

The requirements of EICG are designed to be the gold standard of quantification, risk assessment, and risk reduction for toxic air contaminants. The most significant sources are identified, and are dealt with through district notification and emissions reduction requirements. The most significant sources (a small fraction of the total facilities) are subject to annual reporting, but most facilities are only subject to reporting every four years (quadrennially).

CTR reporting is different, in that every facility subject to reporting under CTR must report emissions data annually, which will ultimately encompass over 60,000 reported sources. In recognition of this scope and the potential workloads involved, staff included curated lists of toxics for CTR reporting, to provide a tight focus on those substances of most concern, so reporters could productively focus their efforts.

Under the original CTR requirements, reporters were already subject to reporting emissions from over 600 toxics listed under the unamended EICG. With the CTR amendments, the requirement was added to report nearly 200 additional substances, as identified in CTR Table B-2, which corresponds to the ChemSet-1 substances in EICG Appendix A. These are toxics of highest concern due to potential health risks. In addition, the new CTR Table B-3 includes ChemSet-2 substances in EICG Appendix A that have health risk values, which makes about 300 of the total 750 EICG ChemSet-2 substances subject to CTR annual reporting. CTR does not include all the ChemSet-2 substances that do not currently have health risk values. This was done to prevent creating an overwhelming workload for reporters and districts, in identifying and estimating toxics that would not even be able to be used in performing health risk assessments or other analysis. That said, additional substances may be added in future rulemakings. In addition, any sources of significant health risk will be captured during the EICG reporting process, even if all toxics from all sources are not updated each year under EICG.

With the addition of nearly 500 additional substances (and many more if all the substances under functional groups (such as PAHs) or compound groups (such as antimony compounds) are considered), the public, districts, and others will have sufficient data, in combination with EICG reporting, to be able to identify toxic emission sources of potential concern.

A-10.2. Multiple Comments: Support for Reporting Toxics Under Both Regulations - Full List

Comment: We ask the Board to adopt the complete list of air toxics included in the EICG Report for the CTR as well. (AK)

Comment: Update outdated lists of air toxics. The substances considered by the State of California to be toxic air contaminants were identified in the 1980s under AB 1807 (Tanner, 1983). A decade later, hazardous air pollutants listed in the federal Clean Air Act were added. Though a few substances were added since, the list has never been reviewed and updated. This is troubling, as the scope of the program is defined in large part by what substances are covered. Practices and materials change, so analyses based on old lists cannot be seen as credible.

To rectify this, ARB staff conducted a review of the list of air toxics in conjunction with the Scientific Review Panel. They produced an updated list that considers scientific advances of the last thirty years and reflects more current chemical use

The EICG amendments incorporate the revised list (shown in Appendix A to Appendix B)² in the proposed rule. We encourage the Board to adopt this as presented.

The CTR includes part of this revision, but not all of it. A current and correct list is as important to the CTR as it is to the EICG. We ask the Board to incorporate the same, complete version of the substances list into the CTR on November 19.

² This page last reviewed September 29, 2020. Amendments to the Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program. Appendix B: Proposed Amendments to the Emission Inventory Criteria and Guidelines Report (EICG Report) and its Appendices. EICG Report: Appendix A - List of Substances. (Accessed Nov 9, 2020). Linked through <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020> (scroll down to download PDF). (AK)

Agency Response: See response to Section A-10.1., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both" which addresses why all EICG toxics are not subject to reporting under CTR.

A-10.3. Multiple Comments: Toxics List - Expand for CTR

Comment: Expand the TAC list and let us move forward to get more information and more accurate information on neighborhood level air pollution. (CCAT)

Comment: Supporting an updated list for all inventories and to ask the Board to bring a full list before us to -- beyond what has been brought out. (SFPSR)

Agency Response: See response to Section A-10.1., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both" which addresses why all EICG toxics are not subject to reporting under CTR.

A-10.4. Multiple Comments: Substance List Phase-In Schedule

Comment: CPC adds our voice to other requests that CARB delay action or make modifications on this effort until a clear assessment can be made for each compound under consideration. (CalPortland)

Comment: ISOR Section VIII. Evaluation of Regulatory Alternatives. Staff only evaluated one alternative for phasing in reporting requirements for newly listed chemicals – starting with 191 substances in phase 1 (Chem set 1), and expanding to the full list of nearly 1000 substances in phase 2, four years later. This approach is heavily back loaded, with implementation of reporting requirements for 753 new substances occurring at one time. While it does allow more lead time for phase 2, this four-fold increase in the number of covered substances suffers from the same deficiencies CARB identified with the "all in" alternative.⁴ CARB should evaluate a more refined approach that would separate the substances scheduled for phase 2 into smaller bins phased in over manageable time periods. This approach would help reduce the potential for "unsustainably heavy workloads for large facilities and air district staff" that would frustrate the goals of the regulation.

⁴ "The all-in approach would concentrate the work needed to develop and review the emission inventory plans into a very short timeframe, potentially resulting in unsustainably heavy workloads for large facilities and air district staff, which could lead to delays. Delays would counteract the purpose of adopting the all-in approach, so this option was rejected in preference of the phased-in approach that would allow facilities and air districts to distribute the workload over a longer, more manageable timeframe." ISOR, page 24. (WSPA)

Comment: Third, a request to change the effective date of certain chemicals for which the justification is as follows (see Attachment 3):

For Table 1, we started with the Appendix A list for the chemical groups identified in Appendix C for cement and uploaded them into an Excel sheet, then showed columns for the effective date assigned by CARB (second to last column) and for the effective date as proposed by CCMEC (last column). In this manner, we are presenting the request for effective dates to be changed as shown (all chemicals are listed in the table, but effective dates are only proposed to be changed for some of the chemicals).

Reasons for Requesting Effective Date Changes. Effective dates are proposed to be changed from e or ExistGrp to ChemSet1 , or from ChemSet1 to ChemSet 2, as shown in Table 1, for one of the following reasons:

Although listed in existing Appendix A (and previously included in Appendix C category listed), chemical was not addressed previously because of one or more of the following: no toxicity data available, no source test method available, obscure chemical previously viewed as irrelevant.

Although listed in existing Appendix A, this chemical was not previously included in the Appendix C listing, and hence was not previously connected by CARB to cement manufacturing.

In some cases, a group was divided up by CARB with some chemicals in the same group assigned by CARB to ChemSet1 and others to ChemSet2. We moved all chemicals in the same group (previously split between ChemSet1 and ChemSet2) to ChemSet2. (CCMEC)

Agency Response: The additional toxics subject to reporting under CTR, as identified in Appendix B, are based on the updated list of toxics developed under the concurrent EICG rulemaking. Table B-2 of CTR corresponds to ChemSet-1 and ExistGrp substances in EICG Appendix A. Table B-3 of CTR corresponds to ChemSet-2 substances that have health risk values. Unlike EICG, CTR does not require reporting of EICG ChemSet-2 substances that do not have health risk values. Table B-4 identifies specific PFAS related substances subject to reporting under CTR for wastewater treatment facilities.

Because the CTR toxics subject to reporting is directly coordinated with the EICG toxics for this rulemaking, the following provides an overview of the Hot Spots EICG Appendix A toxics list development. The Hot Spots Statute requires CARB to compile and maintain a list of substances that are recognized as presenting a chronic or acute threat to public health in six designated lists compiled by federal and State regulatory programs referenced in the statute. The statute also gives CARB explicit authority to include any additional substances recognized by the Board as presenting a chronic or acute threat to public health when present in the ambient air. Staff followed an extensive process (described in pages 56-60 of the ISOR) to determine which substances, out of more than 1,500 being considered, should be added to the list. The request to further delay implementation of the amendments until a clear assessment can be made for each compound under consideration ignores the health-based evidence discussed in the ISOR.

Staff has met all the requirements to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives, as required by Government Code section 11346.2, subdivision (b)(4). Staff evaluated alternatives that included a) taking no action, b) requiring an all-in approach for reporting of new chemicals and c) requiring quantification of all of the newly added chemicals, but none of these was found to be less burdensome and equally effective in achieving the purposes of the AB 2588

reporting requirements and in meeting multiple CARB and district program emission inventory needs.

Staff considered the input from the cement industry when developing and modifying the proposed amendments to the regulations, and made the changes to the Effective Dates for the chemicals identified in their comment letter.

A-10.5. Multiple Comments: Toxics List - Support

Comment: adopt the revised list of air toxics as included in the EIC, the amendments in the proposed rule. (PAN)

Comment: It is very important for the Board to understand that expanding the list of industrial chemicals that we cover under our existing Air Toxics Program is a very laudable goal. The list needs to be more dynamic. Approximately, every five years, 20 to 25 percent of the chemicals that we use in our society cycle out of use and new chemicals enter the stream of commerce. So we need a more robust way in which to track which chemicals are being released in neighborhoods. (CCAT)

Comment: It is essential that the list of substances be updated right now, but we also ask that the Board establish an ongoing process that will continue to keep the list updated as more science and data comes out. (SC)

Agency Response: Staff agree that additional future updates to the EICG Appendix A chemical list is critical, as it directly applies to future substances reported under CTR. Therefore, as directed by the Board in the Resolution, staff intends to perform EICG regulation amendments on a more regular basis than has previously been the case. Staff also plans to keep track of new and emerging chemicals in between regulation updates to make the process for updating the chemical list more efficient in the future. Eventually, CARB's goal is to include the new chemical substances and their respective emissions on CARB's Air Pollution Mapping tool to allow a better understanding of which chemicals are being released in which neighborhoods across the state.

A-10.6. Multiple Comments: Toxics List - Updates

Comment: We also recommend to institutionalize a process for updating the air toxic emissions list so communities can be better informed on a regular basis. (PSRLA)

Comment: Please institutionalize future updates of the lists of chemicals considered as air toxics (CG)

Agency Response: Staff recognize the huge effort it took to update the chemical list after nearly two decades; therefore, the Board, the Scientific Review Panel and CARB staff agree that there needs to be an institutionalized process for regularly updating the chemical list in the future. Staff plans to do more regular amendments to the EICG and CTR moving forward. Additionally, Section II.H.(4)

in the EICG was revised to allow members of the public the opportunity to petition the Executive Officer of the Board to request the addition of any substances of concern to Appendix A. Approved additional substances would also be incorporated to CTR reporting requirements as appropriate. Further, to institutionalize the update process, the Board resolution for CTR and EICG include the following instruction: *"BE IT FURTHER RESOLVED that the Board directs CARB staff to develop a process to regularly update (no less than every five years) the list of toxics to be reported under the CTR and Air Toxics "Hot Spots" programs; staff shall present this process to the Board within one year as an informational item."* See also responses to Section A-10.8., "Comment: Support Substances - Update Chemical List Regularly" and Section A-1.13., "Multiple Comments: Regular Updates Needed".

A-10.7. Multiple Comments: Support Substances

Comment: The Panel also reviewed the documents outlined in proposed changes and provided preliminary recommendations to CARB at a meeting in October 2019. And then CARB staff and the Panel continued our discussion in a subsequent the next month. The Panel recommended adding a number of substances to EICG and commented on the functional group approach for incorporating chemicals that belonged to the same chemical class.

The Panel also recommended additional chemical lists that CARB staff should consider, such as those from the U.S. Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the American Conference of Governmental Industrial Hygienists.

The Panel also received and considered public comments on this matter. Based on our review of the materials provided, in February 2020, the Panel prepared an interim findings letter, which was later submitted to the CARB Executive Officer. (CA)

Comment: Our letter contained three main findings. The first was that CARB staff has proposed appropriate new substances compiled in accordance with the six lists outlined in the AB 2588 statute. (CA)

Comment: The Panel overall agrees with the proposed revisions to the chemical list with the EICG regulation. And the addition of these substances is definitely supported by sound scientific knowledge about the health threats that they pose. Thank you. (CA)

Agency Response: CARB staff appreciates the Scientific Review Panel's support and many helpful suggestions made throughout the process of compiling the list of new chemical substances added to the AB 2588 Appendix A list of chemical substances. These same substances were used to generate the lists of substances reportable under Appendix B of CTR.

A-10.8. Comment: Support Substances - Update Chemical List Regularly

Expansion of the Chemical List. Regarding the chemical list additions, the District agrees that it's vital to update the chemical list. It should probably be done on a regular basis, as HSC 39669.5 seems to explicitly require. It is also vital to evaluate new chemicals, determine their toxicity and risk to the public, and develop control measures to reduce the risk to less than significant levels. (FRAQMD)

Agency Response: Staff appreciate the support and agree that additional future updates to the EICG Appendix A chemical list (which is the foundation of the CTR chemical lists) is critical. Therefore, as directed by the Board, staff intends to perform EICG regulation amendments on a more regular basis than previous AB 2588 EICG amendments, and will update the CTR chemical lists as appropriate. Staff also plans to track new and emerging chemicals in between regulation updates to make the process for updating the chemical list more efficient in the future. See also responses to *Section A-10.6., "Multiple Comments: Toxics List - Updates"* and *Section A-1.13., "Multiple Comments: Regular Updates Needed"*.

A-10.9. Multiple Comments: Justification for Adding Additional Chemicals

Comment: CARB has not provided any documentation or justification to support how the CTR Appendix B chemical lists were created or how existing substances in EICG Appendix A-1 (shown as 'e') were newly associated with specific processes in the EICG Appendix C. For example, there are substances, such as crotonaldehyde, which was added as a substance emitted from natural-gas fired combustion sources or tert-butyl alcohol which was added as a substance emitted from gas stations. (MBARD)

Comment: Board and public should understanding scope of new reportable substances. No one can estimate the full scope of the statewide reporting expansion in terms of added Appendix A-I substances. For example, ARB staff cannot say exactly how many new substances will need to be reported, or by whom. Instead, air districts must figure out the "who" and facilities³ must determine the "what" (at risk of violation should they fail). To help visualize the magnitude of change and put it in some sort of context, consider the following quick estimate, provided here only for purposes of illustration -

60,900 facilities x 10 sources* x 1,000 substances** = 609 million possible new data points

** Number of sources at a facility will vary from 1 to >100** Number of individual substances emitted from a source is refined over time, but facilities will initially need to consider potential to emit for each one*

For almost all, no test or quantification method exists, and this work will need to be done on a source-by-source basis. In addition, ARB will need to work with the districts and facilities to consolidate, synthesize, and make available annual reported data for public access, including work to communicate emissions in ways that are transparent,

timely, and meaningful. CCEEB believes there has been inadequate discussion with public stakeholders and researchers about how the end results should be presented.

³ Most are unaware of this regulatory proceeding and have not had opportunity to engage with ARB. (CCEEB)

Comment: We recognize and appreciate that CARB staff have proposed a two-phase approach to implementing the new reporting requirements. However, the addition of such a large number of substances without first confirming an appropriate basis for listing imposes a significant and unnecessary burden on facilities, air districts, and CARB staff. Moreover, implementation of the proposal is likely to generate considerable public concern about air quality without any basis in scientific evaluation of potential health impacts. This outcome – a generalized fear of potential health effects from possible exposures to listed substances - would undermine regulatory focus on risk driving sources and the public right-to-know objectives of AB 2588, AB 617 and AB 197. (ACC)

Comment: We are concerned with the proposal to list fluoropolymers among the more than 900 substances for which emissions would be required to be quantified, or amounts reported, under the “Hot Spots” program. The proposed listing lacks justification and provides no definition of “fluoropolymer.”² Without appropriate justification for this listing in terms of protecting public health, the proposed listing would create a vague, arbitrary, confusing and unnecessary reporting burden for fluoropolymer processors and users in California and also has the potential to create unwarranted public concerns about fluoropolymers.

It is our understanding from reviewing the Initial Statement of Reason (ISOR) that the listing is supported by neither an assessment of whether fluoropolymers can reasonably be expected to be released into ambient air from facilities in California, nor an assessment of potential risk to public health from potential releases. Note 6 in proposed Appendix A - List of Substances notes that fluoropolymers were added pursuant to HSC section 44321(f), which a listing mechanism for substances “recognized by the state board as presenting a chronic or acute threat to public health when present in the ambient air.” CARB has provided nothing that substantiates such a conclusion. Although the CARB website contains a document entitled *Scientific Review Panel: Interim Findings Regarding the Chemicals List*, among the materials for the April 30, 2020 webinar,³ the document provides no insight to the Panel’s deliberations, the material it reviewed or any other detail on which the public can comment. Therefore, we cannot view, and CARB should not rely upon, the Panel’s interim conclusion as adequately robust (or transparent) to meet the findings required by HSC section 44321(f). It is our position that CARB has not shown an acute or chronic public health threat to facilitate the listing and therefore fluoropolymers should not be listed.

The peer-reviewed scientific literature shows that fluoropolymers have well-established safety profiles and do not present a significant concern for human health

or the environment.⁴ Because of their unique physical and chemical properties, fluoropolymers meet internationally accepted criteria to be considered “polymers of low concern” meaning they do not present a significant concern for human health or the environment. The criteria for “polymers of low concern” have been developed by governmental and intergovernmental regulators to protect human health and the environment.^{5,6}

Large, stable, inert polymeric molecules like fluoropolymers are too large to cross biological membranes and therefore do not present significant concerns for human health or the environment. Their large size and physical and chemical properties also inhibit their migration, so they present little potential for human or environmental exposure. We question the implicit assumption that they would be released to and circulate in ambient air. Fluoropolymers are not water soluble and as a result are not found in water or drinking water. Fluoropolymers are not considered long- or short-chain PFAS, but rather are high molecular weight polymers that are extremely stable, inert, not bioavailable and not water soluble. They cannot transform into PFOA or PFOS or other long-chain PFAS in the environment. Finally, fluoropolymers have undergone significant regulatory evaluation, including substantial testing requirements and have been reviewed under various government regulatory programs around the globe.

We note that within proposed Appendix A - List of Substances, fluoropolymers are listed in section A-1, substances for which emissions must be quantified. Should it be possible for fluoropolymers to be released to ambient air, which we question, there is no validated emission quantification method. It is therefore our understanding, based on proposed section II.H(5) of Appendix B - Proposed Amendments to the Emission Inventory Criteria and Guidelines Report (EICG Report) and its Appendices and ISOR section VIII.C (p. 24) that facility operators will be required to report only the presence, use, or production of the substance and the amounts present, used, or produced. While CARB makes the case that reporting is a reasonable alternative in the analysis of regulatory alternatives, we remain concerned that, in the absence of a compelling human health justification, doing so puts an unnecessary burden on fluoropolymer processors and users in California and has the potential to create unwarranted public concern.

² See Buck R.C. *et al.*, 2011. Perfluoroalkyl and polyfluoroalkyl substances in the environment: Terminology, classification, and origins. *Integrated Environmental Assessment and Management* 7(4):513–541. Open access.

³ Scientific Review Panel: Interim Findings Regarding the Chemicals List among materials for the April 30, 2020, CARB webinar.

⁴ Henry, B. J., *et al.* A critical review of the application of polymer of low concern and regulatory criteria to fluoropolymers. *Integrated Environmental Assessment and Management*. Volume 14, number 3, pages 316-334. May 2018. Open access.

⁵ Organization for Economic Co-operation and Development. 2009. Data analysis of the identification of correlations between polymer characteristics and potential for health or ecotoxicological concern. Document ENV/JM/MONO(2009)1. Paris, France. Publicly available.

⁶ BIO by Deloitte. 2015. Technical assistance related to the review of REACH with regard to the registration requirements on polymers Final report prepared for the European Commission (DG ENV), in collaboration with PIEP. Publicly available. (PFP)

Comment: Recommendations: Do not issue this list for composters until CARB is >80% certain of what concentration and exposure rates are actually “toxic” to compost workers, much less the general public in the local community, i.e. both compost production worker exposure, neighbor exposure, and compost user exposures.

Substances must satisfy the Health and Safety Code listing criteria: As per “Business and industry stakeholder comments on draft updates to the Air Toxics Hot Spots Emission Inventory Criteria and Guidelines Regulation, Sept. 16, 2020” we concur, and recommend:

Substances that do not satisfy the listing criteria at Health and Safety Code section 44321(f) should not be included in Appendix A. Candidate substances should be subject to a more rigorous screening and prioritization process to determine if they occur in ambient air or present significant health risks before they are listed. (ACP)

Comment: CARB has indicated that it is developing a “non-regulatory technical supplement” which will include the technical justification for adding substances to Appendix A. Given the above noted statutory criteria, this analysis should be part of the rulemaking record. At a minimum, CARB should release this document as soon as possible to allow for stakeholder review and comment and possible changes to Appendix A before the first phase of implementation. (ACP)

Comment: The emissions data that staff have been talking about -- about CARB's air toxic hot spots Emissions Inventory Criteria Guidelines, EICG, play a key function in understanding the public exposure risks associated with stationary pollution sources and in prioritizing the substances that should be evaluated as toxic air contaminants.

Over the past year and a half, CARB staff have been consulting with our Panel to seek our guidance regarding the new substances being proposed for addition to the chemical list in Appendix A of the EICG regulation.

CARB staff have come to the Panel four times in the past 18 months to provide their work on revising Appendix A. The Panel received an initial briefing in June 2019, which was followed in August 2019 by CARB submittal of several files detailing the proposed revisions of chemical substances to be added (CA)

Comment: The substances proposed for addition based on the authority granted to CARB by the AB 2588 statute have been recognized to present a chronic or acute threat to public health when present in ambient air. (CA)

Agency Response: CARB staff agree that air districts and facilities carry a majority of the responsibility in determining who must report, what they must report, and the toxics substances chemicals to be reported under the CTR amendments. The CTR list of toxics is based directly on the amended EICG Appendix A toxics list which was revised concurrently with the CTR amendments. The EICG Appendix A list has not been updated in almost two decades which is why many chemicals have been added to the list for reporting purposes, including fluoropolymers, which have clearly documented health risks (which is why they were retained under the reporting requirements).

To help manage the workload of adding additional toxics subject to reporting, the toxics subject to reporting are phased-in over multiple years, as shown in Table B-1 of CTR. In addition, for CTR reporting, only substances with health risk values are subject to reporting. These substances are indicated in Tables B-2 and B-3 of CTR. Also, per 93404(c)(1)(B), to address situations where no method exists to quantify emissions of a substance at the time of its phase-in, a facility operator is only required to report the amount used or produced at the facility without providing an estimated quantitative emissions value.

Staff does not share the concern expressed by the commenters that collecting and sharing emissions data based on a comprehensive list of toxics will necessarily lead to confusion or misrepresentation. Instead, incomplete data, collected inconsistently creates more questions than the data that will ultimately be collected under the CTR amendments. However, staff agrees that as mentioned by a commenter, we need to collectively, "work to communicate emissions in ways that are transparent, timely, and meaningful."

A-10.10.Comment: Substance List Justification

ISOR Appendix A. List of Substances. Health and Safety Code section 44321(f) authorizes CARB to include additional substances in Appendix A "recognized by the Board as presenting a chronic or acute threat to public health *when present in the ambient air.*" (emphasis added). The statute does not authorize CARB to add substances that may present a chronic or acute threat if they are present in ambient air. Rather, a reasonable interpretation of the statutory language requires an analysis for each candidate substance demonstrating that listing is warranted because both conditions exist. The ISOR indicates that CARB relied on several sources of information to select the 670 substances it is proposing to list pursuant to section 44321(f). 577 of these are attributed to authoritative bodies. The remaining 93 are identified generally as "chemicals brought to CARB staff's attention through research and discussion." The ISOR further states: "All other substances proposed for addition underwent a chemical-by- chemical review process by CARB and OEHHA staff, who

considered many factors to determine a chemical's potential for public health impacts, including the substance's potential toxicity, how the substance is used, and the potential for the substance to become airborne and travel beyond a facility or business." (ISOR, page 64) This statement appears to refer to the 93 substances not otherwise identified by an authoritative body. It also indicates that CARB and OEHHA did not conduct a substance-specific analysis for the vast majority of substances proposed for inclusion in Appendix A, relying instead on the work of others, regardless of whether that work is relevant to potential health risk from exposure to airborne contaminants. Without additional information, it is impossible to know whether all 670 substances actually pose acute or chronic health threats when present in ambient air, or if they have been identified based on toxic effects attributed to other exposure pathways. For example, the sources identified in the ISOR include substances on the California Biomonitoring Program "designated chemical" list, which may be based on exposure pathways other than inhalation of chemicals emitted from stationary sources, and nonylphenol ethoxylates added to the TRI list based on aquatic toxicity. We request that CARB staff disclose any analysis it conducted on individual substances to support the determination that they qualify for listing pursuant to Health and Safety Code section 44321(f). We further request that staff conduct a comparable analysis of the substances identified by authoritative bodies to confirm that they satisfy the subsection (f) criteria. Absent this analysis, CARB should remove these substances from the list of proposed additions to Appendix A.

The "source list 7" notation in Appendix A, which refers to substances added pursuant to H&SC section 44321(f) does not provide adequate information as to the basis for the listing, nor does it allow stakeholders to search the actual source information upon which the listing is based. For each substance listed under this authority, CARB should identify the primary source of information that supports the listing criteria defined in subsection (f). (ISOR, page 72) (WSPA)

Agency Response: Section 44321 of the Hot Spots Statute requires CARB to compile and maintain a list of substances that are recognized as presenting a chronic or acute threat to public health in six designated lists compiled by federal and State regulatory programs referenced in the statute. The statute also gives CARB explicit authority to include any additional substances recognized by the Board as presenting a chronic or acute threat to public health when present in the ambient air. Staff followed an extensive process (described in pages 56-60 of the ISOR) to determine which substances, out of more than 1,500 being considered, should be added to the list. The request to further delay implementation of the amendments until a clear assessment can be made for each compound under consideration ignores the health-based evidence discussed in the ISOR. However, to address any remaining concerns, CARB staff intends to post a non-regulatory Appendix A technical document that includes additional details on the listed chemicals, including usage information related to the chemical's potential to become airborne as well as evidence of toxicity and related health values from state, federal or other regulatory or scientific bodies.

A-10.11. Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available

Comment: New Pollutant Listings. The MDAQMD does not support mandatory reporting of pollutants for which there is no toxicity data, no CARB approved source test methodologies, and in most cases no emissions quantification possible. The MDAQMD supports the comment letters from the California Cement Manufacturers Environmental Coalition (CCMEC) of September 14 and 29, 2020 in their entirety (enclosed); while focused on the cement industry, the specific CCMEC pollutant and process comments apply to every industry statewide. To the extent the proposed emissions inventory regulatory changes give MDAQMD flexibility, the MDAQMD will be following the pollutant testing and reporting structure suggested by CCMEC for every affected industry and facility within the MDAQMD (MDAQMD)

Comment: New Pollutant Listings. The AVAQMD does not support mandatory reporting of pollutants for which there is no toxicity data, no CARB approved source test methodologies, and in most cases no emissions quantification possible. (AVAQMD)

Comment: New Pollutant Listings. The District does not support mandatory reporting of pollutants for which there is no toxicity data, no CARB approved source test methodologies, and, in most cases, no emissions quantification possible. The District supports comments from the California Cement Manufactures Environmental Coalition (CCMEC) dated September 29, 2020 (to CARB, Gabe Ruiz, Manager, Toxics Inventory and Special Projects Section). The CCMEC comments were focused on the cement industry; however, CCMEC pollutant and process comments apply to every industry. The proposed CTR revisions gives the District some flexibility; therefore, follow the pollutant testing reporting and structure suggested by CCMEC, given there is not a pre-established reporting and testing structure. (EKAPCD)

Comment: Lack of Transparency for New Pollutant Lists (CTR Appendix B). MBARD does not support reporting for chemicals for which there are no established toxicity values, source testing methods, and for many chemicals no emission factors or other emission quantification methods. (MBARD)

Comment: Several of our colleagues requested that three items be addressed. They are:

If a chemical does not have a published toxicity factor, the chemical does not need to be reported, in terms of chemical presence, amounts used or produced, or emission quantities.

If a chemical has a published toxicity factor but does not have published lab analysis procedures, the chemical does not need to be reported, in terms of chemical presence, amounts used or produced, or emission quantities.

If a chemical has a published toxicity factor and published lab analysis procedures but does not have a published source test method, the chemical emissions do not need to be reported, and no emission estimates are required. (CalPortland)

Comment: As mentioned above, we want to emphasize that reporting for any newly listed chemicals should be limited to cases where there are published toxicity factors, published lab analysis procedures and published source test methods. A clear scientific basis for reporting is necessary, to avoid creating confusion for regulatory agencies, for affected facilities, and especially for the public is required. Any reporting of new chemicals, where there is no conclusive scientific basis for reporting, can add little to the existing AB 2588 program because chemicals that have no scientific information on them (and may not even be present) are mixed in with chemicals that have been measured using scientific lab analysis and source test methods. (CalPortland)

Comment: Use of Default Emission Factors and Provisional Risk Values. During the conference calls between South Coast AQMD staff and CARB and also during public meetings, CARB has described the use of default emission factors for pollutants that are proposed for adoption. We are concerned that default emission factors are often grossly inaccurate and not representative of actual emissions. Likewise, CARB has proposed the use of unapproved health risk values for certain compounds. CARB has clarified that the unapproved health values will not be used for regulatory purposes and only as additional information to help OEHHA prioritize their efforts. We recommend that CARB clarify that both the use of default factors and provisional risk values are only for informational and not regulatory purposes. (SCAQMD)

Comment: Issue #7- The cement industry already has extensive emission controls for toxic air contaminants (TACs). Where facilities already have extensive TAC emission controls, as the cement industry does (due to federal Portland Cement NESHAP rules), there is no reason to perform extra reporting for TAC emissions that do not have published toxicity factors or do not have published lab analysis and source test methods. (CCMEC1)

Comment: Also, CCMEC requests the following three items be explicitly stated in a revised proposed rule: Three items that CCMEC requests the rule to explicitly state: Item A - If a chemical does not have a published toxicity factor, the chemical does not need to be reported, in terms of chemical presence, amounts used or produced, or emission quantities. Item B - If a chemical has a published toxicity factor but does not have published lab analysis procedures, the chemical does not need to be reported, in terms of chemical presence, amounts used or produced, or emission quantities. Item C - If a chemical has a published toxicity factor and published lab analysis procedures but does not have a published source test method, the chemical emissions do not need to be reported, and no emission estimates are required. (CCMEC1)

Comment: Issue #2 - Reporting for the newly listed chemicals should be limited to cases where there are published toxicity factors, published lab analysis procedures and

published source test methods. It is necessary to have a clear scientific basis for reporting, to avoid creating confusion for regulatory agencies, for affected facilities, and especially for the public. Reporting new chemicals, where there is no scientific basis for reporting, weakens the existing AB 2588 program, because chemicals that have no scientific information on them (and may not even be present) are mixed in with chemicals that have been measured using scientific lab analysis and source test methods. (CCMEC1)

Comment: Requiring the reporting of compounds for which science has yet to determine public health impacts would potentially distort the public's understanding of the public health risk rather than provide meaningful emissions data to the public, which is the intent of AB 197 (E. Garcia, Chapter 250, Statutes of 2016) and AB 617 (C. Garcia, Chapter 136, Statutes of 2017). Also, the proposed amended CTR in conjunction with the recommended expansion of the AB 2588 Chemicals List will exaggerate prioritization scores using unmeasured estimates of compounds that do not (at this time) have approved source test methods or get counted multiple times through the waste hierarchy. (CWHC)

Comment: Recommendations. We recommend that the addition of the new list of toxic air contaminants be delayed until facilities have a sufficient amount of time to understand what quantification methods are adequate to determine if toxic air contaminants are emitted, using an all-in pooled approach, and that the toxicity factors for the new list of compounds are scientifically developed. For the waste sector, more time is needed to fully test for and analyze the emission potential for a new list of toxics. (CWHC)

Comment: Last, we request a public process be implemented to review any interim default emission or toxicity factors with adequate time to ensure that representative emissions and prioritization scoring can be provided to the public. (CWHC)

Comment: We operate three wastewater treatment facilities, the largest being an 11.5 million gallon per day facility, with emissions less than four tons per year, but still required to submit an annual emission report. These proposed regulations will greatly impact the City of Corona and other small wastewater treatment facilities. We support the public right to know about what is emitted from any facility. However, the vast majority of compounds listed to be reported do not have approved sampling or laboratory methods -- test methods, nor do these compounds have toxicity data, which is needed to characterize potential health risks. As drafted, these amended regulations would create confusion and may alarm our neighbors. We support the CASA comment letter submitted which details our specific recommendations, including a phased approach for staff consideration. (CC)

Comment: These proposed amendments will greatly impact our facilities. We would like to thank staff for working closely with the wastewater sector on interpreting the proposed amendments. While we appreciate these efforts we do remain concerned by the proposed expansion of the list of air toxics to be reported by wastewater facilities.

While we acknowledge that the existing list of air toxics needs to be amended, we are concerned about the lack of sampling methods, lack of laboratory test procedures, and lack of toxicity data for most of the specified compounds. We appreciate the intent of the staff's phased approach outlined in the proposed amended regulations, where subsets of the 10,000 compounds would be reported incrementally. However, such an approach still presents a significant challenge for the municipal wastewater sector. Since we do not know what compounds are in streams entering our facilities, requiring subsets of compounds to be reported actually increases the amount of testing required for our sector. Therefore, we do request that the 15-day changes process include CASA's recommended sector-by-sector approach where industry would estimate emissions using safety data sheets as the first step in the process. As a list of toxic compounds are compiled by CARB, the wastewater sector could require pre-treatment for new toxics and more effectively identify potential emissions of these compounds. (EMWD1)

Agency Response: Staff believes that it is important to develop a comprehensive understanding of the full range of chemicals being emitted, even for those pollutants without toxicity data, CARB approved source test methodologies or emission quantification methods. From both a CTR and EICG perspective, it is critical to develop a basic understanding of how much of a given chemical substance is being potentially emitted in order to prioritize the substances that need health values or emission quantification methods. Section 93404(c)(1)(B) of the CTR regulation allows facility operators to report only the amounts present, used or produced when no emission quantification method exists for a substance at the time of its scheduled phase-in. This is a necessary first step in understanding the potential for public health impacts from a particular facility or a particular chemical. In fact, learning about the nature and extent of emissions is one of the things that later helps OEHHA with determining their priorities for development of health values.

[A-10.12. Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released](#)

Comment: As we have stressed in previous comments, we continue to have strong concerns with the proposal to identify an additional 1000 substances for which emissions would be required to be quantified, or amounts reported, under the "Hot Spots" program without first assessing the extent to which each substance represents a risk to public health from exposure in ambient air and confirming that each substance can be reasonably expected to be released from facilities in the state. All the findings to support inclusion of chemicals on the reporting list must be made available for public review and made part of the rulemaking process in accordance with APA requirements (ACC)

Comment: Significant Increase in Substances. Appendix A includes more than 900 new substances for which emissions must be quantified. We appreciate that CARB recognizes emissions reporting are only needed for those substances when a

quantification method is available, however, facilities bear the burden of determining which Appendix A substances would need to be reported. We strongly urge CARB to limit the list of Appendix A-1 substances to those for which emission quantification methodologies are available and provide references to those emission estimation methods to alleviate the research burden that would otherwise be imposed on the facilities. Furthermore, per the rationale provided in the ISOR, the inclusion of the proposed substances in Appendix A heavily relies on the work of others, regardless of whether each substance may actually release into the ambient air and the extent to which associated health risk to public health from exposure to airborne emissions. We request that CARB disclose all the findings to support inclusion of chemicals on the Appendix A list for public review before adoption of the amendments to the regulation. (CMC1)

Agency Response: The toxics substances subject to reporting under CTR are directly based upon the concurrent amendments to the EICG Appendix A list of toxics. The primary difference between the toxics subject to reporting is that under CTR, substances that do not have health risk values are not subject to reporting, so newly added toxics subject to reporting under CTR are identified in CTR Tables B-2, B-3, and B-4.

Because of the synchronized updates to CTR and EICG, the following provides and overview of the process used to develop the updated EICG Appendix A toxics list. From this list CTR included Appendix A ExistGrp and ChemSet-1 substances (Table B-2), ChemSet-2 substances with health risk values (Table B-3), and a limited list of additional PFAS-related substances identified for wastewater treatment facilities (Table B-4) limit the universe of potentially reportable PFAS substances.

Updating the EICG toxics list after over 20 years was a substantial undertaking by CARB, OEHHA, and DPR, with oversight and input by the Scientific Review Panel on Toxic Air Contaminants. To ease the reporting workload, CARB staff have agreed to split the chemical list into two phases and increase the length of time required to report. Please refer to Table 2 in Section II.H.(2) of the EICG and Table B-1 of CTR Appendix B for the specific phase-in schedule.

Additionally, it is important to note that Section 44321 of the Hot Spots Statute has language about not removing substances from the mandated lists, unless the substances meet two criteria: (1) No evidence exists that it has been detected in the air and (2) the substance is not manufactured or used in California, or because of its properties or manner of use, there is no possibility that it will become airborne. Thus, it is not mandated for CARB to conduct detailed analysis on the risk of every individual substance to support the determination that they qualify for listing. Nonetheless, CARB staff did extensive review of available information on physical properties and known uses of all the proposed chemicals, conducting Internet queries and searches of multiple databases (e.g., the PubChem public web database). Staff was able to screen out many candidate

chemicals that were not reasonably capable of becoming airborne. For toxicity considerations, CARB staff worked closely with OEHHA staff to evaluate available evidence for toxicity, using multiple health effects databases. Further, the public has the opportunity to submit any information regarding the chemical list, either to recommend substances for addition, or conversely, providing evidence that the substance has no potential to become airborne. This is noted in Section II.H.(4) of the EICG.

Additionally, CARB staff intends to post a non-regulatory Appendix A technical document that includes chemical substance usage information, including usage related to the chemicals airborne potential as well as evidence of toxicity and related health values from state, federal or other regulatory or scientific bodies. With that, the main criteria we used for determining whether a substance should be added to our list were evidence of toxicity, the types of usage that could be in California, as well as its potential to be airborne. These same criteria not only apply to the substances in the six source lists but also substances added under our own CARB authority.

Further, please refer to *Section A-9.9., "Comment: Sectors With Chemicals Without Health Risk Values"* and *Section A-1.22., "Comment: Provide Working Groups for EF, Risk, Chemicals"* for a response on why reporting of substances is necessary even without an OEHHA established health value.

CARB staff does not agree with the request to limit the Appendix A-I chemical list to only substance for which emission quantification methodologies are (currently) available, and to provide emission estimation methods. The AB 2588 Statute clearly directs CARB to compile and maintain the list of substances that meet the basic criteria in the Statute. Then the AB 2588 process directs facility operators to propose appropriate emission quantification methods in their emission inventory plan, and work with the air district for review and approval. Each facility may have unique ways that a given chemical is used, produced, or present in the operations of the particular facility. What may be an appropriate emission quantification method for a given chemical for one type of process, may differ for the same chemical used differently in another process. Some cases may lend themselves to mass balance approaches, others may have available emission factors in compilations (e.g., US EPA's AP-42 compilation of air pollution emission factors), and in some cases the EICG may specify the source testing is needed. This is the reason the AB 2588 process was designed in Statute to utilize a process of proposing a facility-specific emission inventory plan proposal by each facility for review by the air district. Each facility is in the best position to know its own processes, input materials, and outputs. Furthermore, one of the benefits of the AB 2588 program has been the increased awareness by facility operators of the potential toxics concerns posed by their operations to neighboring residents, and better practices to reduce processes that give rise to air toxics.

A-10.13. Comment: CAS Numbers

We agree we need CAS numbers, unique identifiers on chemicals to make the data more consistent. (CBE)

Agency Response: The substances listed in Appendix A of EICG and Appendix B of CTR do include CAS numbers to uniquely identify chemicals to aid with data consistency, so no update is required.

A-10.14. Multiple Comments: Concerns Regarding Adding Substances Without Health Risk Values

Comment: Addition of Hundreds of New Chemicals. Under the proposed amendments to the CTR and the EICG, hundreds of chemicals would be added to the existing list. In fact, approximately 800 new chemicals, including molecular functional groups, are proposed to be added to EICG Appendix A-1 - *Substances for Which Emissions Must Be Quantified*. The vast majority of the proposed chemicals do not have OEHHA/CARB approved risk assessment health values.

Chemicals without approved risk assessment health values cannot be used for risk assessment, and therefore would not affect a facility's health priority or risk level. The reporting of chemicals without established health risk factors would then be an academic exercise requiring a tremendous increase in labor from the impacted facilities and air districts without resulting in any change in the assessment of the facilities' health risk level.

In light of the above, the District recommends that CARB limits the addition of new chemicals to EICG Appendix A-1 to only those with approved risk assessment health values. In addition, before adding any new chemical to the EICG Appendix A-1 list, CARB should publish quantification methods, toxicity values, emission factors, and source testing methods related to the new chemical. This information is needed in advance in order to perform health risk assessments, when required. (SJVAPCD)

Comment: Estimating Prioritization Scores and Health Risks Before Final Toxicity Data are Published. We discussed during our July 29, 2020, and subsequent meetings that toxicity data are not available for the majority of the existing or proposed Appendix A-1 compounds. CASA agrees with CARB staff that it is not appropriate for air districts or others to calculate facility prioritization scores or estimate health risks for such compounds until the Office of Environmental Health Hazard Assessment (OEHHA) publishes final, *not* provisional, toxicity data. With provisional toxicity values likely being conservative for a growing number of potential compounds and emission measurement methods still evolving, CASA recommends excluding the use of provisional values to minimize the potential for the many low risk facilities (that would otherwise be exempt) from being inadvertently captured by this provision. A first step would be a review by the state or an authoritative body designated under Health and Safety Code section 44321.

In addition to concerns about whether staff could meaningfully assess the potential health effects of such a large number of substances in the prescribed timeframe, we are concerned that provisional values would be misused for risk screening, facility prioritization, risk assessment, or as a mechanism to drive emission reductions. Regardless of their intended use, such provisional values are likely to impact the operations of reporting facilities. (CASA)

Comment: Expanded Chemical Reporting: The addition of new chemicals that will need to be reported, especially the addition of some 700+ chemicals that do not have health risk values is of concern. Districts rely upon approved levels in their permitting and health risk analyses and see a tremendous level of potential confusion in making data of this nature available without knowing what the documented health impacts are associated with those substances. (SMAQMD)

Comment: Key Issues Remaining to Be Addressed or Resolved. CCEEB believes the following issues should be resolved or better defined before the rules are made final. While most sit outside specific regulatory language, all are foundational and must be better understood in relation to the proposed rule amendments; that is, successful implementation depends on these issues.

Plan for addressing the technical review backlog at OEHHA, the SRP, and ARB. Health & Safety Code (H&SC) Section (§) 44342 sets forth the statutory requirements that ARB must follow in developing the EICG for facility emissions reporting. Importantly, these include preparation of source testing methods and emissions measurement requirements, as well as specification of acceptable emissions factors and estimation techniques. H&SC § 39660 requires the Office of Environmental Health Hazard Assessment (OEHHA) to evaluate substances for potential health and toxicity effects, with review by the Scientific Review Panel on Toxics Air Contaminants. ARB and OEHHA guidance is needed for subsequent technical evaluation and regulatory control of stationary sources conducted by the air districts.

Even before ARB staff proposed the current amendments, ARB and OEHHA had a backlog of many hundreds of substances. For example, the existing list of substances required for quadrennial reports is less than two hundred (200) substances, or less than fifty percent (50%) of the total Appendix A-I list. The remainder (>300 substances) still needs to be evaluated for purposes of developing test methods and health values. ARB is now proposing to add *thousands*¹ more substances to the Appendix A-I list. Before doing so, CCEEB asks the Board to direct staff to prepare and make public a work plan to prioritize and expedite technical reviews of Appendix A-I substances at ARB, the SRP, and OEHHA.

¹ Because of the use of the three broad functional groups, the actual number of individual substances being added totals several thousand, not 900. For example, EPA lists 9,252 compounds within the PFAS group alone. See https://comptox.epa.gov/dashboard/chemical_lists/pfasmaster. (CCEEB)

Comment: As noted in the spreadsheet developed by CARB, most of the identified substances have *not* been subject to a review by the state or an authoritative body designated under Health and Safety Code section 44321. CARB staff have consequently proposed the development of provisional toxicity values for those substances for which such toxicity values do not already exist – encompassing all but a handful of the chemicals CARB proposes to add to Appendix A-1. For example, of the 191 chemicals and chemical groups proposed for ChemSet 1, with reporting beginning in 2022, only 20 have been assigned a no significant risk level (NSRL) by the Office of Environmental Health Hazard Assessment (OEHHA) under Proposition 65. Of the remaining ChemSet 1 substances, 44 have been reviewed by OEHHA, the US Environmental Protection Agency, National Toxicology Program, or the International Agency for Research on Cancer. The remaining 127 (66 percent of the total) do not have existing reviews that could form the basis for a provisional toxicity value.

In addition to concerns about whether staff could meaningfully assess the potential health effects of such a large number of substances in the prescribed timeframe, we expect that provisional values would be misused for risk screening, facility prioritization, risk assessment or as a mechanism to drive emission reductions. Regardless of their intended use, such provisional values are likely to impact the operations of reporting facilities.

For these reasons we remain opposed to the addition of any substance to Appendix A for which the state cannot conduct a robust health assessment that has been subject to external peer review prior to the initiation of the reporting requirement. We urge CARB staff to further refine the revised draft implementation schedule for the EICG proposal in a manner that phases substances into Appendix A-1 based on realistic estimates of the state's ability to conduct health assessments for subsets of chemicals. This approach will require CARB to prioritize those substances for which adequate information is available, and to defer substances for which significant data gaps must first be filled. It also will provide CARB with the opportunity to refine the list of substances to be added over time and to avoid establishing arbitrary degree of accuracy limits for reporting of substances. (ACC)

Comment: One of our major concerns is that -- many of these -- many or most of these chemical compounds have no health risk -- health risk values assigned to them. And it unnecessarily puts small businesses, small emitters, small businesses at unnecessary risk from the potential for litigation for predatory -- from predatory attorneys, as well as special interest groups. We agree with and support the public's right to know, but I believe that they want to know factual in -- factual data, not data that is premature, exaggerated or unproven. We therefore urge the Board to consider delaying the implementation of all of these compounds with no health risk values assigned to them, until such time as -- as they can be included with those that do have established and proven health risk values. (CSBA)

Agency Response: Please refer to Section A-10.9., "Multiple Comments: Justification for Adding Additional Chemicals" in response to workload for

reporting of the chemical list. Additionally, please see *Section A-9.9., "Comment: Sectors With Chemicals Without Health Risk Values"*, *Section A-1.22., "Comment: Provide Working Groups for EF, Risk, Chemicals"* and *Section A-1.23., "Multiple Comments: Provide Data Transparency"* in response to why chemicals have been added to Appendix A even if an established OEHHA health value does not yet exist, and *Section A-10.12., "Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released"* regarding quantification methods. Further, please see *Section A-10.6., "Multiple Comments: Toxics List - Updates"* and *Section A-10.2., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - Full List"* in regards to the functional group approach for the Appendix A chemical list.

[A-10.15. Comment: General - Prove Chemicals Safe Before Releasing Them](#)

The best approach would be to use the precautionary principle and make it incumbent upon polluting industries to prove that chemicals are safe before releasing them into the environment. An okay approach is to collect the data and determine the risk factors. Though essentially, we're turning our state into a laboratory and asking everyone to volunteer as the lab rats to be experimented on. Many of the chemicals being added or proposed to be added don't have established risk factors because we need to collect the data. (CVAQ)

Agency Response: The commenter does not address any specific or general element of the amendments, so no modifications are necessary to address the comment. Staff agrees with the final statement that we need to collect data even for chemicals that do not have established risk factors, because the collected information helps to identify those toxics being released into the environment, which aids in prioritizing efforts applied to developing additional risk factors.

[A-10.16. Comment: Functional Groups - Support](#)

And our third finding was that the panel supports this idea of a functional group approach proposed by CARB. And we also agree with the three proposed groups poly- and perfluorinated chemicals, polycyclic aromatic hydrocarbons and their derivatives containing a halogen atom, and isocyanates. (CA)

Agency Response: Staff appreciates the support for the inclusion of the functional group approach and other updates to the substances, such as PFAS, subject to reporting. Please also refer to the response for *Section A-10.17., "Multiple Comments: Functional Groups - Concern"* which provides background on the inclusion of the groups and substances.

[A-10.17. Multiple Comments: Functional Groups - Concern](#)

Comment: Inclusion of expansive "functional group" categories in Appendix A. CARB has not established whether functional group designations are appropriate, particularly for per- and polyfluoroalkyl substances (PFAS) which consist of thousands

of individual substances with widely varying toxicological properties and exposure potential. It is unclear how the proposed functional groups will be incorporated into air toxics emissions inventory reporting requirements or how facilities will be able to reliably identify and quantify individual substances within a functional group, especially from sources that are not expected to emit those substances. (WSPA)

Comment: Appendix A - List of Reportable Substances

The large increase in the number of reportable chemical substances presents challenges to ensuring accuracy of emissions reporting. Categorizing chemicals in "similar chemical functional groups" does not seem to justify requiring facilities to report data on all substances in said functional groups, even on substances not typically emitted by the facilities. This becomes onerous and potentially misleading especially when the approximately 900 substances have not been evaluated by the Office of Environmental Health Hazard Assessment (OEHHA) or any other organization. These "similar chemical functional groups" contain a large array of chemical and physical properties that must be appropriately and scientifically evaluated. Adding chemicals that have not been proven to exist at a facility could result in an over-exaggerated report of emissions. The substances that would be added in emission inventories should be "continuous, intermittent, and predictable air releases" consistent with Health and Safety Code 44340(c)(2). (LADWP)

Agency Response: The CTR lists of reportable substances are based on work in updating the EICG list of substances, which included additional "functional group" categories. Staff agree that the per- and polyfluoroalkyl group of substances (PFAS) consists of thousands of individual substances and based on staff research and collaboration with OEHHA, we have come to understand that PFAS-related chemicals are especially a class of concern due to a combination of widespread use, concern for toxic health effects, and extremely long persistence in the environment all over the planet, leading to a lifetime body burden of these chemicals in humans all over the world. For all of those reasons, CARB's functional group approach is warranted and both the CARB Board and Scientific Review Panel agree with this approach. As cited in the CARB EICG Initial Statement of Reasons (ISOR) reference 103 on page 63 (see: <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>), there is a scientific basis for managing the PFAS as a chemical class in relation to the group's physiochemical, environmental, and toxicological properties. The functional group categories serve to define applicability provisions that specify that when a chemical contains any of the listed chemical functional groups inside the chemical's formula, then the chemical meets the definition of a chemical that is included in the Appendix A requirements.

The functional group concept strives to avoid the small chemical modifications that may be made by producers, resulting in a new Chemical Abstract Services (CAS) identifier being assigned that is not explicitly listed in the main body of the Appendix A chemical list. With this approach, CARB incorporates a more

forward-thinking solution to understanding the many emerging chemicals that go into commercial use in order to help reduce significant public and environmental health threats. Further, facilities subject to AB 2588 Hot Spots requirements are only ever required to report chemicals they actually emit, and not all chemicals on the Appendix A-I list.

A-10.18.Comment: PAHs

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. (SBAPCD)

Agency Response: In general, CARB staff's intention for grouped chemicals is that substances be individually reported to the greatest extent feasible. (This is usually good practice because it allows the best match with specific health values --- e.g., cancer potencies -- for each individual chemical, if they differ). For example, this applies to reporting individual metal compounds whenever possible, such as when the specific metal compound is known in a process. More often now, OEHHA's health values may differ for differing forms of the metal compounds. It also applies to reporting of individual PAHs whenever they can be reasonably differentiated. So for example, where a facility is required to conduct a PAH source test (pursuant to a source test requirement in EICG Appendix D for example), then all the individual PAHs must be reported that are covered by the CARB PAH source test method. In some additional cases, there may be emission factors available for a number of the individual PAHs. This is becoming more common as more research and testing has been conducted on various combustion processes, and more compilations are becoming available of individual PAH emission factors. As another example, the US EPA has a set of emission factors, as well as health values, that they use for quite a few individual PAHs for purposes of the National Air Toxics Assessment (NATA) nationwide risk analysis. Nonetheless, having said that, we recognize that there are many circumstances where there is no available information (or feasible source testing options) for reporting individual PAHs from a given source, in which case the grouped PAH total can still be used. A key consideration is whether the level of PAH emissions and the factors that could affect the resultant risk (e.g., proximity of the source to sensitive receptors) is high enough that a grouped PAH total vs. obtaining individual PAH values could make a significant difference in the assessment of what the public health risks might be. Different individual PAHs have different cancer potencies for example, that may differ by several orders of magnitude, and the relative emissions of individual PAHs vary widely as well. In

combination, these factors could lead to a different assessment of the potential public health concern. In general, however, where source testing has not been explicitly required (such as by EICG Appendix D), then it is up to the district's review and approval of a facility's AB 2588 emission inventory plan proposal and report, as to whether the facility would be required to report individual PAHs and/or total PAH.

A-10.19.Comment: Pesticides

We also need to include pesticides. While we at Wilmington are experiencing pollution from petrochemicals, people are experiencing pesticide pollution, so don't exclude that. Thank you very much. (CBE1)

Agency Response: Staff agree that pesticides should be included for toxics reporting and have added over 100 pesticides to the chemical list. CARB staff collaborated with DPR staff during the development of the proposed amendments to the EICG list of substances (which is the basis for the CTR list), and we also consulted DPR information regarding pesticide use and registration in California. By way of context, the AB 2588 list of chemicals applies to "facility" reporting requirements, once it is determined that a facility meets applicability criteria (and definitions) to be included in the Hot Spots program. For pesticides, there are some unique provisions and exemptions regarding the emissions that must be reported (summarized in Note [5] in Appendix B of CTR). In general terms, the first step is to determine whether an operation meets the applicability criteria to be a facility subject to the emissions reporting program, and then they would report emitted chemicals on the list, except that what is covered for pesticides is the release of fugitive emissions to the air (e.g., waste gas venting), not the actual time when the pesticide is acting in its pesticidal use.

A-10.20.Multiple Comments: Waste Sector - Compost Chemicals

Comment: Toxicity is undefined for compostable materials, composting process and compost products air emissions. The mere presence of any constituent on any list does NOT mean that it is "toxic." This is true no matter what is already stated in statute. The mere existence of an "Air Toxics List" do NOT mean that the material is toxic where it is generated. *"Toxicity is the degree to which a chemical substance or a particular mixture of substances can damage an organism."*² The question becomes, in what concentration and exposure rate are these listed chemicals in Appendix A-1 actually carcinogenic and or detrimental to any measure of human health and the environment? For example, the human body produces carcinogenic compounds daily.³ This is also true for plants as they breakdown, e.g. on the forest floor or a compost pile. They will likely produce many of these listed chemicals as intermediate breakdown products. So, while they are on this list, and they may be in the compost pile or even finished products, they have not been proven "toxic" in the doses or exposure rates that will cause a problem to humans, greater than half century old modern compost industry. This needs to be researched and validated prior to "adopting" these "Proposed Amendments." Without this level of exposure data and

empirical knowledge within compostable materials, compost production industry, and their impact on the local community, *a list of chemicals is not only technically meaningless, it can do harm*. For example, it could make the general public afraid to use any of the natural products that the compost industry has been producing for decades. In fact, it would be irresponsible environmental protection management to do so.⁴

² en.wikipedia.org/wiki/Toxicity, and [merriam-webster.com/dictionary/toxicity](https://www.merriam-webster.com/dictionary/toxicity)

³ www.cancer.org/cancer/cancer-causes/general-info/determining-if-something-is-a-carcinogen.html

⁴ Please see “ACP Environmental Justice Toolkit-Draft 3.3.20” for ACP’s evolving understanding of the potential impacts of compost manufacturing facilities on, and benefits to, surrounding neighborhoods. This also contains our ongoing guidance on how to implement community protection protocols. An update of this “Toolkit” is being co-published this year with CalRecycle. (ACP)

Comment: Toxicity is still undefined for the chemicals that are emitted from compost facilities. And as -- at least those chemicals are somewhat known. Some of them are not known. So we will work with staff and want to -- need to work with staff to validate the measurement systems, particularly the levels of detection, as well as the levels of exposure of key toxic compounds as they exist off or do not exist off of compost facilities. (ACP1)

Comment: Validate Measurement systems: Since compost facilities have never been subject to AB 2855 regulations until this proposed update, CARB needs to work with compost producers to start going down the list, starting with the best available data that already exists from existing research for the national compost industry. In addition, compost has never been subject to Material Safety Data Sheets (MSDS), so that data does not currently exist for or within our industry on a regular basis to date. Our industry’s focus has been on balancing environmental protection with environmental benefits.

Recommendation: Only compounds that can be quantified and be shown through double blind tests to be toxic to organisms close to human surrogates be included in Appendix A-I. Compounds that cannot be quantified should instead be listed in Appendix A-II (Substances for Which Production, Use, or Other Presence Must be Reported).

More data is needed for both LOD and LOE specific to compost production operations and facilities prior to prioritization of listed chemicals. This data should be based on various of: Organic residual feedstocks (secondary bioresources). Method of compost technology: Turned windrow, Aerated Static Piles, Aerated containerized compost systems, with separate biofilters.

Determine what, when, and how the compost sector reports Appendix A-1 Compounds prior to implementing this new regulation on the compost industry in California.

Estimate prioritization scores and health risks before final toxicity data is published. In this way, the industry can work with its local stakeholders to ease into regulations without incurring lawsuits that could easily shut down operations from not collaborating with the local Environmental Justice stakeholders. (ACP)

Agency Response: CARB staff understands the comments regarding levels of toxicity for chemicals subject to reporting under CTR. Staff can reassure the commenter and clarify that the CTR reportable toxics were derived from the updated substance lists developed under the concurrent EICG AB 2588 amendments. The AB 2588 Hot Spots program is made of multiple stages, each of which is designed to gather reasonable information about facilities and operations, and to then make appropriate assessments of the significance (or lack of significance) of the results. All facilities subject to the AB 2588 program take steps to evaluate and report their estimated airborne emissions, and the local air districts work with their facilities to ensure reasonable estimates, and then further evaluate multiple factors that would determine whether the emissions could be of concern and could warrant further assessment, which might include more refined risk assessment if needed, before any judgment is made about the potential significance of the toxic impacts on neighbors. In the current rulemaking process, the EICG is being updated to include a comprehensive chemical list that all facilities must consider relative to their routine operations, and the EICG also contains provisions regarding what types of quantification methods and levels are needed. In particular, CARB staff has recognized the unique situation of facilities whose primary function is to process waste or compostable materials that come to them, and over which they have much less knowledge and control, compared to say the case of an industry that knows its raw materials and controls the production of a specific product. For this reason, the EICG Section IX.H. has introduced a special “two-step” process specifically to help facilities in what we briefly refer to as the waste-handling sector (even though we understand the added value of composting operations). The “two-step” process will be used by wastewater treatment facilities, landfills, composting facilities, and metal shredding/recovery facilities. The “two-step” process involves a first step to qualitatively screen for which chemicals are relevant for a given sector and facility, and a second step of using that information to develop a targeted list of chemicals for quantification, which may involve some testing of “open” sources using methods such as flux chambers or other approaches. Several of the other waste-sector groups have already approached CARB staff to begin the process to develop a plan for these two steps, and it is anticipated that groups of facilities with related operations will be able to “pool” their resources and conduct “pooled source testing” on a set of representative facilities and processes, in order to reduce costs and share information. Having a scientifically sound process to develop reasonable emission

estimates will be an essential step toward then evaluating whether the levels of any chemicals could have any potential adverse effects, in consideration of all relevant factors (including distance to receptors and other factors). Some local air districts already have been developing some methods and expertise, and will have valuable information of use to facilities in this process. CARB staff continues to be available for stakeholder questions as well.

A-10.21. Multiple Comments: Waste Sector - Substance List

Comment: For Waste Sector, Add Only Detectable and Measurable Compounds to Hot Spots List. After the establishment of the pooled emission study, IEUA is not opposed to subsequently adding compounds to the Hot Spots list, should they be present within our influent, treatment, or compost sources. However, it is essential that the compounds be detectable and measurable within the unique nature of our sector and the variability of influent sources. This approach would be consistent with a previously approved study, the Pooled Emission Estimation Program (PEEP) completed December 10, 1990. The information based in that document has been used for decades to report for air toxic compounds emitted from various publicly owned treatment works facilities. A subsequent study can be developed, updating this document that is reflective of the expanded list of Hot Spot compounds. A similar approach should be utilized for the compost industry, as these issues may be even trickier when applied to composting facilities. (IEUA)

Comment: Unintended consequences may be caused by the combination of the proposed amended Criteria and Toxic Reporting (CTR) and recommended revisions to the AB 2588 Emission Inventory Criteria and Guidelines. As proposed, most waste facilities in California could be required to report hundreds of new toxic compounds, many of which are without known default emission factors, test methods or toxicity factors. (CWHC)

Agency Response: To address concerns raised by the commenters, as part of the 15-day modifications staff created a new Sector Phase 3B in both CTR and EICG, which provides the waste sector until 2028 data reported in 2029 to fully comply with the requirements. This time extension was provided in recognition of the unique technical challenges faced by the waste industry because they are in the business of processing wastes from other sources, which produce variable emissions in addition to the direct site-generated emissions from engines, treatment processes, and other sources.

A-10.22. Multiple Comments: Provide Enough Time to Complete Pooled Source Testing

Comment: EICG: Section IX.H. Two-Step Process and Protocol for Specified Open Sources at Waste-Handling Facilities. Appendix D requires a two-step process and protocol for qualitative screening followed by quantitative testing, for specified open sources at waste-handling facilities.

The two-step process applies to open sources at the following types of facilities for which waste-handling is the primary function: Wastewater treatment at wastewater treatment facilities, including publicly owned treatment works (included in SIC 4952 or NAICS 221320); Collection and disposal of refuse at landfills (included in SIC 4953 or NAICS 5622xx, 562920); Composting of organic waste at composting facilities (included in SIC 2875, 4953 or NAICS 325314, 562212, 562219); Recycling facilities, and material recovery facilities that separate organic waste from recyclable materials (included in SIC 4953 or NAICS 562212, 562920); Scrap and waste wholesale handling and recycling, including but not limited to junk metals, shredding operations, and auto dismantling (included in SIC 5093 or NAICS 423930).

In the first step, the facility operator shall submit an initial emission inventory plan that includes proposed testing protocols for qualitative testing of representative open sources *and can include other sources* at all relevant emitting processes, devices, or activities at the facility. The testing protocols shall be designed to identify all listed substances of concern for the facility for purposes of emission quantification in the second step.

This provision acknowledges the need for and allows waste sector facilities (wastewater, composting, recycling and landfilling) to perform a two-step process on all identified potential sources because:

The waste sector facilities cannot control the amount of Appendix A-1 compounds they receive. Unlike most other industry sectors, the material entering these facilities do not have Safety Data Sheets to estimate emissions of Appendix A-1 compounds. There are no emission quantification methods that exist for most of the Appendix A-1 compounds for any identified potential source.

We interpret this section to allow waste sector facilities (as identified in Section IX.H.1) to work collectively to perform a statewide pooled emissions study that is defined by an approved emissions inventory plan identifying the proposed source testing protocols (based on guidance from CAPCOA or relevant air district) for qualitative testing of emissions from any identified potential sources (open, combustion or other reportable sources). CARB recognizes the benefit of performing a single statewide wastewater sector pooled emissions study to identify and then quantify (as part of step two) Appendix A-1 emissions from all potential sources.

Since a study of this nature (statewide) cannot be complete in time to comply with reporting deadlines as currently outlined in Sections IX.H6 and IX.H.11, we understand that Section IX.G enables the air district to approve the time necessary to perform the scope of the statewide two-step pooled emissions study in full. (CASA)

Comment: Section IX.H.: Two-Step Process and Protocol at Waste-Handling Facilities – CCEEB supports concerns raised by the California Association of Sanitation Agencies related to the timing needed to complete the two-step screening process set forth in this section of the rule. While CCEEB appreciates staff's ongoing efforts to address

testing challenges unique to this sector, and generally agrees with the proposed approach, we are mindful of the technical complexities involved. Moreover, subsection (5) requires that a facility operator submit results of qualitative testing within 120 days of the plan approval. No other sector has a similar deadline to submit test results when testing methods are undefined, and as we have previously stated, CCEEB believes that backlogs at the air districts and with third-party consultants and laboratories are likely. We recommend that more flexibility be included to address timing concerns. (CCEEB)

Agency Response: The first commenter is correct in their interpretation that waste sectors are provided the additional time and flexibility to perform statewide pooled emissions studies to quantify emissions reportable under EICG and CTR. Under the 15-day modifications to CTR and EICG, Full reporting for the waste sectors is delayed until 2028 data reported in 2029 which addressed concerns raised by both commenters. Also see responses to *Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector"*, *Section A-9.6., "Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing"*, *Section A-10.21., "Multiple Comments: Waste Sector - Substance List"*, *Section A-10.26., "Comment: Waste Sector - Two-Step Source Testing Process and Status Quo"*, and *Section A-5.16., "Comment: Waste Sector - Status Quo and Two-Step Process"* for additional background and responses relevant to these comments.

[A-10.23.Comment: Waste Sector - Availability of Emission Quantification Methods](#)

EICG: Section II.H. Updates to the List of Substances, and Phase-In Provisions. (5) Availability of Emission Quantification Methods. If no emission quantification method exists to quantify emissions of a substance at the time of its "Effective Phase", the facility operator only needs to report the presence, use, or production of the substance and the amounts present, used, or produced within the facility, using the Appendix B "Supplemental Use and Production Reporting Form" (S- UP) or the equivalent information in a format required by the air district.

The availability of an emission quantification method shall be re-evaluated for these chemicals at the time of the next facility update reporting cycle. If a method is then available, emission quantification is required pursuant to the provisions in section VIII.E.(3).

This provision is applicable to the waste sector (wastewater, composting, recycling, and landfilling) since there are no emission quantification methods that exist for most of the existing and proposed compounds listed in Appendix A-1. Additionally, the waste sector has no ability to determine the presence (or lack thereof) of a compound as suggested by the use of Appendix B (S-UP) from an onsite source (open, combustion or other reportable sources) without executing the two-step process as proposed in EICG Section IX.H. It is our interpretation that this provision allows for the determination of the tentative presence of compounds and to subsequently quantify

their emissions based upon guidance provided by CAPCOA or the relevant air district and in accordance with EICG Section IX.H. (CASA)

Agency Response: See responses to Section A-9.5., “Multiple Comments: Waste Sector - Phase-In by Sector”, Section A-9.6., “Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing”, Section A-10.21., “Multiple Comments: Waste Sector - Substance List”, and Section A-10.22., “Multiple Comments: Provide Enough Time to Complete Pooled Source Testing” which address the concerns raised regarding emissions reporting and timing for the waste sectors.

A-10.24. Multiple Comments: Waste Sector - Substances Phase-In Delay

Comment: Impact on the development of facilities: In order for California to reach its 75% recycling goal in this decade, much less by 2025, we will need to develop, build, commission, and market compost products produced by the equivalent of 100 new compost facilities throughout the State (100 facilities x 100K tons/year produced = ~10,000,000 tons/year total new production). If these regulations are implemented now, it will have the effect of greatly slowing down the progress of the industry, thereby effectively blocking the implementation of SB 1383. Instead of lowering GHG gases (from rotting food scraps in landfills), that will continue, as well as stalling the many other compost benefits to the water and solids (bioresources) media. The current track of 2025 will only be sufficient if the above recommendations are acted upon, and usable results are the outcome.⁶

Recommendation: Put compost producers on a separate track for regulatory implementation that is both phased, funded and empirically based, using the above Recommendations.

⁶ See “Table E-1: Phase-in schedule for reporting by District Group and Sector Phase” in “eicgappe”. Note that compost is in Sector No. 49, Sector Phase 3, “eicgappe”, page E[17.] (ACP)

Comment: Accordingly, we believe that the municipal wastewater sector should be the last sector to report these new toxic compounds CASA submitted a letter detailing specific recommendations and the phased approach for staff's consideration. I greatly appreciate the opportunity to provide these comments. (EMWD1)

Agency Response: This comment contains a recommendation for putting compost facilities on a separate, phased track. In response to the comments received, CARB staff proposed establishing an additional Sector Phase (Phase 3B), which is the very last phase, and provides even more time for sources in the waste sectors (including composting). Phase 3B reporting begins with the 2028 data year (reported in 2029). (For specifics on phases, see Tables A-1 and A-2 of CTR; and see Table E-1, Table E-2, and Table 2 in Section II.H. of EICG). This change was incorporated during the 15-day modifications specifically to allow additional time for waste-handling sources to develop methods to quantify their

emissions, because they function as recipients of materials from outside sources, and have greater uncertainty regarding their potential emissions, making effective quantification more difficult.

The comment also recommends that implementation be funded and empirically based. While there is not a mechanism available to provide funding to facilities, the EICG regulation provides flexibility and alternatives to reduce costs by allowing similar facilities to pool their resources and jointly test their emissions from representative processes. With this mechanism, facilities subject to CTR also benefit, because similar data will be collected and reported.

In addition, the proposed EICG amendments establish a “two-step” quantification approach for waste-sector facilities, which incorporates empirically based provisions. The “two-step” approach allows for two sequential proposals, which first screen to identify the priority chemicals at the facilities (using lower cost qualitative methods), and then follow with targeted testing (or estimation) methods to quantify those emissions. The “two-step” approach provides a great deal of flexibility for waste-sector facilities to propose and adapt sampling, testing, or estimation methods, in consultation with CARB and the air districts, with the results applicable for both EICG and CTR reporting. The EICG and CTR amendments also allow simplified alternatives in the event there is truly no available testing or estimation method that can be used (or adapted) to quantify a chemical’s airborne emission amounts.

The comment suggests there could be concerns with composting efforts being slowed down. The staff does not agree with this comment. The EICG and CTR requirements are provisions for quantification and reporting of (routine) emissions; they are not requirements for any process changes or control measures, and as such, will not impede the existing or future composting efforts.

Finally, in response to the wastewater comments, 15-day changes were made to both the EICG and CTR to move the wastewater sector to the very last phase (Sector Phase 3B), to better align all waste sector facilities. In addition, the 15-day changes deferred the reporting of new chemicals by an additional year in the small and medium sized districts (District Group B). These changes ensure ample time for pooled testing arrangements and the two-step approach.

[A-10.25. Multiple Comments: Waste Sector - Source Test](#)

Comment: The waste sector, unlike the manufacturing and perhaps other sectors, is challenged to identify the specific makeup of influent and source emissions that will vary from community to community. As such, we cannot reliably estimate emissions of emerging compounds found in wastewater and biosolids compost operations.

More importantly, there are few approved methods available for our industry to quantify many of the constituents listed in the EICG, making this task impossible for our industry to comply.

Moreover, toxicity data are not available for the majority of the existing or proposed Appendix A-1 compounds. (IEUA)

Comment: Unlike the manufacturing sector that could potentially estimate emissions based upon throughput and raw material Safety Data Sheets (MSDS), the waste sector (landfills, recycling and waste transfer facilities, and compost facilities) cannot use this methodology. The waste sector is unique and provides essential public services by managing society's refuse, compostable organics and recyclables. These waste products sent to our facilities are not accompanied by MSDS sheets. As a result, the proposed amended CTR would require the waste sector to annually report hundreds of new AB 2588 toxic substances without the ability to accurately estimate or quantify these emissions.

The applicability of the proposed EICG Report, as written, broadly expands the number of reporting facilities by introducing activity levels through additional source testing that would capture numerous small or de minimis emission sources, including particulates, mobile sources and portable engine emissions.

We are concerned with the addition of specific proposed source testing requirements for open sources to the EICG Report, including the addition of "unit processes including feedstock and receiving, composting, mixing, finished product, uncomposted feedstock and fugitive emission locations" that could trigger inaccurate accumulative reporting at multiple levels of the waste hierarchy. The composting addition is particularly concerning as composting happens at numerous small facilities, and they may not have specific data available to provide detailed reporting of emissions. Additionally, with the current efforts by California to divert organic wastes from landfills, efforts to further burden businesses composting organic waste will make achieving SB 1383 (Lara, Chapter 395, Statutes of 2016) diversion goals unattainable. We would urge you to reconsider the approach and timeline of these new waste hierarchical processes. (CWHC)

Comment: We also request that CARB establish a methodology to identify sector-specific lists of potential toxic pollutants, which would facilitate pooled emission factor studies. Any sector-specific pollutant list should include an assessment of all compounds that might need to be reported. Without such an assurance, the feasibility and cost-effectiveness of any pooled emission factor study would be undermined by the potential for a never-ending industry study. (CWHC)

Agency Response: Refer to the responses for Section A-10.24., "Multiple Comments: Waste Sector - Substances Phase-In Delay", Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector", and Section A-9.12., "Multiple Comments: Expand/Decrease Applicability - Remove Recycling Facilities" which address the comments provided here.

A-10.26.Comment: Waste Sector - Two-Step Source Testing Process and Status Quo

EICG: Section IX.G. Specifications for Acceptable Estimation Methods and Emission Factors. Where emissions of substances are required to be quantified but where measurement is not required under section IX.A., the emission inventory plan may propose an estimation method to quantify such emissions at all primary locations of release to the degree of accuracy required by section VIII.E. The district may approve a proposed method only if all of the following criteria are met:

The district determines that the method is effective and reflects the best available methods and data, and will produce an accurate representation of the types and quantities of air releases at a facility;

The proposed method accounts for all facets of the applicable emitting process and is based on sufficient data about the air toxics emission characteristics under the full range of relevant conditions to characterize the emissions to the degree of accuracy required by section VIII.E.; and

Standard calculations for mass balance, emission factor application, and engineering calculations and models comply with the following requirements: (i) - (iii).

This provision is applicable to the waste sector because these facilities cannot control or estimate the amount of Appendix A-1 compounds received for treatment. As a result, waste facilities look to EICG Section IX.G to propose emissions and quantification plans needed to estimate emissions at primary locations of release.

We interpret this section to allow an air district to approve these alternatives, which would 1) allow facilities to participate in an extensive, statewide two-step process (per Section IX.H) that uses a pooled emissions study (for example) to identify and explain the best available methods approved by CAPCOA or relevant air district that are being used to estimate emissions under §93404(c)(1)(B) of the CTR and 2) include additional time needed to perform such an extensive study continuing status quo reporting in the meantime. In other words, compounds being characterized in the wastewater sector's statewide pooled emissions study would not be reported in response to the CTR until the completion of the two-step process. The two-step process represents the best available data and methods available for the waste sector. (CASA)

Agency Response: The key comment provided is to confirm interpretations regarding an element of implementation of EICG, which has a direct impact on CTR because similar (if not identical) data collection, quantification, and emissions reporting will be used under both programs. Section IX.H. of EICG establishes the 2-step process for open sources at waste-handling facilities and applies to Sector 3B sources identified EICG Table E-3 and CTR Table A-3, as well as other specified sources. Under EICG, data collected under the EICG two-step process are to be reported by the 2028 data year reporting deadline in 2029. CTR does not provide a specific process or protocol for estimating waste

sector emissions. However, with the 3B sources being on the same 2028 reporting schedule under CTR, it is assumed that emissions quantification methods and the associated data collected under the EICG two-step process will be used for CTR reporting. It is also expected that such data, properly applied, will fully meet the CTR reporting requirements.

To address the specific elements raised, regarding item 1, yes, it is expected that the testing, evaluation, methods, and results developed under the EICG two-step process, when properly applied, will fully meet the CTR emissions quantification requirements for the 2028 data year emissions reported in 2029.

For item 2, yes, as part of the 15-day modifications, under CTR, additional time has been provided to implement the two-step process, delaying reporting until the 2028 data year. However, should the two-step process not be completed in time for use with 2028 data, that does not release the Sector 3B sources from the requirement to report 2028 data. Reporting must be completed under CTR for 2028 emissions using best available data, as is required for other sectors that do not have the two-step process option. Also, prior to 2028, any waste sector sources that are already subject to the CTR reporting requirements (i.e., those that trigger the GHG, 250 tpy, or Elevated Prioritization applicability criteria of CTR 93401(a)(1)-(3)), may continue with use of current best available data for emissions reporting under CTR. These sources are not required to evaluate and quantify emissions of the additional Appendix B toxic substances until the 2028 data year, and under CTR may continue with business-as-usual emissions reporting until that time. See also the response to *Section A-5.16., "Comment: Waste Sector - Status Quo and Two-Step Process"*.

A-10.27. Comment: Functional Groups - PFAS

Per- and polyfluoroalkyl substances (PFAS) as a Functional Group. CCEEB would like further opportunity to discuss with staff the inclusion of the PFAS-related Functional Group in EICG Appendix A-I amendments. While CCEEB understands studies may indicate evidence of health impacts, these studies have focused on contamination of water sources and soil, not on direct inhalation due to airborne emissions. As such, this category of substances is different from other air toxics, where the primary exposure pathway is direct inhalation. CCEEB wishes to understand how air emissions data would be used to estimate water and food-based exposures, the degree to which ARB is coordinating its efforts with other agencies (e.g. the state water board and the Department of Toxic Substances Control, which are also collecting data on the prevalence of PFAS compounds), and the status of agency efforts to develop test and quantification methods for airborne emissions and related health risk estimates. For example, the federal EPA is working towards development of test methods for airborne PFAS-related emissions; CCEEB believes there may be opportunities to draw from EPA efforts.

Additionally, we would like to work with ARB staff to understand whether there could be site remediation issues related to the reporting of PFAS-related substances. CCEEB notes that PFAS compounds are ubiquitous in many residential, commercial, and industrial settings, including site cleanups and other environmental control activities. Implications from reporting should be better understood to avoid unintended consequences. (CCEEB)

Agency Response: The comment does not provide specific suggestions for changes to the regulation. It is instead asking for cooperation in understanding how PFAS emissions estimation methods may be developed, the work of other agencies regarding PFAS substances, and potential reporting implications. CARB staff is available to work with the commenter to answer any questions, and discuss implementation of the requirements moving forward. For additional background regarding the inclusion of PFAS reporting for CTR and EICG, refer to *Section A-10.9., "Multiple Comments: Justification for Adding Additional Chemicals"* and *Section A-10.17., "Multiple Comments: Functional Groups - Concern"*. Additionally, pursuant to other requirements of CTR and EICG, best available data and methods may be used to estimate emissions, and if no such methods can be determined, the amount of the substance used or produced on site may be reported in lieu of emissions reporting.

A-11. Comments Pertaining Only to the EICG Proposed Amendments

A-11.1. [Multiple Comments: Mobile Sources - Remove Requirement](#)

Comment: The subsection for other non motor vehicle emissions should be removed from the guidelines. Most of the examples provided are regulated by CARB's own separate regulations and in some cases have reporting requirements under those regulations. It is not clear what is gained by requiring emissions reporting for a lawn mower, chainsaw, or refrigeration unit at a facility. Finally, the statement that "the district may require the facility operator to report activity data regarding the usage of non-motor vehicle mobile sources that are periodically located within the facility property" is unclear as the term "periodically" is not defined. (MBARD)

Comment: Motor Vehicles and Other Mobile Sources Were Not Intended to Comprise an AB 2588 "Facility" Furthermore, we question whether mobile source emissions and activity data, including motor vehicles and non-motor vehicles (e.g. lawn-mowers, leaf blowers, auxiliary generators, welding machines, etc.), should be included in AB 2588 inventories in the first instance. First, Health and Safety Code section 44303 requires the reporting of "routine" and "predictable" air releases. Air releases from mobile sources are excluded from the "facility" definition in AB 2588 because they are typically not routine or predictable, and difficult to track or regularly attribute to a fixed "facility". This is because their utility is inherent in their mobility, which is necessary to meet highly variable needs. Mobile sources often are used for a wide variety of applications (e.g. personnel transportation, goods pick-ups and deliveries, power generation, construction, and landscaping), but for each instance of use, the

exact technology, make, and model of a mobile source can vary, along with the duration, frequency, and location of use. This variability is compounded further when the mobile source is not owned or operated by the facility (i.e. third-party contractor), which is often the case. In these cases, not only does the contractor have wide discretion for the selection and operation of the equipment, but the contractor often determines how a job is executed, which determines whether a mobile source is needed in the first place.

Second, AB 2588 only requires the emissions inventory to characterize hazardous materials from the *facility*. The statute defines “facility” at section 44304 as “every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.” CARB further clarifies in Section X of the proposed EICGR (page 76) that the phrase “every structure, appurtenance, installation” is interpreted to mean “all equipment, buildings, and *other stationary items* (emphasis added).” The phrase “other stationary items” cannot be reasonably interpreted to mean mobile sources. By definition, “mobile sources” are not “stationary items”, and expanding the definition of “facility” to capture all transient mobile sources would contradict the basic framework of AB 2588 as a statute fundamentally requiring reporting of emissions from “facilities.”

Lastly, CARB asserts in the ISOR at page 50 that information on the activity of mobile sources also supports the estimation of toxics from mobile and areawide sources that CARB is required to compile pursuant to Health and Safety Code Section 44345(b). This code section specifies that this data is to be compiled by CARB at the air district level, not the facility level, and separately from the data compiled by facility operators subject to air district permit requirements. We do not dispute CARB’s authority to compile emissions from these sources, but Section 44345(B) does not authorize CARB to include these emissions in the “facility” definition for purposes of AB 2588 regulation. Requiring facilities subject to the EICGR to track and report mobile source emissions at a facility level is not the statutorily authorized mechanism; it would add tremendous monitoring, recordkeeping and reporting burdens on top of the facility obligation to report the greatly expanded list of hazardous materials proposed for inclusion in Appendix A-1 and would produce a misleading and inequitable characterization of the “facility’s” true stationary source emissions for AB 2588 purposes. We request that CARB identify an alternate mechanism that more adequately and efficiently satisfies the requirements of Health and Safety Code section 44345(b). (WSPA)

Comment: Tracking Mobile Source Data at Facility. Reporting activity data and/or emissions information for the mobile sources at a facility introduces additional burdens besides its conventional AB2488 reporting requirements. The ISOR stated the rationale is to “ensure a comprehensive characterization of the full range of hazardous materials that are released, or that may be released, to the surrounding air from the facility, as required by H&SC Section 44340(c)(2)”. However, mobile sources should not be considered as part of the facility definition: “every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases

or potential air releases of a hazardous material” per Health and Safety Code section 44304. (CMC1)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

These comments have multiple parts, which will be addressed in turn. First, CARB staff agrees with the portions of the comments that suggest that the examples of lawn mowers, leaf blowers, and chainsaws are not relevant examples for purposes of facilities subject to AB 2588 (in fact these would generally qualify under the exempted uses provisions related to grounds maintenance), and therefore staff has proposed in the 15-day changes to remove these three examples from EICG Section VIII.G.

However, CARB staff does not agree with the suggestion to remove the examples of welding machines, auxiliary generators, or refrigeration units, because these are potentially significant sources of potent toxic substances (e.g., hexavalent chromium and diesel exhaust particulate matter) that could be located and operated on a site on a “routine and predictable” basis and could contribute to a facility’s risk to its neighbors. Likewise, there are instances where locomotives, airplanes, pleasure craft, ships, and cranes may be operated within the facility property boundaries on an on-going basis that could be deemed to be “routine and predictable” and thereby contribute to the localized impacts from the facility and its operations. As one example, a railyard facility subject to AB 2588 could have switcher locomotives that operate entirely on the facility property, and there could be predictable maintenance operations involving running other locomotives for periods within the site. As another example, an aircraft (or ship) maintenance facility subject to AB 2588 could be asked to address the predictable releases from idling or revving aircraft (or ship) engines during their predictable maintenance activities.

CARB staff does not agree that “air releases from mobile sources are excluded from the “facility” definition in AB 2588”. CARB staff believes there are two different – and stepwise -- considerations of relevance. The facility definition is the first step used to determine whether a site meets the definition to be considered a facility for purposes of AB 2588 applicability. For example, the facility definition involving “every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material” per Health and Safety Code section 44304, helps make the distinction that a “facility” subject to AB 2588 must involve a site (as opposed to say tracking a vehicle moving all over a region’s highways, or tracking the amorphous use of consumer products scattered randomly throughout all homes). However, once the facility applicability has been determined for a site, then Health and Safety Code section 44340(c)(2) of the AB 2588 “Hot Spots” Statute requires that “The plan is designed to produce, from the list compiled and maintained pursuant to Section 44321, a comprehensive characterization of the full range of hazardous materials that are released, or that may

be released, to the surrounding air from the facility.” It also states that “Data shall be collected or calculated for all continuous, intermittent, and predictable air releases”. Consistent with this direction, and from the beginning of the AB 2588 “Hot Spots” program, CARB has provided regulatory interpretation and guidance (see 1989 letter here: https://ww2.arb.ca.gov/sites/default/files/2020-11/AB_2588_FirstDistrictLetter_Sept1989.pdf) that on site mobile sources that operate permanently or predictably as part of the facility’s routine onsite operations, and which contribute to listed substances released from the facility to the surrounding neighborhood air, do need to be addressed for facilities subject to AB 2588.

In consideration of other legal provisions, such as those regarding CARB authority for “motor vehicles”, CARB’s regulatory interpretation and guidance has carefully harmonized the information that CARB can assemble for tracking motor vehicle exhaust emissions on a statewide and regional basis (e.g., through CARB’s EMFAC mobile modeling and use of DMV registration information) vs. the need to know localized “activity” parameters specific to a given facility site. For the latter (the localized, facility site-specific impacts), CARB does not have adequate data granularity to provide a site-specific estimate for how much of the regional mobile source totals are arising from vehicles (or other mobile sources) primarily and predictably operating within a specific facility boundary. In those situations, the facility operator is in the best position to quantify the level of vehicle (or other mobile) “activity”. The facility operator does not need to quantify the motor vehicular exhaust (tailpipe) emissions, but they can be asked to provide estimates of the level of “activity”, so that CARB (or the district) could do so. By asking the facility operator to provide estimates of the amount of “activity” of the mobile usage that is either permanently or predominantly occurring onsite, CARB (or the districts) can compute estimates that characterize the potential magnitude of localized exhaust emissions from the vehicles on site. Facility operators are not asked to compute these exhaust (tailpipe) emissions themselves, but the CARB or district estimates can help determine whether there could be levels of potential localized concern, and can also be used by CARB to reconcile the localized portion out of CARB’s regional mobile exhaust emission inventories. (In the railyard example mentioned above, an example of reportable levels of “activity” might be the typical number of hours per year that diesel locomotives spend idling/running while undergoing routine and predictable maintenance operations that occur on the site).

In addition, the facility can be asked to compute the levels of fugitive dust particulate matter that arise from the routine and predictable movement of on site mobile sources on unpaved roads within the property – broken down into the toxic constituents such as metals -- just as other fugitive dust sources arising from all sorts of other industrial operations must be addressed. The use of chemical speciation profiles to estimate toxic metals in fugitive dust from unpaved roads is discussed further in [*this CTR FSOR, Section A-11.3, “Multiple Comments: Mobile Sources - Dust Emissions”*].

A-11.2. [Multiple Comments: Expand/Decrease Applicability - Cement Industry Already Compliant with AB 2588](#)

Comment: Rule Concerns that are Specific to the Cement Industry. Issue #5 - The cement industry has already complied with AB 2588 to the maximum extent feasible and has applied all available published source test methods. The cement industry already performs extensive air quality monitoring and source testing and reports annually under National Emission Standards for Hazardous Air Pollutants (NESHAP) and Toxic Release Inventory (TRI), based on scientific reporting guidance published by EPA. Therefore, there is no justification for additional reporting requirements to be imposed under the AB 2588 revisions. (CCMEC1)

Comment: Issue #6- The basic process for cement manufacturing has not changed in over 25 years. Only industrial facilities that have modified their processes, potentially triggering new or modified AB 2588 reporting under the existing rule provisions, should be required to modify their AB 2588 reporting approach. (CCMEC1)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The EICG amendments expand the list of substances that must be reported if a facility has air emissions of those chemicals, or if they use or produce them as part of their operations. To the extent that a facility does not emit, use, or produce any of the newly added chemicals, the facility is not required to report those substances. However, facility operators are expected to conduct an assessment of the processes at their facilities to determine if any of the newly added chemicals might be emitted, used, or produced. Staff updated Appendix C of the EICG to provide guidance to facility operators as to the specific emissions that could be associated with various processes at their facilities.

And while there is some commonality between the federal NESHAP and TRI emission estimation efforts relative to the AB 2588 program, and there is likely to be some common benefit to a facility's efforts in process evaluations and source quantification approaches conducted as the foundation in each case, there are still important differences among the programs. In general, the high usage thresholds (often 10,000 or 25,000 pounds per year of a chemical) under the TRI program are often not sufficiently comprehensive to meet the specifications of the AB 2588 program (which covers additional steps of risk assessment, public notification of risk, and risk reduction audits and plans, which all require more exacting data than in the TRI reporting program). Furthermore, the list of chemical substances addressed by AB 2588 is generally more extensive than the federal lists, and the current EICG rulemaking significantly expands the AB 2588 substance list further.

In the specific case of the cement sector, for example, the newly listed chemicals in Appendix C include compounds of Barium and Cobalt. Fortunately, estimating these

may not require new source testing, but rather an evaluation of the elements added to or present in the input materials.

A-11.3. Multiple Comments: Mobile Sources - Dust Emissions

Comment: On-Site Mobile Sources. On-site mobile sources were added in Section VIII, G with the justification being a concern about hazardous materials. However, Appendix A does not include a substance called "dust emissions" nor does Appendix C identify what hazardous materials are to be quantified in dust emissions from routine and predictable on-site motor vehicle activity. Does this mean every site now needs a geologic assessment of whether the unpaved roadway or other surface materials contain silica or naturally occurring asbestos or some other hazardous material? Please remove this requirement or identify what hazardous material(s) are supposed to be reported as emitted from dust emissions. (MBARD)

Comment: Dust Emissions. Dust emissions produced from routine and predictable motor vehicle activity at a facility are not listed substance in Appendix A-1. For this reason, the requirements for reporting dust emissions should be removed from the proposed amendments to EICG regulation. CMC agrees that TAC emissions for substance listed in Appendix A-1 emissions present in fugitive entrained dust should be quantified. However, reporting dust emission at a facility increase existing burdens to facilities. (CMC1)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff is not implying that the term "dust" itself is a listed substance in Appendix A. The use of the term dust emissions in EICG Section VIII.G. is intended to establish applicability of a source type (i.e., a type of process or operation subject to reporting), in this case, fugitive dust arising from the movement of on-site mobile vehicles. This is an applicability consideration, and is similar to evaluating all the many other types of operations within a facility that give rise to fugitive particulate matter (PM) emissions that contain toxic substances in the particulate matter (such as metals), which are substances listed in Appendix A, which must then be reported. The facility operator is being asked to evaluate the on-site mobile activity, and to provide estimates of the particulate dust arising from the movement of on site mobile sources, which would be broken down into its toxic constituents such as metals, just as other dust sources at other industrial/commercial operations do. There is not a specific requirement for source testing to be conducted. Instead, various quantification or estimation methods can be proposed in the facility's emission inventory plan. This is the same procedure as other industrial and commercial operations that have particulate matter (dust) emissions would do. A commonly proposed quantification method for other dust sources is to use available "chemical speciation profiles" that provide the particulate matter composition, applicable to the source type. The speciation profiles provide the fractional weights of components,

including listed toxic metals, in the particulate matter. For example, speciation profiles for paved road dust PM and unpaved road dust PM would be relevant to vehicle movement emission estimates. PM speciation profiles are available from the USEPA SPECIATE database, CARB's speciation database, local air district information, and literature. CARB's speciation database can be accessed from this web site: <https://ww2.arb.ca.gov/speciation-profiles-used-carb-modeling>, and USEPA's SPECIATE database can be accessed from this web site: <https://www.epa.gov/air-emissions-modeling/speciate>.

A-11.4. Multiple Comments: Pooled Source Testing

Comment: Section IX.B: Pooled Source Testing – current EICG requirements for pooled source testing seem to assume that all facilities within the sector group are located within a single air district. Given the extraordinary volume of source testing that will be required due to additions to Appendix A-I, CCEEB believes there will be a significant demand for pooled source testing across air districts. Additionally, source testing review and approval backlogs already exist at the air districts; these backlogs will be further exacerbated by the new requirements. CCEEB recommends that ARB work with the districts to establish a joint-agency review process that allows for multi-district pooled source testing, and revise this section accordingly. In doing so, CCEEB asks ARB to consider availability of certified source testers and laboratories, and explicitly assess how this might affect implementation timelines. (CCEEB)

Comment: For pooled source testing, which we address later in our comments in more detail, CCEEB recommends that ARB be the primary point of contact for groups of facilities within a sector that may be located in more than one air district. If all facilities in the group were in a single air district, then the district would be the primary point of contact and would work in coordination with ARB to review and approve test methods, protocols, and testing results. (CCEEB)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The EICG pooled source testing option in Section IX.B. has always been envisioned to allow for a statewide approach, crossing multiple districts. Nothing in the EICG precludes a statewide scope. CARB strongly encourages groups interested in pooled source testing projects to initiate discussions with CARB and affected districts as soon as possible. There have been prior pooled source test projects earlier in the AB 2588 Hot Spots program that were statewide in scope, and they successfully included coordination across multiple districts and CARB. These pooled testing projects generally involved pre-planning and various formal or semi-formal logistical arrangements among the participating facilities, and consultation with districts and CARB early in the process. These early discussions worked out many technical and logistical aspects well before submittal of the formal pooled proposal(s) for district and CARB approval. The pooled source testing proposals addressed in Section IX.B.

are intended as alternatives to CARB-required source tests, and so CARB's Executive Officer is included in the review and approval process.

CARB staff wonders whether the comment may reflect some misinterpretation about when source testing is actually required by the EICG (and when Section IX.B. pooled source test alternatives apply). The comment states that "Given the extraordinary volume of source testing that will be required due to additions to Appendix A-I, CCEEB believes there will be a significant demand for pooled source testing across air districts." However, CARB staff would like to clarify that source testing is not automatically required to quantify new Appendix A-I chemicals. In fact, many of the new chemicals in Appendix A-I will be able to be addressed by process knowledge and applying estimation methods (not testing). The addition of chemicals to Appendix A-I does not itself cause any new source testing requirements (or a need for pooled alternatives).

To further clarify, the only CARB-required source testing is limited to the particular processes and chemicals explicitly listed in EICG Appendix D (and the Section IX.B. pooled alternatives pertain to these CARB-required tests in Appendix D). In the current rulemaking, most of Appendix D has not been changed. The only rulemaking changes affecting Appendix D are (a) to require secondary aluminum foundries/smelters to test for some specific existing (not new) A-I chemicals, and (b) to require a defined group of waste-handling sector facilities (wastewater treatment, landfills, composting, and scrap metal shredding/recovery) to utilize the new "two-step" process (see EICG Section IX.H.) to first qualitatively screen for chemicals of concern and then quantify those target chemicals with proposed testing. CARB has already had outreach discussions with waste-sector groups regarding the "two-step" process, and regarding their interest in proposing to pool their resources to test representative sources. The EICG Section IX.H. provides a long, extended timeframe (2029 reporting of the 2028 data year emissions), for the required "two-step" process to ensure adequate time for these waste-sector facilities to develop and complete any individual and/or pooled testing they plan to conduct. This also ensures adequate lead time for involvement of air districts. CARB staff will continue to be available for discussions as these sectors organize their efforts.

In cases where source testing is not explicitly required by CARB (for example, voluntary source testing that facilities may choose to propose as a quantification method), nothing precludes facilities from organizing among related facilities to propose to pool their resources to test representative processes, and they may use similar concepts as in Section IX.B. for guidance (though not required to follow the exact Section IX.B. provisions). Voluntary testing provisions would be part of the "emission inventory plan" process established by the Hot Spots Statute itself, between the facility and district. Facilities that wish to pool resources should plan sufficient lead time to organize their efforts and to seek district input (and CARB input if so desired), prior to their emission inventory plan submittal, if they choose this sort of voluntary testing. CARB staff continues to be available for consultation to stakeholders upon request.

A-11.5. Multiple Comments: Providing Formal Comments

Comment: On behalf of the California Cement Manufacturers Environmental Coalition, we would like to thank you and other CARB staff members for accommodating a continuing dialogue to resolve the cement industry's concerns with proposed revisions to the AB 2588 reporting regulations.

Our industry's historical goal has been to work closely with CARB in the development of policies that are workable to both CARB's objectives and the cement industry's ability to effectively and efficiently comply with those objectives. In this letter, we are taking the informal comments provided earlier to CARB staff in various meetings and emails and presenting these as formal comments submitted as a public comment letter to the appropriate CARB email address. Upon your internal review of the concepts provided in this correspondence, CCMEC looks forward to further conversations with CARB in the EICG rule development process pertinent to the Portland Cement manufacturing industry.

In this letter, we are presenting three rule language change items for CARB's consideration. (CCMEC)

Comment: On behalf of the California Cement Manufacturers Environmental Coalition (CCMEC), we would like to thank you and other California Air Resources Board (CARB) staff members for accommodating a continuing dialogue to resolve the cement industry's concerns with proposed revisions to the AB 2588 reporting regulations.

In this letter, informal comments provided earlier to CARB staff are presented as formal comments. CCMEC looks forward to further conversations with CARB regarding this rule development process pertinent to the cement manufacturing industry. (CCMEC1)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff appreciates the comments from the cement industry regarding the dialogue to resolve the industry's concerns regarding the EICG regulation amendments. These comments serve as a preamble for other, more specific comments provided in the commenter's letters. Staff considered the input from this stakeholder when developing and modifying the proposed amendments to the regulations, and has provided responses to their specific comments elsewhere throughout this document.

A-11.6. Comment: Allow for Removal of Substances

ISOR Section XI. Specific Purpose and Rationale for Each Proposed Amendment. Section II.H.(4) establishes a petition process for adding new substances to the Appendix A list, and that this process "is necessary to provide a mechanism for

interested stakeholders to bring to CARB’s attention additional chemical substances that may warrant inclusion on the Appendix A list of chemicals, particularly for new and emerging chemicals.” (ISOR, page 42) A one-way petition process that only allows for the addition of substances disregards the possibility that new data on emissions or chemical usage, or new scientific information on cancer potency or non-cancer health effects may indicate that some substances in Appendix A either are not present in ambient air, or are only present in concentrations that do not pose an acute or chronic health threat. The proposed petition process should also allow any interested party to present information to CARB that may support removal of substances from Appendix A. In addition, the Executive Officer should be required to issue findings for public review as to the adequacy of any petition to add or remove substances from Appendix A based on the criteria specified at Health and Safety Code section 44321(f). (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff welcomes any information an individual would like to provide on a chemical substance through the petition process identified in Section II.H.(4) of the EICG.

A-11.7. [Comment: Alternative Methods](#)

Alternatives to source testing (EICGR, pages 63-67). Rather than continuing to require strict adherence to a hierarchy of emissions estimation methods, when a facility is able to demonstrate that a particular method is sufficiently accurate for a substance that is reasonably expected to be emitted by the facility (e.g., the method can quantify the substance to the prescribed reporting degree of accuracy), the facility should be allowed to use that method. The proposed regulation should be amended to include this additional flexibility. (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff notes that the comment refers to “EICGR, pages 63-67”, within which the only section that was proposed for update in the current rulemaking was Section IX.A., which was only modified to update citations to reflect the latest version of several source test method references. So in general, the comment is likely outside the scope of the current rulemaking. However, to be as responsive as possible, CARB staff would like to clarify that the structure and subsections within Section IX are presented as a conceptual hierarchy of considerations regarding conducting source testing and alternatives, but that Section IX does not “require strict adherence to a hierarchy of emissions estimation methods” per se. Within the various subsections, there are many flexibility provisions that could result in a facility being able to propose quantification methods from various subsections, if specifications are met.

However, it is true that particular emphasis is given to the circumstances where the EICG regulation Appendix D has explicitly required that source testing be conducted for the processes and chemicals covered in Appendix D, and it is true that more rigorous considerations are established when deviations from that required source testing are sought. This emphasis is warranted because the Appendix D required testing focuses on very key circumstances of concern (for example, where the releases have the potential for significant toxicity and potential public health risk); where there are recognized test methods that can be used; where emissions would otherwise be difficult to accurately quantify any other way (such as combustion where potent toxics may be formed in unpredictable ways); and/or where designated source test methods achieve detection and accuracy levels that are much better (and necessary to adequately assess public impacts) compared to the default "reporting degree of accuracy" levels listed for chemicals in Appendix A. The reporting degree of accuracy levels in Appendix A are intended as basic reporting guidance when estimation has been deemed acceptable, but they are not intended to be a substitute for the level of accuracy achievable with a designated source test method in the important circumstances where source testing has been required by Appendix D.

A-11.8. [Comment: Appendix C - Tert-butyl alcohol](#)

Gas Stations and Industrywide Emission Inventory. CARB and CAPCOA have been working on Industrywide Guidance for Gas Stations and this document will go to CARB's Board later this year. The compound tert-butyl alcohol is not included in this guidance document but has been added in EICG Appendix C as emitted from gas stations. With the addition of tert-butyl alcohol, does this invalidate the efforts of CARB and CAPCOA staff such that the industrywide guidance cannot be used because of the following language in the EICG (Section II, page 14): unless the district notifies the facility in writing that the facility's emissions of the added substance are or will be included in an industrywide emission inventory prepared by the district, and submitted to CARB? (MBARD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Tert-butyl alcohol is included in the Industrywide Guidance document for Gas Stations. It is listed in the footnote [4] of Table A4, which lists "Toxic Substances Potentially Associated with Liquid and Vapor Emissions from Gasoline, based on CARB's Speciation Profiles". It is noted in [4] that there may be other fuel additives or components which could possibly be present in (or released from) some gasoline fuel and are AB 2588 substances, but are not currently included in CARB's speciation profiles or not currently expected to contribute significantly to public health impacts, but bear mentioning for completeness. The example substances listed in footnote [4] included tert-butyl alcohol, Dichlorobenzenes, Ethylene dibromide, Ethylene dichloride, Formaldehyde (and possible other aldehydes), and Styrene. Additionally,

Section II.A.(2) does not negate a facility from the reporting of known emissions that a facility is aware of emitting.

A-11.9. Comment: Assessment of Multipathway Exposures

Section IV (4)(c) Alternative Evaluation. The regulation states: (vii) *The district may consider population-wide impact assessment in addition to point estimates of risk, and may consider the facility's risk individually or in combination with other facilities. The district may consider additional properties of concern including persistence and bioaccumulative properties. The district may consider the potential for non-inhalation, multipathway exposures to contribute greater risk.*

Allowing the district to include multipathway exposures as a health risk assessment is a cause of concern. Some chemicals, such as per- and polyfluoroalkyl substances (PFAS), are not exposed through inhalation. AB 2588, which addresses air toxics, is not the proper place to include chemicals where the route of exposure is through other mechanisms such as absorption or ingestion. LADWP recommends that this assessment be reserved for other more suitable regulations such as California hazardous waste laws or groundwater laws. (LADWP)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The comment appears to reflect some mixing of two concepts: multipathway vs. multimedia. The EICG regulation does not address "multimedia" releases, such as releases the facility makes directly to media other than air (such as water discharges or offsite solid waste disposal). These direct discharges to other media (besides air) are "multimedia" impacts and are indeed regulated by other agencies, not CARB. By contrast, the AB 2588 air toxics program and EICG regulation do (appropriately) address "multipathway" exposures to a facility's airborne emissions. This refers to the fact that airborne emissions emanating from a facility are not only directly inhaled in the plume of air outside the facility property, but can also deposit some kinds of toxic materials out of the air plume and onto soil or into water bodies, resulting in additional routes of exposures to those air releases that emanated from the facility. Assessing this additional exposure is what is termed "multipathway" exposure assessment, and it is well known to have significant additional contributions to the public health impacts of the airborne releases, for some kinds of chemicals and some kinds of sources/situations. For example, certain toxic metals and some highly potent organics (such as chlorinated dioxins and furans), can be released as a plume of airborne emissions from a tall stack at a facility, and travel long distances beyond the facility property, and then result in the deposition of particulate matter containing these potent toxics at locations where the public can be further exposed. The AB 2588 Risk Assessment Guidelines by the Office of Environmental Health Hazard Assessment (OEHHA) includes detailed requirements and documented uptake factors for these additional routes of exposure. Examples include children ingesting soil

containing toxic metals or dioxins that were deposited from the facility's air plume; or people consuming backyard-grown produce or livestock where the soil, grazing area, or feed was contaminated by deposition of toxics from the airborne plume. Based on OEHHA's review of AB 2588 air toxics health risk assessments over the years of the program, it is well established that these additional routes of exposure to the air releases (beyond simply direct inhalation of the air) can substantially add to the overall public health risk attributed to the facility's air releases. Therefore, consideration of multipathway effects is fully justified as a factor for districts to consider when weighing the interests of public health and determining whether to reinstate a facility into emission reporting requirements and full evaluation in the program.

Additionally, for PFAS chemicals, there are a number of studies (included in the ISOR references) that have detected airborne levels of various PFAS chemicals. And PFAS chemicals have toxicity concerns. (PFAS-related chemicals have been associated with various health effects, that include things like liver damage, immune system disruption, hormone disruption, cancer, and developmental and reproductive harm).

A-11.10.Comment: Availability of Emission Quantification Methods

Second, another language change, this time to Section II, to be consistent with the Section VIII change and the CCMEC letter (see Attachment 2); and Attachment 2 - EICG Further Language Change Requested

AB 2588 EICG language changes requested by CCMEC, Sept. 15, 2020:

Changes needed to Section II, H (4), presented below with requested changes (BOLD items are inserts):

(4) Availability of Emission Quantification Methods

If no emission quantification method exists to quantify emissions of a substance at the time of it's "Effective Phase", the facility operator only needs to report the presence of the substance *[removed section about use or production and form 5-UP-Q]*.

The presence of the substance will be evaluated as follows:

Step 1--Evaluate whether the new chemical applies to cement: If there is no specific basis for thinking that the chemical applies to cement, the chemical will be eliminated from further consideration. For chemicals that apply to cement, proceed to Step 2.

Step 2-Identify the source test method for the chemical group that the new chemical falls in and the analytes covered by that source test method: If the chemical is not listed as an analyte in a standard EPA or ARB published source test method, the chemical will not be reported. For chemicals that have a standard EPA or ARB published source test method, proceed to Step 3.

Step 3- Perform testing on the new chemical: If the chemical is not detected in source testing (per the procedure for handling non-detect values, to be agreed upon at a later time), the chemical will not be reported. For chemicals detected, these will be reported.

The availability of an emission quantification method shall be re-evaluated for chemicals not eliminated in Step 1 above, at the time of the next facility update reporting cycle. If a standard published EPA or ARB source test method (where the chemical is listed as an analyte in that method) is available one calendar year or more before the next facility update reporting cycle, emission quantification is required pursuant to the provisions in section VIII.E. (3). (CCMEC)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The implementation steps suggested in the comment are more detailed and more specific to a single type of sector (cement manufacturing) than are generally appropriate to be included in the EICG regulation. In keeping with the AB 2588 Statute requirements, CARB is directed to prepare "criteria and guidelines" for preparing emission inventories, and the districts are given the primary role in reviewing the detailed proposed emission inventory plans submitted by each individual facility under their jurisdiction. Most of the detailed steps in the comment would be more appropriately handled during the process of inventory plan submittal by the facility, and its review and approval by the local district. However, to be as responsive as possible to the comments, CARB staff can offer a few clarifications on overarching concepts.

CARB staff agreed to modify the EICG to say that if no emission quantification method exists to quantify emissions of a substance at the time of its effective phase, the facility operator does not need to find a means to calculate the actual emissions to the air, but rather only needs to report the amounts used, produced, or otherwise present – this can use approaches and information that is known from their facility's processes. Reporting of amounts used/produced (i.e., not merely "noting that there is presence") is an essential part of the provision. The provision allows considerable flexibility in allowing a facility to estimate these used/produced/present amounts in broad ways and in dimensional units that are most appropriate for their processes, and most readily known to the facility. The intent is to allow the facility to report a readily quantifiable value from process knowledge, as a means of providing context or bracketing the potential levels of emissions. Having these usage amount estimates is important to ensure the ability to screen for any potentially significant concerns, to protect public health, while offering a simplified reporting option to the facility. For a combustion process, for example, it might involve characterizing the extent of fuel used and the amount of product processed, as a surrogate that could at least give a bound on potential emissions (e.g., if assumptions were applied to gauge the possible emission rates of various chemicals). If no amounts at all were reported (for

use/production/presence), then there would be no information to ascertain even an approximate potential for emission levels or public health impacts.

The comment also seems to imply that substances would only be reported where source test methods exist, but source testing is only one possible way to estimate emissions. For example, process knowledge regarding material composition, along with various emission factors, or mass balance, or other engineering calculations, might be used in combination to provide suitable emission estimates. The EICG Section IX. has many sections that sequentially discuss use of quantification methods that are not limited to merely what is possible with formal source testing methods.

A-11.11. Comment: CAS Numbers for Appendix C

just like a general fact, chemicals have a lot of synonyms. And really naming the chemical I don't think is sufficient. They also have something called CAS or chemical abstracts number that definitely identify chemicals. In particular, if you are starting reporting facilities using SDSs or the other technical documentation, the only way to really identify what could potentially be emitted is if you have a list of CAS numbers. I'm grateful that CARB did incorporate a lot of CAS numbers for a lot of chemicals, but unfortunately not for all of them. I think that would be imperative. We still have groups, for example, where it says fluorotelomer-related compounds with a note the facility (inaudible) [operator] to report the CAS number and complete chemical name for any substance. I think if you want to know more, we should give good tools to the reporting facilities so they can give us more, unless they have highly specialized scientists on staff, which is not always the case, it will be very hard for facilities who potentially has the emissions as such to identify or report them. So I'm appealing to CARB to continue working on adding the CAS numbers and also adding compounds to the groups or metals. I'm aware that there can be no all-inclusive list, because the situation is changing and new chemicals is coming -- they're coming up all the time, (inaudible) [and with the] new knowledge. So I'm appealing the Board to ask CARB to - and concur with many commenter already submitted to keep the toxic list a living document where, to the extent possible, filling in the lists of the compounds of interest. (NM)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB Staff used SciFinder, which is produced by Chemical Abstract Service (CAS) and is considered to be the most comprehensive database for the chemical literature, to track down the CAS numbers associated with the new substances that were added to the Appendix A Chemical List in the EICG. In many cases, staff updated outdated CAS numbers or CARB-assigned 4-digit codes on the existing EICG list to the latest, most widely used CAS number for a given substance. Additionally, staff found instances where multiple CAS numbers could be associated with the same substance and included those numbers in the chemical list to make it easier for facility operators

to find an emitted substance based on the CAS number they use. When a CAS number cannot be found, CARB assigns a 4-digit code for ease of reporting and tracking data.

Staff designed the chemical list with the intent to make it as easy as possible for facility operators to find and locate individual substances. However, due to the regulatory nature of the list, it is impossible to make it a live document. Staff intend to post a non-regulatory technical document that houses the updated chemical list along with uses, health values and a range of other information to provide more details on each individual substance. This technical document would be better suited to be treated as a live document where evolving information (such as updated CAS numbers) could be recorded in the interim between periodic regulatory updates.

A-11.12.Comment: Consider Other Alternatives ISOR

Nor does the ISOR evaluate all of the reasonable alternatives to the proposal as required by Gov. Code § 11346.2(b)(4). Among the obvious alternatives not addressed by the ISOR are the addition of fewer substances to Appendix A1 or a more gradual phase-in of the 1000 identified chemicals. In light of the fact that the ISOR acknowledges that methods for quantifying releases do not exist for at least some of the chemicals to be added and that toxicity values do not exist for most of these chemicals, it would be difficult for the ISOR to conclude that such alternatives are not as effective in carrying out the purposes of AB 2588. (ACC)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

It is important to note that the Section 44321 of the Statute has language about not removing substances from the mandated lists, unless the substances meet two criteria: (1) No evidence exists that it has been detected in the air and (2) the substance is not manufactured or used in California, or because of its properties or manner of use, there is no possibility that it will become airborne. Thus, it is not mandated for CARB to disclose analysis conducted on individual substance to support the determination that they qualify for listing, rather, the public has the opportunity to submit any information regarding the chemical list, including evidence that the substance has no potential to become airborne. This is noted in Section II.H.(4) of the EICG.

Additionally, CARB staff intends to post a non-regulatory Appendix A technical document that includes a chemical substance usage, including usage related to the chemicals airborne potential as well as evidence of toxicity and related health values from state, federal or other regulatory or scientific bodies. With that, the main criteria we used for determining whether a substance should be added to our list were evidence of toxicity, the types of usage that could be in California, as well as its potential to be airborne. These same criteria not only apply to the substances in the six source lists but also substances added under our own CARB authority.

A-11.13.Comment: EICG Chemical Screening - District Implementation

PART I - Recap of Earlier Calls with CARB. In earlier calls with CCMEC, CARB indicated that decision-making for implementation details would be shifted to the Air Districts and that, as a result, comments on detailed technical issues had no place in the rule development through November 20, 2020. The following is a paraphrase of statements made by CARB during the calls:

CARB indicated that decisions about chemical screening and evaluation procedures will be made by Air Districts as part of the AB 2588 Emission Inventory Plan (EIP) process, and that the Air Districts have the authority to implement the rule as they see fit.

CARB also stated that decisions about the chemical screening and evaluation procedures will be made at the time of the EIP process in the future, not during the period prior to rule consideration on November 19, 2020, and hence comments on these procedures are not necessary at this time.

This implies that flexibility in rule implementation (relating to chemical screening and evaluation procedures) has been retained in the proposed rule language, and this language allows Air Districts full leeway to authorize procedures on a case-by-case basis where acceptable to the Air District, without being required to consult with CARB at the future time.

CCMEC interprets the above statements to mean that procedures adopted by Air Districts are not subject to CARB consultation or review, since implementation has been fully delegated to the Air Districts. CCMEC requests this be explicitly stated within the rule. (CCMEC1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The aspects raised in the comment refer to detailed and practical matters related to implementation of AB 2588 by the districts for the individual facilities under their jurisdiction. No changes are needed to the EICG regulatory language. As a matter of practical implementation, it is anticipated that the evaluation of emission inventory plan proposals for chemical screening/quantification methods, the evaluation of required and optional parameters for determining exemptions and reinstatements, and other similar implementation details would likely involve a combination of information from a number of data sources, including CARB, OEHHA, air districts, facility operators, and other sources. The districts are generally tasked under the AB 2588 Statute with making the detailed implementation decisions for facilities in their district, but they may request data from facility operators as necessary, they may utilize data provided by CARB, OEHHA, and other sources, and they may seek consultation with CARB and OEHHA. In keeping with the AB 2588 Statute requirements, CARB is directed to prepare "criteria and guidelines" (which is the

EICG) for preparing emission inventories, and the districts are given the primary role in reviewing the detailed emission inventory plan proposals submitted by each individual facility under their jurisdiction. Most of the detailed aspects implied by the comment would be handled during the process of inventory plan submittal by the facility, and its review and approval by the local district. The AB 2588 plans and reports are required to follow the provisions in CARB's EICG regulation, and the AB 2588 health risk assessments must follow the provisions in OEHHA's risk assessment guidelines. The EICG itself provides some areas of flexibility to facilities and air districts. And under the AB 2588 Statute, H&SC section 44365(b), the districts are allowed to establish more stringent criteria and requirements for emission inventories and risk assessment. None of these practical implementation aspects require any specific changes to the EICG regulatory language.

A-11.14. Comment: Emergency vs Routine Operation

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. (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff would like to provide several clarifications confirming the district's authority to include the types of routine and predictable operations described in the comment. First, the AB 2588 Statute itself specifies that districts can establish more stringent criteria and requirements for emission inventories and health risk assessments (see H&SC section 44365(b)). Second, changes were made in several portions of the proposed EICG amendments to clarify additional scenarios that districts may consider for emission reporting, and these changes, taken collectively, are intended to strengthen the districts' ability to cover more situations of diesel engine reporting, and to cover what the district determines to be routine/predictable operations. These changes are summarized here.

(a) Language is proposed in several places in EICG Section XI to add a phrase about districts being able to include diesel engine facilities that may pose risk "on their own or in combination with other nearby sources or facilities". This strengthens the districts' position in considering multiple sources and multiple facilities (and this can include how their operations may overlap to create predictable exposures). Language like this is proposed in Section XI.C.(2)(b), Section XI.C.(2)(c)(iii), and Section XI.C.(2)(d).

(b) There is also the existing legislative findings language in the Health and Safety Code statute itself worth mentioning again here. H&SC § 44301: (d) says: "These releases may create localized concentrations or air toxics "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, including, but not limited to, cancer and contribute to the cumulative health risks of emissions from other sources in the area. In some cases where large populations may not be significantly affected by adverse health risks, individuals may be exposed to significant risks".

(c) In addition, proposed sections XI.C.(2)(c)(i) and (ii) now explicitly require reporting of portable diesel engines greater than 50 horsepower at specified larger facilities -- those subject to the GHG Mandatory Reporting Rule (MRR) or those facilities that are 250 tons/year or more criteria pollutant facilities. This new provision has also been added to the proposed CTR regulation amendments. It ensures that periodic, predictable "turnaround cycles" at refineries and other facilities (where many diesel engines are brought on site while maintenance is done), will be considered subject to AB 2588 reporting.

(d) The EICG Appendix F proposed changes provide flow diagrams and guidance on conservative (health protective) stepwise protocols for screening assessments (either from using risk screening tables or from dispersion modeling approaches), and it strengthens the provisions about accounting for increased risks due to building downwash scenarios.

(e) The definition section X also has some proposed changes. For example, the old definition (10) is being deleted which previously defined an emergency-use related term very prescriptively. Definitions (9) and (25) convey that the district makes determinations such as "reasonably foreseen".

A-11.15. Comment: Establishing a Predetermined Cancer Burden

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.” (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

In response to the comment, CARB staff has removed the reference to the 0.5 cancer burden level (which was in Section IV.A. (1)(d)(iii)), as part of the proposed 15-day changes. Providing a numeric cancer burden level was meant only as an example of a parameter that is sometimes used as a measure or metric to express population exposure, and it was not intended to imply a standard for districts, or in any way to substitute for significance thresholds developed and adopted by individual districts. However, to avoid any possible confusion, the reference to the cancer burden level was deleted in the proposed 15-day changes.

[A-11.16. Comment: Explicitly Specify District May Require Source Testing When No Other Quantification Method Exists](#)

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. (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff confirms that H&SC Section 44365(b) already gives the district the authority to establish more stringent criteria and requirements for emission inventories (including requiring additional source testing). To be further responsive to the district’s comment, CARB staff has proposed a 15-day modification to EICG Section IX.G. to further clarify that the “district may require source testing of any process and/or device when there are no adequate emissions factors, existing source test results or other method available to determine emissions”.

[A-11.17. Comment: Federal Regulations Suffice](#)

ISOR Section IX. Justification for Adoption of Regulations Different from Federal Regulations

CARB's discussion of potential overlap between the proposed requirements and federal TRI reporting (ISOR, pages 26-28) fails to acknowledge that the air emissions data reported under TRI for larger facilities could satisfy the purposes of AB 2588 reporting requirements. We noted in pre-rulemaking comments dated June 3, 2020, that TRI data will be available next fall for 170 separate PFAS – more than a year ahead of initial reporting deadlines under the proposed EICGR amendments. There is no reason this data cannot be supplied to the air districts for review and approval in lieu of separate quantification and reporting of PFAS under the EICGR. To avoid unnecessary and wasteful duplication of effort, the proposed regulation should allow flexibility for air districts to utilize relevant data reported under other regulatory programs. (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

As discussed in ISOR Section IX., the requirements of the proposed EICG amendments for reporting toxic emissions are not duplicative with the federal TRI reporting requirements, do not conflict with any federal regulations, and are necessary to meet the mandates of the AB 2588 Hot Spots program. Even for larger facilities, the toxics data reported to TRI presents certain limitations that would make it unacceptable for the mandates and purposes of the Hot Spots program and the evaluation of air pollution impacts in disproportionately impacted communities in California. One major limitation is that the TRI data does not explicitly collect diesel particulate matter as an individual toxic substance, which is of significant concern in impacted communities, and has been identified as being a significant contribution to the risk from various large facilities subject to the AB 2588 program. Another major limitation is that, even within a large facility, the reporting thresholds for each chemical for the TRI program are much higher (i.e., less stringent, less protective of public health) than those required by the EICG regulation to meet the requirements of the AB 2588 Hot Spots program. Specifically, the thresholds for federal TRI reporting of a toxic chemical are generally 25,000 pounds or more of the chemical manufactured or processed per year, or 10,000 pounds or more of the chemical otherwise used per year. These high TRI thresholds mean that large amounts of a given chemical would go unreported under TRI provisions. These unreported amounts could be of potentially serious public health concern under the Hot Spots program. The TRI thresholds are much higher (less stringent) than the applicable degree of reporting accuracy specified by the EICG (see for example, EICG Section VIII.E. and the corresponding degree of accuracy values specified for each chemical in Appendix A-I). The EICG degree of accuracy values have been developed in consideration of available information on the relative toxicity potential of the chemicals, and to ensure that Hot Spots reporting will meet the AB 2588 requirements for a "comprehensive characterization of the full range of hazardous materials" released, as required by the Hot Spots Statute. Nevertheless, much of the facility source analysis, and the process of collecting and estimating the data releases that have been prepared for the TRI reporting process, are expected to be relevant

to preparing portions of a facility's AB 2588 Hot Spots emission inventory as well, leading to considerable efficiency and streamlining in complying with the Hot Spots reporting. This should be the case for the data development efforts used to quantify the 170 PFAS.

A-11.18.Comment: General

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. (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Staff would like to clarify that this section does not require the District to quantify risk from substances with persistence and/or bioaccumulative properties; it is simply an extra concern that districts may consider when evaluating whether an exempted facility should be reinstated into the program. Historically, air districts have been given flexibility to adopt more stringent requirements in their AB 2588 programs, and the added text was only pointing to an additional factor that district staff could consider.

A-11.19.Comment: General - Use SDS Instead of MSDS

Sections X.(21) and VIII.F.(10): Material Safety Data Sheets (MSDSs) – the federal Occupational Safety and Health Administration transitioned and improved its requirements to specify the use of Safety Data Sheets (SDSs) rather than the former MSDSs and Technical Data Sheets. CCEEB asks that the relevant language in Sections X and VIII be updated accordingly. Additionally and more importantly, CCEEB strongly recommends that ARB develop specific guidelines to help facilities understand how SDSs can be used to verify the presence of listed substances that would need to be reported. CCEEB believes that, in general, SDSs are appropriate for this use and that staff should explain any exceptions or deficiencies and clarify this in the guidelines. (CCEEB)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

In response to comments, CARB staff proposed a 15-day change to EICG Section VIII.F.(10) to include the acceptable use of a Safety Data Sheet (SDS), in addition to MSDSs and Technical Data Sheets. EICG Section VIII (particularly Section VIII.E. and VIII.F.) provide the specifications for acceptable emission quantification and degree of

reporting accuracy, handling of mixtures, and acceptable use of technical and safety data sheets to comply with required Hot Spots emission reporting.

A-11.20. Comment: Involvement in EICG Update Process

How can ACP help CARB in effectively outlining and including a staged process for including California Compost Producers in the EICG updating process as it applies to composters in their respective communities?

Steps for Composters with CARB. This letter to CARB is focused on outlining how ACP members can collaborate with CARB to enhance the air quality in the communities in which our facilities are operating. Therefore, we trust that these ACP comments, questions and recommendations will be seriously and urgently considered by the CARB staff and Board of Directors *and engaging with ACP principals, prior to adoption.* (ACP)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff encourages affected facilities to initiate discussions with both the local air districts and CARB as early as possible, to develop their proposed AB 2588 emission inventory plans for district review and approval. CARB staff appreciates ACP's engagement in the process to date, and encourages continued collaboration.

A-11.21. Comment: Justification - Appendix C

Appendix C. CARB has provided no justification for the substances newly associated with common processes listed in Table C-1. As an example, carbon nanotubes were added to Drinking Water Treatment on page C-1(38] and Publicly Owned Treatment Works on page C-1(147]. This substance is also included in CTR Appendix 8. We are not aware of any emission factors or other methods to estimate emissions of this substance. CARB should provide more transparent references and information to support how substances were associated with processes in Appendix C. (MBARD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff added carbon nanotubes under "Drinking Water Treatment" in Appendix C-I of the EICG, as well as under Appendix C-II "Publicly Owned Treatment Works (POTWs)" because staff research found carbon nanotubes to be used in water filtration as well as other things such as biotechnology, electromagnetic devices, and transistors to name a few. According to Das et. al. 2018 article "The Toxic Truth About Carbon Nanotubes in Water Purification: A Perspective View", "carbon nanotubes have emerged as the foremost nanomaterial for water purification. It can remove almost all three types of pollutants, i.e., organic, inorganic and biological

pollutants". Water filtration fits within the scope of drinking water treatment and publicly owned treatment works; therefore, carbon nanotubes was added.

Section IX.G of the EICG covers acceptable estimation methods and emission factors. Further, Section II.H.(5) states that if no emission quantification method exists to quantify emissions of a substance, the facility operator only needs to report the amount used, produced, or otherwise present at the facility.

A-11.22. Comment: Level of Exposure

Appendix B Proposed Update: Include provisions regarding Limit of Detection (LOD) and Level of Exposure (LOE) into regulation text." While LOD is an important toxicology concept and measure, what we should be more interested in is the LOE to compost workers, local community and compost users. Again, "Toxicity is the degree to which a chemical substance or a particular mixture of substances can damage an organism." Therefore, we recommend that CARB staff:

Include a metric for LOE, with CARB funding the study to determine the LOE for each chemical that *significantly impacts* human health and the environment

Since OHEHA cancer potency factors are not well understood, and since cancer is not the sole outcomes of various LOE for many toxic compounds, it will be incumbent on CARB to base their "Proposed Update" on an empirically based understanding of how these chemicals behave in compost operations prior to regulating these operations.

CARB should NOT leave this up to individual districts, but make the decision statewide based on empirical exposure data (LOE).⁵

⁵ Note: According to the c, page 41: "(5) District Determination Regarding Exemption." The district may make toxicity determines as to whether to both grant exemptions or reinstate permits (page 38). CARB should collect this data for the entire State, and then provide it to local Air Districts for their use. (ACP)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The EICG addresses the level of needed quantification for emissions of chemicals in Appendix A-I in a couple of ways. First, Section VIII.E. and Appendix A note [5] of the EICG discuss and specify the Reporting Degree of Accuracy (RDOA) for each chemical on the proposed Appendix A-I list, which are substance that must be quantified. The Statute requires CARB to ensure that the level and accuracy of emission reporting will be sufficient to be used for characterizing exposure and risk (HSC § 44342). For this reason, CARB staff developed the reporting degree of accuracy to communicate to facility operators how accurately they need to report their emissions. For example, for a highly potent metal like hexavalent Chromium, the emissions must be reported out to several decimal places in pounds per year, in order

to have the reported emissions be useful enough to evaluate the possible public health implications for that facility. By contrast, the emissions of benzene are sufficiently accurate when reported to the nearest two pounds per year, and the emissions of toluene to the nearest 200 pounds per year. The RDOA serves as a practical limit for how emissions should be quantified in consideration of relative toxicity and acts as a de minimis consideration to communicate levels of emission reporting below which the risk should be minimal. If emissions of a given substance are less than half the denoted RDOA, the chemical would not be required to be quantified. All the substances were assigned an RDOA to ensure emissions data will be sufficient for the evaluation of known health impacts. To the extent possible, the RDOAs are based on OEHHA cancer potency or a Reference Exposure Level (REL) for chronic or acute effects (if they were available for a substance). If the new chemical substance fell into an existing group, it was generally given the same RDOA as other substances already in the group. When OEHHA health effects value were not available for a substance, the proposed degree of accuracy is based on a method that utilizes other available health information. For example, when available, the Permissible Exposure Limits (PELs) from the Occupational Safety and Health Administration (OSHA) were used and converted into a REL equivalent (or adjusted REL) that would be health protective for long-term residential exposures, spanning young and old (not only adult workers).). A similar approach was followed with workplace Threshold Limit Values (TLVs) exposure limits data from the American Chemistry Government of Industrial Hygienists Association (ACGIH). For cases for which a PEL or a TLV value was not available, CARB staff evaluated the substance's available toxicity data and compared it with substances with already established RDOAs. In instances where specific source test methods are required to be used, Section VIII.I of the EICG was added to specify that testing would need to follow the Level of Detection (and typical treatment of near-LODs) that the source test method already provides for.

Secondly, because of the unique nature of composting and waste-sector facilities accepting inputs for processing from other entities over which they have minimal control and information, CARB staff created the 2-step protocol approach described in Section IX.H. and Appendix D of the EICG which specifies that composting facilities can use this 2-step protocol approach and Section IX.H.(4) specifies that each of the steps is submitted to the CARB Executive Officer for technical review and comment.

Lastly, during regulatory development, the composting industry worked together with CARB and districts on proposing a first qualitative step to screen which chemicals will be pertinent, took into consideration the reporting degree of accuracy for each chemical, and then focused on quantification methods for those chemicals in the second step. Additionally, the waste sector facilities have been provided plenty of time for the reporting process by being assigned to the very latest sector phase, Phase 3B. Sector Phase 3B sources must submit annual emissions reports beginning with the 2028 data reported in 2029. Further, staff has been working with affected stakeholders and encouraging them to begin working right away with CARB and districts on the technical approach. There was a successful precedent in the earlier

days of the AB 2588 program involving the wastewater sector in creating a statewide pooled emission estimation protocol, which included extensive technical consultation with CARB and the districts to ensure statewide consistency while reducing facility costs by pooling their resources to test representative processes, and share the results.

A-11.23. Comment: Local Air District Processes for Exemptions and Reinstatements

District participation in determining exemptions and reinstatement

Sections II, III and IV in Appendix B of the proposed amendments outline provisions for exemptions, reprioritization and reinstatement for the AB 2588 air toxics program. PG&E recommends that CARB update the proposed regulation to specifically state that the individual air districts will be responsible to track the following triggers as they relate to exemptions and reinstatements:

Updates to scientific understanding of bio-accumulative properties, persistence, and multi-pathway exposure; Population-wide impact assessments and/or cumulative impacts; Changes in building parameters that may affect building downwash. (PG&E1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The aspects raised in the comment are all practical matters related to implementation; therefore, no changes are needed to the EICG regulatory language. As a matter of practical implementation, it is anticipated that the evaluation of required and optional parameters for determining exemptions and reinstatements is likely to involve a combination of information from a number of data sources, including CARB, OEHHA, air districts, facility operators, US census data, literature, and other sources. The districts are generally tasked under the AB 2588 Statute with making the detailed implementation decisions for facilities in their jurisdiction, but they may request data from facility operators as necessary, and may utilize data provided by CARB, OEHHA, and other sources. Respective to the specific cases mentioned by the commenter: 1) CARB and OEHHA websites both periodically post any new updates to OEHHA health values, as well as any updates to OEHHA-approved multipathway uptake parameters. CARB has been compiling an Appendix A technical supplement document that will flag chemicals for properties such as being persistent bioaccumulative toxics (PBTs); 2) Population exposure metrics (e.g., cancer burden, or a table of numbers of exposed people at various risk levels) are a required metric that OEHHA requires to be reported in all AB 2588 health risk assessments (HRAs); so a facility that conducted an HRA would have computed these metrics, which could be updated with the latest US census population data; and 3) Facility operators are in the best position to know whether any buildings have been added or any building configurations have been modified, within the "zone of influence of building downwash" relative to emission release locations (the district or CARB can provide the USEPA citations for how the USEPA defines the "zone of

influence” for downwash). None of these practical implementation aspects require any specific changes to the EICG regulatory language.

A-11.24. Comment: Mobile Sources - On-Site Only Clarification

Section VIII.G: On-Site Mobile Sources – in addition to our overall comment about the efficacy of using stationary source reporting to track mobile sources, we have specific comments related to this section. First, and importantly, we wish to raise questions about the September 12, 1989 regulatory interpretation letter from ARB to the air districts, which is referenced in the Initial State of Reasons (ISOR) but not included as part of the proposed regulatory materials. Moreover, we do not believe this document has ever been publicly posted, nor has the pertinent language in Attachment I of the document ever been incorporated into any district rules. CCEEB appreciates that staff provided us a copy of the document after a written request was made. However, we note that the document does not provide a statutory rationale for the inclusion of mobile source dust emissions or other mobile sources that operate within the facility. Instead, in the ISOR, staff cites Health & Safety Code § 44345(b), which requires ARB to compile inventories for mobile and area sources *at the district level*. Nothing in this code section applies to stationary source facilities, which, in terms of emissions reporting, are regulated separately under H&SC § 44340.

In terms of the H&SC requirements that ARB develop mobile and area source inventories for each district, we note that this work has never been done, or if it has, we are unaware of it. For example, the most recently published Air Almanac (2013) only includes criteria pollutants, and only covers five air basins. Moreover, to do a complete toxics inventory, the minor emissions from on-site mobile sources at AB 2588 facilities would account for a de minimis fraction of total toxics emissions from these source types. However, tracking these facility emissions would be extremely onerous and, in many cases, impractical.⁵

In terms of the actual EICG regulatory amendments, CCEEB finds the language ambiguous and hard to interpret. Specifically, the section heading is “On-Site Mobile Sources” but the referenced definition of “motor vehicle” from the State Vehicle Code states that it must be able to be “propelled, moved, or drawn upon a *highway*.” [Emphasis added.] Examples given then include golf carts, earthmovers, tractors, and forklifts, even though these vehicles are not all highway compliant. Most importantly, Sections VIII.G.(1) and (2) do not clarify if reporting is only for those mobile sources that never leave the property, or whether it includes mobile sources that move on and off the property, and if so, would it include third-party sources. For example, if reporting mobile sources associated with a facility parking lot, would the security golf car be included? Company-owned vehicles? Visitor vehicles? With each additional category, emission tracking becomes exponentially more challenging and, for many, highly impractical.

Finally, CCEEB notes that ARB has never approved nor published any methodology for quantifying vehicular dust emissions, nor has it developed guidelines for how to track

activity data for mobile sources. Dust itself is not an air toxic – in discussions with staff, it has been indicated that dust is meant as a surrogate for non-tailpipe vehicular emissions. If this is the case, then CCEEB requests that ARB publish its quantification method that would convert reported dust into associated air toxics, and explain how this data would then be added to a facility’s overall inventory. Lacking this background, CCEEB believes this amendment is premature and not fully fleshed; as such, we strongly urge that it be removed.

⁵ For example, an airport would need to track all on-site motor vehicle dust emissions, as well as potentially vehicle activity. Short of having multiple staffers available 24/7 to physically count vehicle traffic, we are unclear how this could be done. Additionally, the facility would need to track all non-vehicular mobile sources that stay within the facility property, including “locomotives, airplanes, lawn mowers (non-riding), leaf blowers, refrigeration units, chainsaws, auxiliary generators, welding machines, pleasure craft, and cranes.” For both vehicular and non-vehicular mobile sources, facility staff would further need to distinguish and understand which sources remained on-site, and which moved on- and off-site. The administrative burden suggested by these requirements is staggering. Moreover, it is unclear how this data would be incorporated into AB 2588 facility inventories or ARB district-wide inventories. We do not believe this was the legislative intent of H&SC § 44340(c)(2) or § 44345(b). (CCEEB)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please also see the detailed responses in *[this CTR FSOR, Section A-11.1, “Multiple Comments: Mobile Sources - Remove Requirement”]* and *[this CTR FSOR, Section A-11.3, “Multiple Comments: Mobile Sources - Dust Emissions”]*, regarding the interpretations for including specified onsite mobile sources and the toxic components of their dust emissions, as well as the 15-day changes made to remove lawn mowers, leaf blowers, and chainsaws from the list of examples, and add ships.

The purpose of adding EICG Section VIII.G. to include reporting of specified onsite mobile sources is not “using stationary source reporting to track mobile sources”; rather, the purpose is to ensure that all relevant toxic air releases due to a facility’s “routine and predictable” operations are fully accounted for when reporting its emissions and evaluating their near source impacts on neighboring residents. To be comprehensive (as required by the AB 2588 Statute, for example H&SC 44340(c)(2)), this means including the contributions of certain onsite mobile sources that are permanently or routinely operated on the facility property -- particularly for onsite diesel sources, given the potency of diesel particulate matter, and certain important metal emissions, such as those entrained in fugitive dust that is made airborne by the movement of onsite mobile equipment operating as part of the facility’s operations. This does not mean including employee transportation vehicles, company cars, visitor

vehicles, or intermittent parcel delivery vehicles, none of which are considered part of the "routine and predictable" operations or processes of the facility.

The comment also raised questions about the September 12, 1989 regulatory interpretation letter from ARB to the air districts. This letter was historically on CARB's AB 2588 web page and it was provided to the commenter on request. The letter simply contains the same basic regulatory interpretation information that has been added into EICG Section VIII.G. in order to make the information more widely and easily accessible.

As discussed in the responses to [*this CTR FSOR, Section A-11.1, "Multiple Comments: Mobile Sources - Remove Requirement"*] and [*this CTR FSOR, Section A-11.3, "Multiple Comments: Mobile Sources - Dust Emissions"*], the rationale for inclusion of specific mobile source activity and/or emission reporting is established by the AB 2588 Statute, and is needed to provide comprehensive characterization of the localized impacts of a facility under AB 2588 (which also includes the public right-to-know aspects of AB 2588).

The comment also raised questions about the mobile, area, and natural source emission inventory required to be compiled by CARB under H&SC section 44345(b). The original mobile, area, and natural emission inventory (MANEI) was produced by CARB staff as required by the March 1990, deadline that was required by H&SC. After that initial version, CARB staff has prepared several periodic updates in the form of the "California Toxics Inventory" (CTI), which is discussed at CARB's website here: <https://ww2.arb.ca.gov/california-toxics-inventory>. CARB has also more recently prepared a toxics data submittal to the National Emission Inventory (NEI) which has also been used by the USEPA for their National Air Toxics Assessment (NATA) which is a comprehensive toxics risk analysis for the U.S. Work is currently underway by CARB staff to prepare an updated toxics inventory that will be used for both CTI and NEI in the upcoming year.

As discussed on the CTI webpage, the point sources are based on the AB 2588 facility-reported data, and the mobile, area, and natural sources are regional (county/district) toxic estimates, derived by CARB mainly from chemical speciation profiles (plus some additional toxics emission factor augmentation) applied to CARB's regional organic gas and particulate matter emission inventory categories. Because the mobile, area, and natural sources in the CTI are only available as regional totals, this is the reason there is a need for more finely resolved mobile source data (and area source "dust") to be reported when it is a contributor to the emissions attributable to specific facility sites, in order to adequately characterize the true localized impacts due to all releases from a given AB 2588 facility. In certain cases, the onsite mobile diesel emissions have been found to make important contributions to the total localized emissions. (As one example, a few old, less efficient switcher locomotives that operate on the premises of a railyard or industrial facility can contribute strongly to the overall toxics emission impacts of the facility site).

A-11.25. Comment: Mobile Sources - Ships and Marine Vessels

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). (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff agrees with the comment, and has added "ships" to the example list in Section VIII.G.(2) as part of the proposed 15-day changes.

A-11.26. Comment: No Changes Made

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). (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff appreciates the careful review of both the ISOR and the actual EICG regulation reflected in this comment. CARB staff would like first to clarify that there was no intention or need for revision to the regulatory EICG Section IV.A.(3)(a)(i) and (iii). CARB staff acknowledges that the detailed wording in the ISOR for the subsections under Section IV.A.(3)(a) could be somewhat confusing, in that the ISOR wording was originally more associated with the way the subsections and concepts are organized and worded under Section II.J.(3)(a). However, there is no substantive difference implied between the reinstatement concepts across the two major sections (Section II.J.(3) vs. Section IV.A.(3)). Both sections pertain to reinstatement considerations and are meant to convey the same basic concepts that districts may consider. CARB staff apologizes for the confusion that may have arisen because of the ISOR not fully aligning its discussion and wording to track the slight historical differences in the detailed ways some of the subsections were worded and organized in the original EICG regulation between the two broad sections (Sections II.J.(3) vs IV.A.(3)). The original EICG wording between Section II. vs. Section IV. pertaining to reinstatement considerations differed slightly in how the subsections referred to certain parts of the Hot Spots program (e.g., how they mentioned the list of substances and the Appendix F health values). It was deemed that the particular form of the wording in Section II.J.(3)(a) subsections (i) and (iii) warranted regulatory

clarifying language changes in the current rulemaking. By contrast, the particular form of wording in Section IV.A.(3)(a)(i) and (iii) was sufficiently broad, clear, and inclusive with respect to the chemical list and health values (and any and all updates to them) such that no further regulatory language modifications were explicitly needed to convey the same concepts. Instead, the broadened wording in the introductory paragraph of Section IV.A.(3)(a) conveyed the overall concepts, and so the ISOR wording that had been discussed in the ISOR for Section II.J. was still mentioned, but staff apologizes for the confusion, and acknowledges that the ISOR discussion could have been more clearly written.

A-11.27. Comment: Quantification Methods - Best Available

Clarification on emission factor development. Section IX in Appendix B of the proposed amendments notes that “best available methods and data” are to be used to arrive at accurate representations of air releases at a facility. PG&E requests clarification on how “best available” methods and data will be determined.

Additionally, PG&E would like to understand how the individual air districts will deal with source testing protocol backlogs, or how newly developed emissions quantification methods can be obtained. Specifically, we seek clarification on whether the development of emission estimation methods and factors will be tracked and processed by the local air districts.

PG&E recommends that CARB’s oversight or involvement at the individual air districts be explicitly outlined in the proposed regulation. (PG&E1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The concept of best available data and methods is included in the existing CTR and EICG regulatory text and is not a new requirement added under the amendments. Therefore, the comment is outside the scope of the amendments and no specific revisions are necessary. However, in the interest of being responsive to the comments, we are providing an explanation regarding the expected process for determining the best available methods. This determination initially falls under the responsibility of the reporting entity, who is typically in the best position to make such an assessment. Should guidance be needed or questions arise, facilities should work with their respective air districts as they are the initial regulatory agency responsible for reviewing emissions data, and they work closely with facilities under their jurisdiction to provide appropriate guidance, requirements, and methods for estimating emissions data. And of course, CARB staff are available and willing to collaborate in partnerships with district staff and interested stakeholders to develop standardized emission estimation methods for key industrial sectors, to further assist businesses in identifying best available data and methods, and to enhance data consistency statewide.

A-11.28. Comment: Regulation Lacks Sufficient Clarity

Conclusion. In conclusion, we believe that the current EICG version does not contain sufficient clarity on rule implementation from the perspective of both the regulated and regulating communities (affected industry and Air Districts) and cannot be approved in its current form.

Therefore, based on all of the above messages, the cement industry strongly recommends that CARB either withdraw or significantly modify the AB 2588 EICG proposed rule language, or, alternatively, that CARB postpone AB 2588 EICG proposed rule consideration by the CARB Board.

CCMEC appreciates the opportunity to comment on CARB's amended AB 2588 EICG dated September 29, 2020 and looks forward to our next discussion with CARB to address the cement industry concerns. (CCMEC1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff acknowledges that implementation of the amendments will require planning, which is the reason for phasing in the requirements, the sectors subject to reporting, and the inclusion of additional chemicals over six years, as is described more fully in other responses on timing and phase-in. CARB is committed to working with CAPCOA and the air districts to develop guidance to assist the regulated community in complying with the reporting requirements. However, further delaying implementation of the proposed amendments beyond the time extensions already granted is not justifiable.

A-11.29. Comment: Regulation Will Create Impression That Stationary Source Risk Is Increasing

The Proposed Regulations Will Compromise Public Right to Know Objectives

WSPA encourages CARB to narrow the scope and types of activities it is proposing to include in the EICGR. While we recognize the desire to know the potential health risk associated with exposure to all sources, it is important to remember that AB 2588 was not designed for this purpose. Moreover, providing public access to granular emissions data without communicating what it means in the context of facility risk undermines the public right to know purpose of the statute.

It is well established that toxic air contaminant concentrations in ambient air originate predominantly from non-industrial sources. Both the Bay Area and South Coast Air Quality Management Districts have studied lifetime potential cancer risk associated with ambient air in metropolitan areas, and those risks (250 to 1000-in-a-million or more⁷) are at least an order of magnitude higher than the AB 2588 risk-based action levels air districts have identified for individual facilities (10- to 25-in-a-million). We

remain concerned that the proposed changes to the EICGR, coupled with the recent changes in OEHHA's Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (2015) - which produce substantially higher risk estimates relative to the prior methodology - will create the impression that health risks from stationary sources are increasing, even if actual emissions from those sources are unchanged or reduced relative to prior estimates.⁸

In addition, some of the features in the proposed regulation add complexity and workload burden without improving public understanding of potential health risks from stationary sources. A notable example is the proposed inclusion of mobile source emissions in stationary source emissions inventories. BAAQMD has developed emissions "trigger levels" based on screening models using current AB 2588 thresholds and methods. For diesel particulate matter the trigger level is 0.26 pounds per year – roughly what a single tractor-trailer can generate after traveling 270 miles,⁹ or what a contractor's 500 kW state-of-the-art Tier 4 portable genset would emit in a single day.¹⁰ Health risk assessment modeling is intended to capture routine and predictable emissions. Other types of emissions, such as use of a portable engine for a tank cleaning once every ten or twenty years, will require specialized treatment in a dispersion model and will not contribute significantly to any facility health risk estimate.

⁷ See, for example, BAAQMD, "Improving Air Quality & Health in Bay Area Communities: Community Air Risk Evaluation Retrospective & Path Forward (2004 – 2013)", April 2014, Figure ES-1 (risks shown in this figure need to be multiplied by 1.7, as identified by footnote 15 on p. 18), and SCAQMD, Final Report, "Multiple Air Toxics Exposure Study in the South Coast Air Basin (MATES-IV)", May 2015, Figure ES-7.

⁸ As indicated in the CARB/CAPCOA Risk Management Guidance for Stationary Sources of Air Toxics (July 23, 2015), per OEHHA, risk estimates "should not be interpreted as the expected rates of disease...but rather as estimates of potential for disease, based on current knowledge and a number of assumptions", and the "assumptions used...are designed to err on the side of health protection in order to avoid underestimation of risk to the public." (OEHHA, Air Toxics Hot Spots Program Guidance Manual, 2015, pp. 1-5 and 1-6).

⁹ Based on EMFAC emission factor of 0.52 g/mile PM10 for a MY 2007 "T7 tractor" vehicle category (exhaust emissions, running losses only).

¹⁰ Based on the 40 CFR 1039 Tier 4 genset emissions rate of 0.03 g/kWh. (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

The proposed amendments to the EICG regulation are fully aligned with the public right-to-know objectives of AB 2588. The Air Toxics Hot Spots program was conceived with the specific goal of protecting public health by collecting emission data from stationary sources, identifying facilities having the potential for localized impacts, ascertaining the health risks, and requiring that owners of significant-risk facilities notify nearby residents and ultimately reduce their risks below the level of significance. While it is true that toxic air pollution can be generated by non-industrial sources on a more regional scale, toxic pollution from stationary industrial sources can be a significant contributor to localized health impacts. Rather than creating a false impression that health risks from stationary sources are increasing, the recent changes in OEHHA's Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments point to the continued need for better information about the emissions from all sources, and the amendments to the EICG regulation are an important step in this direction.

A-11.30. Comment: Reinstatement Criteria

Additional criteria for reinstatement of reporting requirements (or removing facilities whose emissions no longer meet applicability criteria) should be based on changes that can materially impact air toxics emissions and risk from stationary sources. Substances that are persistent but exhibit low toxicity may not contribute to a significant health risk and the presence, use or production of such substances should not be a basis for reinstating reporting requirements. Similarly, exposures to substances by pathways other than inhalation, especially where regulated by other agencies, do not contribute to potential health risks from air toxics emissions and should not be a basis for reinstating reporting requirements. (ISOR, page 42) (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Staff disagrees with the comment that chemicals that are persistent or have noninhalation pathways should not be a basis for reinstatement of reporting. The first part of the comment mentions persistent chemicals. The EICG has included this consideration because persistent bioaccumulative toxics (known as PBTs) are a recognized concern by international, national, state and other agencies. Exposure to PBTs can result in "body burdens" of these chemicals that may last years, decades, or even a lifetime. This can increase the chance of health impacts to the individual, and the chance of harm to offspring and future generations. Furthermore, chemicals with persistence in the environment can increase the chance of additional future exposures to more members of the public for years to come. The second part of the comment pertains to multipathway (non-inhalation) risks from airborne emissions from facilities. It is common for there to be some confusion over two terms: multipathway vs. multimedia. The comment appears to reflect some mixing of these concepts, and staff is providing additional clarification here. The EICG regulation does not address "multimedia" releases, such as releases the facility makes directly to media other than

air, such as releases the facility makes to water (e.g., down the drain or discharge water), or that the facility takes to offsite solid waste disposal. These direct discharges to other media (besides air) are "multimedia" impacts and are indeed regulated by other agencies, not the California Air Resources Board. By contrast, the AB 2588 air toxics program and EICG regulation do (appropriately) address "multipathway" exposures to a facility's airborne emissions. This refers to the fact that airborne emissions emanating from a facility are not only directly inhaled in the plume of air outside the facility property, but can also deposit some kinds of toxic materials out of the air plume and onto soil or into water bodies, resulting in additional routes of exposures to those air releases that emanated from the facility. Assessing this additional exposure is what is termed "multipathway" exposure assessment, and it is well known to have significant additional contributions to the public health impacts of the airborne releases, for some kinds of chemicals and some kinds of sources/situations. For example, certain toxic metals and some highly potent organics (such as chlorinated dioxins and furans), can be released as a plume of airborne emissions from a tall stack at a facility, and travel long distances beyond the facility property, and then result in the deposition of particulate matter containing these potent toxics at locations where the public can be further exposed. The AB 2588 Risk Assessment Guidelines by the Office of Environmental Health Hazard Assessment (OEHHA) includes detailed requirements and documented uptake factors for these additional routes of exposure. Examples include children ingesting soil containing toxic metals or dioxins that were deposited from the facility's air plume; or people consuming backyard-grown produce or livestock where the soil, grazing area, or feed was contaminated by deposition of toxics from the airborne plume. Based on OEHHA's review of AB 2588 air toxics health risk assessments over the years of the program, it is well established that these additional routes of exposure to the air releases (beyond simply direct inhalation of the air) can substantially add to the overall public health risk attributed to the facility's air releases. Therefore, consideration of multipathway effects is fully justified as a factor for districts to consider when weighing the interests of public health and determining whether to reinstate a facility into emission reporting requirements and full evaluation in the program.

A-11.31. Comment: Require Entire Plan to Be Updated

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. (SBAPCD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff notes that the Statute already gives districts this authority, because of the provisions in H&SC section 44365(b) allowing districts to establish more stringent criteria and requirements for emission inventories and health risk assessments. To be further responsive to the comment, and to make this authority even more prominent in its coverage for the entire EICG, CARB staff has also proposed a 15-day modification to the overarching EICG Section I.A. "Purpose and How to Use This Report", to explicitly add the following paragraph:

Notwithstanding the requirements outlined in this report, H&SC section 44365(b) allows air districts to adopt more stringent requirements. Specifically, the statute reads: "This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances."

A-11.32. Comment: Road Dust

The ISOR cites two sections of the Health & Safety Code to justify the addition of these new requirements and explains that the Section VIII.G requirements are consistent with a 1989 interpretation letter from CARB to the air districts. The letter, which was not posted with the proposed rule, only reiterates the proposed requirements, but does not explain how the statute is interpreted to require facility operators to report these emissions. The Health & Safety Code sections are discussed below.

Road Dust is Not a Reportable "Hazardous Material" The newly proposed requirement to report "dust emissions" produced from routine and predictable motor vehicle activity at a facility is inappropriate and should be removed from the proposed regulations (EICGR, page 58). The ISOR asserts the reason for this change is the requirement at Health and Safety Code section 44340(c)(2) that emission inventories produce a "comprehensive characterization of the full range of *hazardous materials* that are released, or that may be released, to the surrounding air from the *facility*" (emphasis added). Section 44340(c)(2) states:

"The [Emissions Inventory] plan is designed to produce, *from the list compiled and maintained pursuant to Section 44321*, a comprehensive characterization of the full range of *hazardous materials* that are released, or that may be released, to the surrounding air from the facility. Air release data shall be collected at, or calculated for, the primary locations of actual and potential release *for each hazardous material* (emphasis added)."

Road dust is not a hazardous material as defined by California law, nor is it included in the Appendix A-1 list developed pursuant to Section 44321. CARB argues that some road dust may contain hazardous materials, but merely making that claim does not legally justify requiring reporting of any uncharacterized "dust" as a "hazardous

material” pursuant to AB 2588. Moreover, emissions of dust and any potential hazardous materials therein originating from mobile sources, like motor vehicles, often are not “routine” or “predictable” emissions at a fixed facility, meaning that they typically would not qualify as an “air release” as defined by AB 2588.⁶ Mobile sources like motor vehicles usually have a transitory presence at a facility, making it extremely difficult to ascertain a “routine” or “predictable” level of emissions from those sources at a facility. Additionally, the type of vehicle, type of road, frequency and length of motor vehicle travel, meteorological conditions, moisture content of the ground and chemical make-up of dust are all highly variable, extremely difficult to quantify with precision, and burdensome to track.

⁶ Health & Safety Code §44303. (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please see the detailed responses regarding the appropriateness of including specified onsite mobile sources and the toxic components of dust emissions in *[this CTR FSOR, Section A-11.1, “Multiple Comments: Mobile Sources - Remove Requirement”]* and *[this CTR FSOR, Section A-11.3, “Multiple Comments: Mobile Sources - Dust Emissions”]*.

A-11.33.Comment: SCAQMD Discretion for 177 ChemSet-1 TACS

Maintain List of 177 Toxic air Contaminants for AB 2588 Quadrennial Reports and Not Include Full Chem-Set 1 List

Currently, facilities are subject to quadrennial reporting requirements and report any one of approximately 177 toxic and ozone depleting compounds. These quadrennial emissions are used to prioritize the facility for AB 2588 purposes and, if necessary, the facility will be required to prepare an air toxics inventory report (ATIR) or an updated ATIR for which a full list of TACs will be required to be reported. CARB staff indicated that discretion will be granted to South Coast AQMD for quadrennial reporting and prioritization of facilities regarding the use of the 177 TACs in lieu of the ChemSet-1 list. We request that you confirm this agreement. (SCAQMD)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

This comment is not within the scope of the regulatory changes proposed in the EICG as it focuses solely on program implementation. However, it is worth noting that the Health and Safety Code Hot Spots section gives districts broad implementation flexibility. As such, CARB is committed to working with the South Coast district to understand their program and resolve this outstanding issue.

A-11.34. Comment: Specifications for Identifying Emission Points and Substances Emitted

First, the language change to Appendix C referenced in Section VIII (see bolded language of insert to Section VIII), which is proposed to be modified in agreement with the letter issued on September 14 (see Attachment 1 and Attachment 4);

Attachment 1 - EICG Regulation Appendix C Excerpt Modified

C. Specifications for Identifying Emission Points and Substances Emitted.

The facility operator shall identify and report in the emission inventory plan and the emission inventory report as a distinct emitting process or device each occurrence within the facility of the emitting processes and devices set forth in Appendices C-I and C-II (the Facility Guidelines Index, herein referred to as the "Facility Look-up Table"), and shall determine whether any listed substance is present, including but not limited to those indicated in Appendices C-I and C-II.

For the devices, emitting processes, and fugitive sources set forth for all facility classes in Appendix C-I and for the applicable facility class(es) set forth in Appendix C-II, the operator shall report all emissions of substances listed in Appendix A-I, and shall report the production, use, or other presence of substances listed in Appendix A-II. The operator shall also report the production, use, or presence of substances listed in Appendix A-III if the substance is manufactured by the facility and is released to the air.

The facility operator shall use and cite available technical guidance as needed to identify the presence of any listed substances and to quantify and report emissions in accordance with the requirements set forth in section VIII.E.

Nothing in sections VIII.C.(1) through (3), shall be construed as requiring that source testing be conducted for substances set forth in Appendix C. Further, in cases where a substance set forth in Appendix C is not in fact present at a particular facility, the facility operator shall not attempt to quantify the emissions of such substance, but shall provide adequate documentation to demonstrate to the district that the possible presence of the substance at the facility has been addressed and that there are no emissions of the substance for specified reasons.

When implementing the suggested chemical list by source category in the following Appendix C tables (as this list becomes applicable on the rule effective date), facilities will begin a chemical evaluation process as follows. Facilities will begin by evaluating qualitatively whether the chemical applies to the source category. The qualitative analysis could be based on process knowledge, engineering judgment, or lab analyses. If the chemical does apply, facilities will assess whether there is an EPA or ARB published source test method available for this chemical. If there is a published source test method available, the facility will perform source testing for the chemical. In case of source test results with non-detect values, facilities will follow ARB guidance on the

procedure for addressing non-detect values and whether the chemical can be considered "not detected".

If the chemical does not apply to the source category, if there is no EPA or ARB published source test method available, or if the chemical can be considered "not detected" after source testing is performed, the chemical will not be reported under the ARB CTR rule and will not be included in prioritization score or health risk assessment calculations.

For new chemicals added to the Appendix C list as of the rule effective date, the chemical evaluation and source testing (where applicable) will be completed based on the schedule in the rule. For new chemicals added to Appendix C after the rule effective date, the new chemical will be addressed within two calendar years of the end of the calendar year where the new chemical listing occurs. For new source test methods published by EPA or ARB after the rule effective date, the new source test methods will be incorporated within two calendar years of the end of the calendar year where the new source test method is published.

The above requirements also pertain to Appendix A chemical listings, where found to be applicable to a particular source category, but not included in the Appendix C list.

D. Exempted Uses.

The following uses of listed substances shall not be subject to this regulation:

Use as a structural component of the facility.

Personal use by employees or other persons of foods, drugs, cosmetics, tobacco products, and other personal items, including supplies of such products within the facility in an on-site cafeteria, store, or infirmary.

Office and administrative use of products including ink, marking pens, ink pads, correction fluid, correction fluid thinner, and glue.

Use of products for routine janitorial or facility grounds maintenance.

Use of products for structural maintenance and repair, including WD-40 and other lubricants, sealants, touch-up paints, spray paints, and varnishes. Structural maintenance does not include maintenance and repair of process and industrial equipment. (CCMEC)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please see also the response to *[this CTR FSOR, Section A-11.10, "Comment: Availability of Emission Quantification Methods"]* for related information. CARB staff

notes that the implementation steps suggested in the comment are more detailed and more specific to a single type of sector (cement manufacturing) than are generally appropriate to be included in the EICG regulation. In keeping with the AB 2588 Statute requirements, CARB is directed to prepare "criteria and guidelines" for preparing emission inventories, and the districts are given the primary role in reviewing the detailed proposed emission inventory plans submitted by each individual facility under their jurisdiction. Most of the detailed steps in the comment would be more appropriately handled during the process of inventory plan submittal by the facility, and its review and approval by the local district.

The comment also seems to imply that substances would only be reported where source test methods exist, but source testing is only one possible way to estimate emissions. For example, process knowledge regarding material composition, along with various emission factors, or mass balance, or other engineering calculations, might be used in combination to provide suitable emission estimates. EICG Section IX has many subsections that sequentially discuss use of quantification methods that are not limited to merely what is possible with formal source testing methods. The comment also discusses ideas for the incorporation of new source test methods that are later published by US EPA and/or CARB. However, these will need to go through a rulemaking update.

A-11.35.Comment: Wastewater Treatment Plants at Industrial Sites

Source testing requirements for open sources. New requirements in Section H for two-step source testing of specified "open sources" cover "Waste water treatment at waste water treatment facilities, including publicly owned treatment works (included in SIC 4952 or NAICS 221320)" (EICGR page 71, subsection (1)(a)). This language should be amended to clarify that the source testing requirements apply only to publicly owned treatment works. As it is currently drafted, this language could be misconstrued to apply to any wastewater treatment plant, including at an industrial facility, regardless of how the system is designed (i.e., enclosed vs. open, recycling process water vs. sewage, etc.) or how thoroughly the influent and effluent streams are characterized. (WSPA)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

EICG Section IX.H. for waste-handling sector facilities is meant to be used in conjunction with EICG Appendix E and Appendix D, and, taken together, CARB staff believes the intent is clear that only facilities whose primary classification and function are with the waste-handling sector are intended to be covered by the two-step applicability provisions. For example, in Section IX.H. and Appendix E, the sector phase "3B" is associated with the waste-handling related facilities (including wastewater treatment plants), and the SIC codes for the sector phase "3B" classes identify the overall facility-level Standard Industrial Classification (SIC). The facility-

level SIC, combined with the Appendix E wording as “wastewater treatment at wastewater treatment plants”, is meant to clearly identify the sector as facilities whose primary function is to provide waste-handling services in the context of a service utility (i.e., not an industrial facility that happens to have some wastewater treatment processes occurring at it). The requirement mentions the publicly owned treatment works (because publicly owned treatment works are the more typical type of treatment works found in most communities), but is intended to apply if there were instances of privately owned treatment works in communities somewhere as well.

B. Summary of Comments Received During the First 15-Day Comment Period and Agency Response

This chapter of the FSOR contains comments submitted during the additional 15-day comment period to incorporate proposed revisions to the originally proposed regulatory language based on Board direction and comments received. The additional 15-day comment period for the First Proposed Modifications commenced on March 30, 2021, and ended on April 14, 2021.

CARB received 24 comment letters submitted to the CTR docket. This FSOR provides a response to comments in each letter. **Error! Not a valid bookmark self-reference.** below lists those providing comments on the proposed 15-day modifications and shows the abbreviation assigned to each to assist in identifying commenters in the comments/responses which follow. As mentioned previously, every effort was made to include all CTR-relevant comments and we have also included submitted EICG-only comments and responses for completeness.

Error! Not a valid bookmark self-reference. below lists those providing comments on the proposed modifications during the additional 15-day comment period and shows the abbreviation assigned to each commenter to help identify them in the comments/responses which follow.

Table B-1. Comments Received During the First 15-Day Comment Period	
Commenter	Affiliation
Smythe, Gareth (4/8/2021)	Department of Defense (DoD-15-1)
Harper, Adam / Snyder, Russell (4/13/2021)	California Construction and Industrial Materials Association/California Asphalt Pavement Association (CalCIMA-CalAPA-15-1)
Suwol, Robina (4/13/2021)	California Safe Schools (CSS-15-1)
Arguello, Martha Dina (4/14/2021)	Physicians for Social Responsibility - Los Angeles (PSRLA-15-1)
Caponi, Frank (4/14/2021)	Solid Waste Industry for Climate Solutions (SWICS-15-1)
Cullum, Lauren (4/14/2021)	Sierra Club California (SC-15-1)
Deslauriers, Sarah (4/14/2021)	California Association of Sanitation Agencies (CASA-15-1)
DiCaro, Gino (4/14/2021)	Industry Coalition 25 (IC25-15-1)
Dodd, Catherine (4/14/2021)	Alliance of Nurses for Healthy Environments (ANHE-15-1)
Gassman, David (4/14/2021)	David Gassman (DG-15-1)
Jessum, Rhonda / Suwol, Robina (4/14/2021)	Our Right to Know / California Safe Schools (ORTK-CSS-15-1)
Kang, Eugene (4/14/2021)	South Coast Air Quality Management District (SCAQMD-15-1)
Kyle, Amy D (4/14/2021)	Amy D Kyle (AK-15-1)
Magavern, Bill (4/14/2021)	Coalition for Clean Air (CCA-15-1)
Rehn, Adrian (4/14/2021)	Cleaner Air Partnership (CAP-15-1)
Roberts, Amy (4/14/2021)	Sacramento Metropolitan Air Quality Management District (SMAQMD-15-1)
Roedner Sutter, Katelyn (4/14/2021)	Environmental Defense Fund (EDF-15-1)
Talavera, James (4/14/2021)	Los Angeles Department of Water and Power (LADWP-15-1)
Tell, Monica (4/14/2021)	Pacific Gas & Electric (PG&E-15-1a)
Tell, Monica (4/14/2021)	Pacific Gas & Electric (PG&E-15-1b)
Tiberi, Ted (4/14/2021)	Arid Technologies (AT-15-1)
Whittick, Janet (4/14/2021)	California Council for Environmental and Economic Balance (CCEEB-15-1)
Williams, Joy / May, Julia (4/14/2021)	Environmental Health Coalition / Communities for a Better Environment (EHC-CBE-15-1)
Aird, Sarah (4/15/2021)	Californians for Pesticide Reform (CPR-15-1)

B-1. General Comments Regarding CTR Requirements

B-1.1. [Multiple Comments: Cumulative Impacts](#)

Comment: CARB has stated that it is going to address disproportionate impacts and environmental justice. But then CARB has taken out the language in the rule about considering effects from multiple facilities. That will continue the disproportionate impacts. We consider effects of the impacts from multiple facilities for criteria pollutants. We need to do this for toxics as well. (CSS-15-1)

Comment: The Cumulative Impact of Multiple Facilities Should Be Considered: Finally, the proposal must address the cumulative impacts of air toxics by restoring the original rule language adopted by the Air Resources Board (ARB) regarding the combined impacts where multiple facilities affect the same community. Environmental justice communities bear a disproportionate burden from air toxics – a burden often resulting from multiple sources of pollution compounding health and environmental harm. Unfortunately, the current proposal removes the only provision to consider this cumulative impact. This provision should be restored to capture the full impact of air toxic emissions. (EDF-15-1)

Comment: Consideration of the impacts of multiple facilities in a given area has been removed, and should be restored. Residents, especially in disadvantaged communities, are often exposed to toxic emissions from multiple facilities, and these impacts need to be considered to understand the health threats; AB 617 explicitly requires consideration of the cumulative impacts of air pollution. (CCA-15-1)

Comment: We think it is necessary for CARB to provide granular community level air pollution data on all possible sources. This is the type of data we are finding is necessary to develop effective emission reductions strategies. It has been our experience while collecting air monitoring, data and conducting ground truthing of these sources provided key community data and often reveal glaring data gaps. These gaps negatively impact our ability to address the cumulative burden of air pollution that is disproportionately impacting communities of color and environmental justice communities. We need to have complete, consistent, accurate, and a transparent emissions inventory of criteria air pollutants and toxic air contaminants, so communities will be better informed to engage in the development solutions that reduce pollution burden.

Additionally, we think it is equally important to report on where we have missing and insufficient data especially given the gaps in health data related to many toxic air contaminants. These gaps in health and safety data are often seen as proof of safety. (PSRLA-15-1)

Comment: CARB must restore the provisions to consider impacts of multiple facilities where relevant. The new draft of the rules removes the language about considering the impacts of multiple facilities that affect the same area. This was important to

communities and should be put back in the rule. CARB cannot say that it is going to address disproportionate impacts and environmental justice and not address cumulative impacts of multiple facilities. We do not understand how CARB can be serious about enforcing environmental justice and not consider effects from multiple facilities. (PSRLA-15-1)

Comment: We hope that the Board takes these comments into consideration and thus take the necessary steps to ensure that the communities, which CARB serves, have the data, resources, and tools suitable for the successful implementation of AB 617 projects that have a centered focus on tangible reductions to pollution burden to achieve environmental justice and a just transition. (PSRLA-15-1)

Comment: Proceed with the following change: New language in Sections II, III, IV and V clarifying that air district consideration of population wide impact assessments or the potential for cumulative risk from multiple facilities in making compliance determinations related to facility applicability, exemptions, and the scope of update reporting requirements is voluntary. While this language appears to be an improvement over the prior version, we maintain that any consideration of these concepts in the context of AB 2588 implementation is inappropriate because it will burdensome facilities with additional compliance obligations related to emissions that are beyond their ability to control. (IC25-15-1)

Comment: The proposed rule for air toxics also fails to consider the cumulative impacts of pollution from multiple sources. As you well know, people are exposed to complex mixtures of different industrial chemicals daily. If the state finalizes rules that ignore multiple exposures it will fail people living in the most impacted areas. Regulations should ideally ensure that the additive stresses of chemicals in outdoor air are safe for children, adults with health conditions that make them more impacted by pollution, and the elderly. We believe that AB 2588 requires the agency to consider multiple stresses. This is common practice when considering criteria pollutants. (SC-15-1)

Comment: First, we are very concerned about the removal of the mandatory language related to cumulative impacts from the Hot Spots program guidance. The only way to understand the true risk our communities face is to evaluate cumulative impacts. Each breath of air contains a mixture of a variety of particles and gases, and these particles and gases can and do interact to magnify health risks. Importantly, the Board Resolution recognized that “the high cumulative exposure burdens in these communities are a public health concern, contributing to health conditions, such as cardiorespiratory disease, increased cancer risk, and an increased risk of premature death.”² The Board Resolution further recognized the importance of considering cumulative impacts by requiring the development of methodologies “for assessing the impacts of emissions at the community-scale, including an evaluation of population exposure and cumulative impacts from multiple sources.”³

The new proposed draft, however, removes the critical provisions requiring an evaluation of cumulative impacts by wrongly stating that consideration of cumulative impacts is inconsistent with AB 2588. A closer look at the language of AB 2588, however, shows that CARB retains broad authority to consider community risks related to cumulative pollution in the most overburdened communities. In fact, as the statutory language provides, the general purpose of AB 2588 is “to assess the health risks [of] those that are exposed” to hazardous releases.⁴ The only way to truly assess the health risk, consistent with the statutory language, is to examine and assess the cumulative impacts. Furthermore, when assessing risk, AB 2588 provides that districts shall consider neighborhood and local characteristics such as “the proximity of the facility to potential receptors” and “any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors.”⁵ These examples show that AB 2588 is not limited to considering individual facilities, but rather requires community considerations and thus should include cumulative impacts, which can and do significantly impact risk. Therefore, we request that CARB retain the original language, which required consideration of the combined impact of toxic facilities.

² Board Resolution 20-31, p. 3.

³ Board Resolution 20-31, p. 11.

⁴ Health & Safety Code Section 44301(h).

⁵ Health & Safety Code Section 44360. (EHC-CBE-15-1)

Comment: The new draft of the rules removes the language about considering the impacts of multiple facilities that affect the same area. This was important to communities and should be put back in the rule.

CARB says that it is going to address disproportionate impacts and environmental justice. But then CARB has taken out of the rule the language about considering effects from multiple facilities. That will continue the disproportionate impacts. CARB and the districts need to write the rules and do the assessments based on the conditions that are actually occurring. This includes consideration of different sources that affect an area.

We consider effects of multiple facilities for criteria pollutants. We need to do it for toxics as well. (DG-15-1)

Comment: CARB has stated that it is going to address disproportionate impacts and environmental justice. But then CARB has taken out the language in the rule about considering effects from multiple facilities. That will continue the disproportionate impacts. We consider effects of the impacts from multiple facilities for criteria pollutants. We need to do this for toxics as well.

In an era where cancer, asthma, hormonal, neurological and birth defect are epidemic, now is the time to swiftly act to ensure our current and future generations are protected. (ORTK-CSS-15-1)

Comment: The impact on communities of multiple facilities with multiple toxic emissions must continue to be included in the rules. Multiple chemicals interact with other chemicals producing toxic mixtures. These provisions must be restored to the rules. Further, while CARB states its intent to consider “environmental justice issues” in addressing the disparate impact of this toxic air pollution, it has removed the very language that considers the effects of emissions from multiple facilities which are often found in “frontline/fence line” communities. Without this analysis, these communities located with many types of toxic emissions will have worsened along with disproportionate exposure to poor air quality conditions. (ANHE-15-1)

Comment: We urge the CARB and the districts to use real time scientific analysis of conditions to write accurate comprehensive rules and to make the assessments based on these real time conditions which must include examination of the different sources of toxic discharges that affect each area. The multiple sources and types of pollution and toxic discharges from must be considered together. (ANHE-15-1)

Comment: The amendments contain language that undermines direction toward consideration of the community context for emissions of air toxics to address disproportionate impacts. As noted above, the Board adopted changes to the guidance for the “hot spots” program that encouraged consideration of the community or population context in assessments of risks of toxic emissions. This is important to change institutional practices that contribute to disproportionate impacts. While not a complete solution, this was a tangible step toward addressing the Board’s direction to take apart the elements of systemic racism. Language about how and when to consider population effects and multiple sources was added at several places into the guidance.

While it appears that this language has been retained, some additional language has been added to the materials and documentation for the rule that is contrary in emphasizing that the direction for the districts is voluntary. It also makes statements about the intent of the original statute that seem ungrounded.

This should be stricken and, if anything, replaced with a more nuanced discussion.

As has been noted in many scientific assessments including those issued by the National Academy of Sciences, it is essential as a matter of science to consider the context for a risk assessment, and risk assessment methods need to provide for this. The context is not the same in every case.

Failure to consider the actual conditions in assessments and in making decisions is structural racism. We know that communities of color and lower income communities are disproportionately impacted by clustering of emitters and siting of large facilities.

To clarify that the population level experience must be considered in determining risk is necessary step to begin to tangibly address these disproportionate impacts. This point needs to be considered as a matter of competent assessment methods and not as an “optional” step that a district might take. As a matter of both science and policy, it should become mandatory. (AK-15-1)

Comment: In November 2020, the Governing Board adopted a revision to the CTR rule and the 2588 “hot spots” inventory. This package included several provisions to address disproportionate impacts and improve community air protection.

The Board’s action was towards improvements in validity, completeness, and transparency of data essential to understanding and addressing toxics emissions.

Critical needs addressed were to update the lists of substances considered as air toxics to represent products and processes in use today. Similarly, the types of facilities included were updated. These essential reforms were long overdue but much needed.

Changes to the guidance for the hot spots program added provisions suggesting that risk assessments be cognizant of impacts on populations affected by multiple sources of emissions requiring updating of assessment documents relied upon for prioritization. These changes reflect changes in institutional practices and requirements to address disproportionate burdens.

The Board also discussed consistency between lists of air toxics between the two sets of regulations.

Over several months, the Board discussed about the need for air pollution control agencies to adapt their data, tools, and methods to better reflect the community scale at which disproportionate impacts often occur. The focus at the regional scale for the criteria pollutants, combined with the districts’ focus largely on the facility scale for stationary sources of air toxics, left a gap. Staff is to work on this and return for a briefing in the fall of 2021. This is part of the context for the approval of the rules in November. (AK-15-1)

Comment: Better control of air toxics is critical to addressing the environmental injustices faced by communities of color in California who bear a disproportionate burden from air toxics – an unacceptable situation that must be addressed in a more timely fashion than proposed and that must consider the cumulative impacts communities face. (CPR-15-1)

Agency Response: CARB Staff agree that cumulative impacts from air toxics at multiple facilities and disproportionate impacts on disadvantaged communities should not be ignored. Please refer to *Section A-1.33., “Multiple Comments: Cumulative Impacts”* in the CTR & EICG responses to 45-day comments, which includes the details addressing cumulative impacts of multiple facilities, as well as

Section A-9.7., “Multiple Comments: District Grouping” and Section A-2.11., “Multiple Comments: CTR Criteria Pollutant Threshold” in CTR's 45-day comments, which address disproportionate impacts on disadvantaged communities.

B-1.2. [Multiple Comments: Community Toxics Concerns](#)

Comment: We know that these chemical compounds can cause serious environmental health impacts, even at very low doses. Tragically, many air toxics are persistent in our communities and accumulate over time in our bodies and environment. Communities of color and environmental justice communities unfairly endure a disproportionate burden and result in people suffering from diseases. It is imperative we address these disparities now. Worse, they have an effect on the most vulnerable - children at the early stages of development. We cannot continue to allow toxic contaminants to inflict harm. (CSS-15-1)

Comment: In an era where cancer, asthma, hormonal, neurological and birth defect are epidemic, now is the time to swiftly act to ensure our current and future generations are protected. (CSS-15-1)

Comment: I am concerned about the impacts of air toxics on communities. These compounds can cause impacts at very low doses, and it is important to take them seriously. (DG-15-1)

Comment: Many air toxics affect children at sensitive stages of development. We need to avoid hurting children with toxic contaminants. (DG-15-1)

Comment: Some of the air toxics are persistent in our communities and accumulate over time in our bodies. (DG-15-1)

Comment: I am concerned about all the emerging pollutants that are being brought to our community – like the PFAS chemicals that are called “forever chemicals” because they never break down. But they cause cancer and many other effects. (DG-15-1)

Comment: For more than two decades, California Safe Schools has actively worked with communities, school districts and regulatory agencies on the impacts of air toxics. We know that these chemical compounds can cause serious environmental health impacts, even at very low doses.

Tragically, many air toxics are persistent in our communities and accumulate over time in our bodies and environment. Communities of color and environmental justice communities unfairly endure a disproportionate burden and result in people suffering from diseases. It is imperative we address these disparities now. Worse, they have an effect on the most vulnerable - children at the early stages of development. We cannot continue to allow toxic contaminants to inflict harm. (ORTK-CSS-15-1)

Comment: We cannot allow pollutants like PFAS, called “forever chemicals” because they never break down, to be brought into our communities. PFA’s are linked to cancer and other health effects. (ORTK-CSS-15-1)

Comment: Air toxics emissions are disproportionately distributed as a result of redlining that restricted locations for residential area, siting of large emitters in disadvantaged communities, and adverse actions and policies of institutions.

Disproportionate burdens of air pollution in environmental justice communities have not been effectively addressed by State and local air pollution control programs that focus at the regional scale or on individual facilities.

Passage of AB 197 ¹ in 2016 and AB 617 ² in 2017, along with years of effort among community organizations, pushed the California Air Resources Board (CARB) to pay attention to emissions in highly impacted communities. The Community Air Protection ³ under AB 617 created a constituency to push air pollution control agencies to address pollution at the community scale.

Concern has increased over structural racism at government agencies including CARB that contribute to disproportionate and excessive burdens of pollution in communities of color and lower income. There is also a national conversation about inequalities and the need for redress. President Biden has committed to pursue increased equality and recently appointed a White House task force to oversee efforts to achieve environmental justice. The Governing Board at CARB has made statements of commitment to reforms to increase equity and promote inclusion for agency employees and to identifying and eliminating structural racism in its programs and actions.

¹ AB 197 (2016, E Garcia). An act relating to air resources. (Accessed Oct 30, 2020). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB197

² AB 617 (2017, C Garcia). An act relating to nonvehicular air pollution. (Accessed Oct 30, 2020). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB617

³ California Air Resources Board. Community Air Protection. Web page. (Accessed Oct 30, 2020). <https://ww2.arb.ca.gov/capp> (AK-15-1)

Comment: On March 30, the Executive Officer published revisions to the adopted rules. On March 30, 2021, the Executive Officer of the ARB released modified language for both the CTR rule and the AB 2588 “hot spots” inventory rules adopted by the Governing Board in November. The proposal amounts to more than 200 pages and includes extensive changes. Many of them provide useful clarification and in some cases new direction.

Some of the revisions put forth by the Executive Officer (EO) for changes to the criteria and Toxics Reporting rule and for the Guidance for the Air Toxics “Hot Spots”

program implement direction from the Board. In particular, several changes and reorganizational steps were made to address the direction to make the lists of air toxics consistent between the two rules. This was appropriate. However, some of the changes or accompanying text seem to be in conflict with the commitment to addressing disproportionate impacts and protecting the health of communities. These should be discarded. (AK-15-1)

Agency Response: The commenters' support for the amendments is greatly appreciated by staff. The primary goal of the regulatory updates is to help communities in exactly the ways that are mentioned: to help understand and address the concerns and impacts from toxic and other air pollutants. With the expanded comprehensive and consistent reporting requirements as well as the expanded toxics list, CARB, with our community, air district, and industry partners, can all more effectively, and more universally address air pollution. CARB absolutely agrees that many chemical compounds can cause serious environmental health impacts and many are persistent in our communities.

The toxics substances reportable under CTR are based on the chemicals identified in EICG Appendix A. Appendix A has been revised to include three main types of chemical functional groups for which emissions of any substance having the functional group must be reported in order to aim at a more comprehensive toxics reporting. These chemical functional groups include: 1) any chemical containing an isocyanate functional group, 2) derivatives and substituted versions of polycyclic aromatic compounds that contain any halogen atom, and 3) poly and per fluorinated chemicals 66 (or PFAS-related chemicals). The functional group categories serve to define applicability provisions that specify that when a chemical contains any of the those listed chemical functional groups inside the chemical's formula, then the chemical meets the definition of a chemical that is included in the Appendix A requirements.

Moreover, the functional groups in Appendix A may consist of thousands of individual substances, and there would be unacceptable delays in protecting public health to wait for them to be formally included on one of the six lists cited by the Statute. Additionally, staff has also added over 1,100 new substances into Appendix A-I, which are substance that must be quantified under the Hot Spots program. Further, 172 individual PFAS have been added into Appendix A, each with its own individual CAS number.

Staff consulted multiple times with the Scientific Review Panel on Toxic Air Contaminants, and incorporated their recommendations for additional chemicals and chemical lists to be considered, along with additional types of health effects. Staff's intent in making these additions were to start taking a more pro-active approach to these new and emerging air toxics in our communities. It will take some time, but we are certain that the amended regulations will provide a foundation of improved emissions data for meaningfully addressing historical

inequities related to harmful neighborhood emissions, leading to safer and healthier communities throughout California.

B-1.3. [Multiple Comments: Support](#)

Comment: We would like to thank CARB staff for taking the time to meet with us and hear our concerns regarding these regulatory proposals. Your staff's efforts to ensure we understood the intent of the regulations, as well as to clarify regulatory text to help ensure obligations were clear and understandable, is very much appreciated. We believe it has resulted in a clearer and more understandable rule. (CalCIMA-CalAPA-15-1)

Comment: The CTR rules and the EICG are both vitally important to understanding local air pollution, identifying key stationary sources, tracking progress in reducing emissions, and the ability correlate different types of pollutants from certain sources. The utility of these programs is key to the successful implementation of AB 617, which itself is a critical tool to addressing the ongoing, disproportionate air pollution burden in communities across California. (EDF-15-1)

Comment: Sierra Club California strongly supports the California Air Resources Board's (CARB) efforts to control toxic air pollution in the state. We are pleased that CARB is proposing keyways to strengthen two bills, the "Criteria and Toxics Reporting" rules and AB 2588 Air Toxics "Hot Spots" program. The proposed rules expand the number of chemicals regulated as air toxics and bring new industries into regulation - particularly in communities most impacted by industrial pollution. (SC-15-1)

Comment: We appreciate efforts at the California Air Resources Board (CARB) to improve and update these important rules, and support the overall goal of transitioning to a transparent and uniform statewide program for reporting criteria and toxics emission inventories at stationary sources so that data is both publicly accessible and meaningful. (CCEEB-15-1)

Comment: CASA greatly appreciates CARB's continued close engagement and willingness to consider the wastewater sector's perspective on and interpretation of the modified text of the CTR and EICG regulations (as outlined below). (CASA-15-1)

Comment: We want to thank CARB for engaging in discussions on the EICG, the CTR, as well as steps needed to identify a wastewater sector-specific list of compounds. We look forward to working collaboratively with CARB and CAPCOA to establish a formal approach that can quantify actual emissions from our member facilities. (CASA-15-1)

Agency Response: CARB staff appreciate the support in our efforts to improve California's air toxics programs through the amendments to the CTR and EICG regulations.

B-1.4. [Multiple Comments: Reporting and Visualization Tool](#)

Comment: Online Emission Reporting Too. With the addition of the CTR regulation, there are now multiple emission inventory and reporting regulations that air districts, regulated entities and the public must decipher and interpret. CARB should continue to look for ways to streamline emission inventory efforts between the Air Toxics “Hot Spots” Information and Assessment Act of 1987, GHG emissions reporting, criteria pollutant emission data submitted through CEIDARS, and the CTR regulation. CARB has committed to developing an online reporting tool that will be used for all emission reporting requirements and the District is very supportive of that effort. Having a CARB-developed online reporting tool will avoid duplicative efforts by local air districts and foster consistent reporting requirements for regulated entities, especially businesses that operate in multiple air districts. The District strongly encourages CARB to continue working with local districts to develop the online reporting tool. (SMAQMD-15-1)

Comment: Website & Future Emission Data Access. The District highly recommends that CARB begin planning early for how online emission data can be made relevant and understandable for the public, e.g., requiring viewing of brief informational training videos prior to allowing public access. This step and others can help reduce confusion and misinterpretation and help explain the limitations and caveats inherent in the collected emission data. (SMAQMD-15-1)

Comment: Education Is Needed: Without adequate funding noted above, meaningful education of the public and other stakeholders to ensure shared understanding is not possible. The CTR Regulation is deeply complex, so we recommend that CARB begin planning for how online emission data can be made clear and more understandable to the public. Doing so can help reduce confusion and misinterpretation and help explain the limitations and caveats inherent in the collected emission data. (CAP-15-1)

Comment: A Unified Online Emission Reporting Tool Is Needed: The addition of the CTR Regulation means that there are now multiple emission inventory and reporting regulations that the public, air districts, and regulated entities must be able to decipher. CARB needs to continue to look for ways to streamline emission inventory efforts between the Air Toxics “Hot Spots” Information and Assessment Act of 1987, GHG emissions reporting, criteria pollutant emission data submitted through CEIDARS, and the CTR regulation. CARB has committed to developing an online reporting tool that will be used for all emission reporting requirements and CAP is very supportive of that effort. Having a single, unified online reporting tool will avoid duplicative efforts by local air districts and foster consistent reporting requirements for regulated entities, especially for businesses that operate in multiple air districts. Furthermore, CAP encourages CARB to work collaboratively with local air districts in the development of the online reporting tool, with feedback from members of the public as well. (CAP-15-1)

Comment: Emission data collected under the CTR and EICG programs will be publicly available and used for a variety of purposes, therefore it is important that the emission data accurately represent facility operations. LADWP encourages CARB to continue refining both the CTR and EICG emission reporting requirements to streamline the data collection and reporting process and ensure that the published emission data accurately represents the contribution of stationary sources to the overall statewide emission inventory. (LADWP-15-1)

Agency Response: CARB agrees that an improved data management system for emissions is needed; however, existing systems are expected to manage the data required by the proposed amendments. Please see our response to *Section A-1.31., "Multiple Comments: Data - Enhanced Reporting Tool Needed"* and *Section A-1.26., "Multiple Comments: Data - Enhanced Electronic Data System Needed"*. CARB is developing improved tools for online emissions reporting for facilities and districts as well as new and improved tools to display emissions data in user-friendly formats.

B-1.5. [Multiple Comments: Resources and Funding Concerns](#)

Comment: While we fully support the overarching goals of the CTR regulation and want to provide timely access for our communities to important air pollution emissions information, we continue to have concerns about the lack of funding and some of the requirements in the recently released 15-day changes on the regulation. (SMAQMD-15-1)

Comment: Lack of Funding for Mandated Regulation. First and foremost, the state has not identified a viable and sustained source of funding for implementation of the CTR regulation at the local level. Without proper financial support for this mandate, it will be difficult for air districts to implement the regulation to a level where the intended goals of transparency and access to reliable and fully vetted air quality information are ultimately realized. Not having robust compliance assistance, data review and adequate technological solutions may lead to a more haphazard phase-in on the front end and increased confusion and misinterpretation of the emissions data for all stakeholders on the back end. While some adjustments to the regulation help mitigate workload obligations, the core issue remains since our agency's emission reporting workload will significantly increase regardless. While it may be expected that these costs will be passed on locally, given the unprecedented impact on businesses this past year our Board will be reticent to pass on additional fees to the business community in the near-term. CARB should therefore be at the forefront of pursuing funding solutions to support their air quality partners in this important effort. (SMAQMD-15-1)

Comment: Lack of Funding to Implement This Mandate: While we support the goals of the CTR regulation, we continue to have concerns about the lack of funding and some of the requirements in the recently released 15-day changes on the regulation. Primarily, the state has not identified a viable and sustained source of funding for

implementation of the CTR regulation at the local level. Without proper financial support for this mandate, it will be difficult for air districts to implement the regulation to a level where the intended goals of transparency and access to reliable air quality information are ultimately realized. Not having adequate compliance assistance, data review and technological solutions may lead to a challenging phase-in on the front end and increased confusion and misinterpretation of the emissions data for all stakeholders on the back end. Further, costs for air districts to implement these rules could be passed on to permit holders/businesses in the form of new fees. (CAP-15-1)

Comment: Implementation of these policy changes will be extremely resource-intensive for all involved parties but is unlikely to result in commensurate gains in emissions reduction and public health protection. For these reasons, CARB should expand its proposed 15-day changes to include the additional recommendations presented below. (IC25-15-1)

Comment: As stated on many occasions and previous comment letters, the implementation of the CTR will require continued funding support. While we have many of the resources necessary for successful implementation, additional financial support for staffing, programming, and especially outreach to the reporting facilities will be needed. Outreach to the many affected facilities in the South Coast jurisdiction and technical assistance during the reporting season will likely be extensive. The vast majority of Additional Applicability Facilities that begin reporting emissions for 2022 data in 2023 do not currently report emissions, and it will be extremely difficult for local air districts to identify applicable facilities using activity level reporting thresholds based on either toxic mass emissions or material usage since this data is not available for facilities that have never reported. Training and outreach for these facilities should also begin prior to the start of the data year in order to prepare facilities for expected reporting requirements. We have a team of 10 staff that assist a universe of approximately 1,600 facilities currently subject to reporting. We will have to substantially update our emissions reporting system and staff to accommodate the thousands of additional facilities that will be required to report emissions, an effort that we estimate will exceed \$1M. Additional resources are needed if the programs are to be significantly expanded and given the current economic climate created by COVID, fee increases may not be practical. We seek commitments from CARB to provide the requested assistance and funding to ensure the successful implementation of the CTR. (SCAQMD-15-1)

Agency Response: CARB understands that air districts and regulated entities have limited resources. Please see our response to *Section A-1.21., "Multiple Comments: Provide Resources or Funding"*, which covers comments regarding funding and resources.

B-1.6. [Multiple Comments: Further Expand Air Toxics Reporting](#)

Comment: Currently, we don't know about all of the places that are releasing emissions into the community. We need to be able to identify them. Industries should

be required to report all of the chemicals that they are discharging so we can make sure that harmful discharges are reduced. (ORTK-CSS-15-1)

Comment: All industries (such as: manufacturing, automotive, oil & gas, farming, transportation etc.) must report all the chemicals and chemical byproducts they are discharging and when (preferably in advance) so we can protect the public and measure harmful discharges in an effort to reduce them. (ANHE-15-1)

Comment: Air toxics emissions are disproportionately distributed to environmental justice communities as a result of redlining that restricted locations for residential area, siting of large emitters in disadvantaged communities, and adverse actions and policies of institutions. It is widely recognized that emissions reductions are needed. Strengthening inventories of emissions of non-diesel air toxics is one important element of this. (AK-15-1)

Comment: Strengthening inventories of emissions of non-diesel air toxics is one step toward actions to reduce disproportionate and excessive impacts. Development of improved rules for air toxics inventories has been underway since 2018 at CARB.

CARB has long had a mishmash of processes for collecting and presenting information about emissions of air pollutants. Systems were so divergent that even simple comparisons for individual facilities across pollution types were impossible.

The “inventories” of air emissions are key tools to track what is being emitted into the air and where. This is needed to analyze air pollution and design and assess control strategies. Ideally, inventories include all sources and have valid data about emissions that can be consistently tracked over time to see whether pollution control efforts are succeeding, whether emissions are shifted into communities of color and lower income, and whether reductions contribute to equity.

CARB has several projects to update its approach to non-diesel air toxics emissions, including rule changes and systems development. In 2019, CARB creating a unified Criteria and Toxics Reporting (CTR) system. Emissions data for permitted facilities were to be reported to this system starting in 2020 for some sources.

Further work expanded the approach, leading to a second set of rule changes for both the CTR and updates to guidance for the “hot spots” air toxics program. This guidance provides leadership and direction to the 35 local air districts that implement permitting for stationary sources. (AK-15-1)

Agency Response: Please refer to *Section A-7.2., “Comment: Verification and Review by Districts”* in the CTR's 45-day comments in response to regulation enforcement. Please refer to *Section A-1.47., “Multiple Comments: Community Issues”* and *Section A-10.11., “Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available”* on data quality and reporting. Please refer to *Section A-9.7., “Multiple Comments:*

District Grouping” and Section A-2.11., “Multiple Comments: CTR Criteria Pollutant Threshold” in the 45-day comments in response to environmental justice communities.

B-1.7. Multiple Comments: Support with Reservations

Comment: EDF supports the final “15-day” proposal, but recommends several critical improvements to strengthen the proposal, outlined below. (EDF-15-1)

Comment: We supported the adoption of these rules by the Board as necessary to fulfill CARB's statutory mandates to protect Californians from toxic air contaminants. Low-income communities of color are disproportionately burdened by air toxics, which inflict illness and premature death on many Californians. Unfortunately, some of the provisions in the amendments proposed after the Board decision would weaken the rules and diminish protections for our communities. (CCA-15-1)

Comment: We have been working closely with your staff on the CTR regulation and greatly appreciate the dialogue and improvements to the regulation in response to our articulated concerns. In particular, staff appreciates CARB’s consideration of resource constraints in the phased implementation of the regulations that are inherently linked by AB 617. We would like to, however, reiterate the concern we have regarding assistance and funding for implementation and outreach of the CTR. (SCAQMD-15-1)

Comment: PG&E would like to acknowledge the formal amendments proposed by CARB in the recent revisions that are conducive to our operations, such as additional time for reporting for facilities in smaller air districts. These revisions proposed by CARB reflect some of the concerns that were raised by PG&E in prior comments on the AB2588 EICG Regulation. PG&E respectfully submits the following comments on the formal amendments, including requests for clarification in formal guidance. (PG&E-15-1b)

Agency Response: Staff appreciates the input received from stakeholders and considered this input while developing and modifying the proposed amendments to the regulations. Staff understands the issues raised in these and other comments, and has provided responses to other specific comments as presented throughout this document.

B-1.8. Multiple Comments: Consistent Reporting - Methods

Comment: Development of CTR Article 2 is needed to provide consistent emission calculation methods and emission factors. The objective behind the CTR regulation is to create a uniform statewide emission reporting program for stationary sources. As part of CARB’s overall plan for the program, Article 2 is supposed to provide consistent emission calculation methods and emission factors. This critical piece of the program is still pending. LADWP requests that CARB provide an update and timeline for development of Article 2. (LADWP-15-1)

Comment: More broadly, CCEEB believes the significant increase in reported substances will exacerbate source testing backlogs at local air districts and at CARB, which further underscores the need for a coordinated, multiple agency approach to the development of valid testing and quantification methods. We ask staff to include a detailed discussion in the FSOR about the time and effort needed to develop this body of work and properly set expectations and increase transparency in the process. CCEEB also urges CARB to create sector-specific public working groups to help speed development and review of quantification methods and resolve technical questions and challenges as expeditiously and transparently as possible, which would also help further development of Article 2 of the CTR rule. There is a particular need for technical guidance for refineries given the thousands of hydrocarbon compounds present in crude; reporting the “presence” of a substance may create as much uncertainty as reporting without quantification methods. (CCEEB-15-1)

Agency Response: CARB recognizes that inconsistent methods are used across air districts for emissions quantification and is committed to developing consistent and uniform emissions quantification methods for sources throughout the state. Please also see related responses to *Section A-1.48., “Multiple Comments: Identify Inconsistencies Between Districts”*, *Section A-1.10., “Multiple Comments: Two Regulations/Inconsistency Between CTR and EICG Regulations”*, and *Section A-1.29., “Comment: Data - Quality and Consistency”*.

B-1.9. Multiple Comments: Integrate Air Programs

Comment: We need a cohesive strategy to bring together disparate components for air toxics into an effective program for communities. As a general comment that probably should be directed elsewhere, the air toxics program (and its stakeholders) would benefit from greater coordination and integration among its many pieces. It seems time for a written strategy for the air toxics program as a whole. Actions taken in one area, such as this one, have implications in other areas. There is no mechanism to comment on or even identify these. I have found that staff are interested in comments about what is within their immediate control. But it is not clear if anyone is in charge of making the effort succeed as a whole. (AK-15-1)

Comment: Greater attention to integrating disparate components of air toxics programs through a cohesive strategy is needed. (AK-15-1)

Agency Response: The proposed amendments are part of a coordinated CARB strategy that will set the course for California’s Air Toxics Program starting in 2020 and continuing well into the future. CARB's strategy will focus on reducing localized health impacts in communities and building support for near-term and future CARB actions to reduce localized health impacts. CARB staff will work with communities to identify what is driving community exposure, improve the tools used to guide decision-making, and reduce emissions from the sources of greatest concern. Additionally, CARB staff will work with communities to identify which toxics are driving near-source risk to communities. This will include

evaluating criteria such as emissions, toxicity, persistence and bioaccumulation, and proximity of emission sources to where people live and work. The data acquired through the proposed amendments to the EICG and CTR regulations will inform other programs, and the amendments have been developed in concert with one another.

B-1.10. [Multiple Comments: Outreach - Community Representatives](#)

Comment: The public engagement process for the 15-day review focused on emitters and air districts and did not engage community representatives. This is persistent issue. CARB is right to engage businesses and industry organizations and to make sure that people who will be affected by regulations are aware of them and know what they will entail. The agency has been effective in doing this.

But there should be a commensurate commitment to engaging communities and community-based organizations to make sure that people who are affected by emissions and pollution are aware of the regulatory and guidance development processes and know what they will entail. The agency has been entirely ineffective in doing this.

This has been going on for years. If you review the records for the existing guidance, you will find no evidence of any engagement of any environmental justice organization or community. The very texts are written to be impenetrable to anyone not already well steeped in the subject matter. They are presented so that the relationships among the various parts are undocumented. They are full of exemptions and exceptions and places where every district can make up their own rules.

This is a larger problem than just the development of these rules. But CARB should stop claiming that stakeholders in the environmental health and justice communities have been or could be engaged by the strategies they are using. These rules are worked out between CARB, the districts, and the emitters. (AK-15-1)

Comment: The public engagement process for the 15-day review focused on emitters and air districts and did not engage community representatives. This is persistent issue. (AK-15-1)

Agency Response: CARB sees benefits in collaborating with community representatives and other stakeholders, and have listened and incorporated suggestions when merited. As mentioned in *Section A-1.16., "Multiple Comments: More Time for Review - Participation"*, CARB staff have provided more than sufficient outreach, exceeding regulatory requirements, and all stakeholders were provided every reasonable opportunity for input. Please also see the related response to *Section A-1.18., "Multiple Comments: More Outreach Needed"*, regarding outreach to regulated entities. CARB commits to further engagement with communities, community representatives, and public health advocates to further refine CARB programs where needed.

B-1.11. [Multiple Comments: Resources and Funding - Costs Underestimated](#)

Comment: Cost of Implementation: The Initial Statement of Reasons (ISOR) estimates an implementation cost per facility for the initial reporting year at \$560 but would decrease to \$300 per year. PG&E believes that these cost values are grossly understated. PG&E estimates that initial reporting for just the CTR would cost at least two- to three-times more than the values presented in the ISOR and that annual reporting, for the simplest of facilities, would roughly cost \$1,000 per facility thereafter (PG&E-15-1a)

Comment: Cost of Implementation: The Initial Statement of Reasons (ISOR) estimates an implementation cost per facility for the initial reporting year at \$560 to \$22,300 and annual reporting thereafter at \$300 to \$720. PG&E believes that these cost values are grossly understated. PG&E estimates that initial reporting for just the EICG would cost at least two- to three-times more than the values presented in the ISOR and that annual reporting, for the simplest of facilities, would roughly cost \$1,000 per facility thereafter. (PG&E-15-1b)

Agency Response: CARB understands that different businesses affected by the proposed amendments will have different costs, depending on the complexity of the facility and familiarity with emissions reporting requirements. Please see our response to *Section A-1.40.*, “*Multiple Comments: Costs Underestimated or Estimated Incorrectly*” for more information.

B-1.12. [Multiple Comments: Support - Phase-In](#)

Comment: PG&E would like to acknowledge the formal amendments proposed by CARB in the recent revisions that are conducive to our operations, such as the removal of reporting permit emission limits from AB617 CTR and additional time for reporting for facilities in smaller air districts. These revisions proposed by CARB reflect some of the concerns that were raised by PG&E in prior comments on the AB617 CTR regulation. (PG&E-15-1a)

Comment: In general, CCEEB supports 15-day changes that adjust applicability criteria and implementation schedules for small sources in rural and small “Group B” air districts (CTR) and related changes to the EICG Appendix E. CCEEB also supports changes to the phase-in schedule for the thousands of newly added air toxics, which need to have sector- and facility-specific quantification and test methods developed before emissions can be quantified. (CCEEB-15-1)

Agency Response: CARB Staff appreciate the input and support from our stakeholders as well as the time stakeholders set aside to review and discuss the regulation amendments to ensure they reflect the best possible approaches to protecting public health.

B-1.13. Comment: Quantification Methods - Missing Section

2. 93404 (b)(1)(C)(10) Emission Calculation Method: This section refers to Section 93404(d) for the emission calculation method, but the current version of the proposed CTR no longer contains this section. Please add the section back in, or remove the requirement altogether. Section 93404(d) language in previous version of the proposed CTR:

"Calculation methods must identify the general methods used, such as continuous emissions monitoring system, facility-specific emission factors, facility source test data, air district emission provided emission factors provided by an air district, or U.S. EPA emission factors. If activity data is used to calculate emissions, the reported calculation method must include a general description of the technique used to acquire the activity data, such as sales records, measurement devices, material balance, throughput, or material produced used to quantify parameters to which emission factors are applied. (SCAQMD-15-1)

Agency Response: The text mentioned by the commenter is retained in the final proposed regulation, and the comment is due to a minor misunderstanding. When staff released the 15-day proposed revisions, the draft only included those sections of the regulation which were modified under the 15-day revisions. This is typical practice to help reviewers focus on the areas that were updated. Because the cited section was not modified under the 15-day revisions, it was not included in the 15-day draft text, but it is still included in the regulation amendments.

B-1.14. Comment: Quantification Methods - Best Available Determination

Clarification on Emission-factor Development: As stated in PG&E's November 20, 2020 formal comment letter and the February 25, 2021 informal comment letter to CARB, Section IX in Appendix B of the proposed amendments notes that "best available methods and data" are to be used to arrive at accurate representations of air releases at a facility. PG&E requests clarification on how "best available" methods and data will be determined. Specifically, PG&E is looking to understand if CARB's expected mid-2021 implementation guidance will provide details on which approach will give the best available method, specifically detailing criteria indicating when source testing is the most appropriate method. PG&E recommends that CARB clearly specify the state and local Air District roles and responsibilities for determining the "best available" methods and data, and when those would apply. (PG&E-15-1b)

Agency Response: Please refer to Section A-4.9., "Multiple Comments: Quantification Methods - Toxics - Best Available", Section A-5.11., "Multiple Comments: Present, Used, or Produced - Provide Guidance on Best Available", and Section A-5.28., "Comment: Implementation of Amendments - Best Available Data" for discussion of "best available data and methods" implementation under CTR and EICG. Additionally, please refer to Section A-

4.8., "Multiple Comments: Quantification Methods - General" for more on air district roles and responsibilities.

B-1.15. [Comment: Quantification Methods - Waste Sector Methods](#)

This section shows excerpts of provisions from the formal EICG 15-Day Changes and our interpretations of those provisions for your confirmation.

EICG: Section IX.G. Specifications for Acceptable Estimation Methods and Emission Factors.

(1) "Where emissions of substances are required to be quantified but where measurement is not required under section IX.A., the emission inventory plan may propose ~~an estimation~~ a quantification method to quantify such emissions at all primary locations of release to the degree of accuracy required by section VIII.E. The district may approve a proposed method only if all of the following criteria are met:

The district determines that the method is effective and reflects the best available methods and data, and will produce an accurate representation of the types and quantities of air releases at a facility. The district may require source testing of any process and/or device when there are no adequate emissions factors, existing source test results or other method available to determine emissions;

The proposed method accounts for all facets of the applicable emitting process and is based on sufficient data about the air toxics emission characteristics under the full range of relevant conditions to characterize the emissions to the degree of accuracy required by section VIII.E.; and

Standard calculations for mass balance, emission factor application, and engineering calculations and models comply with the following requirements:

(i) - (iii)."

This provision is applicable to the entire waste sector because these facilities cannot control or estimate the amount of EICG Appendix A-1 compounds received for treatment. As a result, waste facilities look to EICG Section IX.G to propose emissions and quantification plans needed to estimate emissions at primary locations of release. We interpret this section to allow an air district to approve these alternatives, which would 1) allow facilities to participate in an extensive, statewide two-step process (per Section IX.H) that uses a pooled emissions study (for example) to identify and explain the best available methods approved by CAPCOA or relevant air district that are being used to estimate emissions under §93404(c)(1)(B) of the CTR and 2) include additional time needed to perform such an extensive study continuing status quo reporting in the meantime (i.e., quadrennial reporting already performed by facilities), while maintaining a firm reporting deadline of 2029 for reporting year 2028. In other words, compounds being characterized in the wastewater sector's statewide pooled emissions study would not be reported in response to the CTR until the completion of

the two-step process (i.e., all waste facilities subject to the CTR and EICG, including §93401(a)(1) or GHG facilities). The two-step process represents the best available data and methods available for the waste sector. (CASA-15-1)

Agency Response: Please see our responses to Section A-9.5., “Multiple Comments: Waste Sector - Phase-In by Sector”, Section A-9.6., “Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing”, Section A-10.22., “Multiple Comments: Provide Enough Time to Complete Pooled Source Testing”, Section A-10.21., “Multiple Comments: Waste Sector - Substance List”, and Section A-5.29., “Comment: Waste Sector - Quantification Methods & Toxicity Data”, which address the concerns raised regarding the phase-in timing and toxic substance reporting for the waste sectors, which have applicability to both CTR and EICG. Regarding the EICG two-step process and how it is anticipated to integrate with current status quo and future CTR reporting, see Section A-10.26., “Comment: Waste Sector - Two-Step Source Testing Process and Status Quo” and Section A-5.16., “Comment: Waste Sector - Status Quo and Two-Step Process”.

B-1.16. Comment: Quantification Methods - Backlogs and Process

Additionally, PG&E would like to understand how the individual air districts will deal with source testing protocol backlogs, or how newly developed emissions quantification methods can be obtained. Specifically, we seek clarification on whether the development of emission estimation methods and factors will be tracked and processed by the local air districts (PG&E-15-1b)

Agency Response: CARB suggests the commenter contact any air districts to understand their process for review of source testing protocols, as air districts have unique internal processes. CARB intends to work with stakeholders (which include air districts) in the development of additional (and standardized) emissions quantification methods. Air districts will have the opportunity to track and process the development of emissions estimation methods and factors.

B-1.17. Comment: Consistent Reporting - Implementation

Second, we are concerned that a number of the provisions appear to be voluntary for air districts and do not require clear enforcement from CARB. We continue to have concerns that some air districts are not reporting all of their toxics and criteria pollutant-emitting sources. We are further concerned that there may be delay at some air districts, which would result in slowing the availability of transparent information. As CARB’s response to the California Environmental Justice Alliance described, there are significant differences between air districts and how many facilities are reporting.⁶ Indeed, the Sacramento air district is reporting emissions from only 64 facilities while other similarly sized districts are reporting over 600 facilities. The amendments to the rules do not appear to lessen our concern as they still contain considerable air district discretion without assurance of CARB oversight. For example, the new amendments

leave it almost entirely to an individual air district's discretion whether unpermitted sources are included.

⁶ See Nov. 16, 2002 Letter from David C. Edwards, Assistant Division Chief, CARB, to Neena Mohan, CEJA. (EHC-CBE-15-1)

Agency Response: Please see our response to Section A-1.48., "*Multiple Comments: Identify Inconsistencies Between Districts*" regarding consistency and uniformity, Section A-2.12., "*Multiple Comments: Districts have Too Much Discretion Regarding PTE*" regarding district discretion for "potential to emit," and Section A-5.9., "*Comment: Unpermitted Emissions - District Discretion*" regarding unpermitted sources. As a CARB developed regulation, CARB has the overarching enforcement authority to ensure that there is compliance with the CTR requirements. Districts are vital partners in doing the groundwork required to interface directly with those facility owners or operators subject to CTR, to help assure that facilities are complying with the full requirements. Districts also have full authority to enforce the CTR provisions per 93410.

Should a district be unable to carry out the duties necessary to implement the state-mandated CTR requirements, CARB staff would first provide assistance to the district to help sources subject to CTR get into compliance with the requirements. If this is unsuccessful, CARB has explicit authority under CTR to collect the data directly from reporters. Specifically, per 93403(c)(1), "*If the local air district does not submit the required emissions data to CARB on behalf of the owner or operator of the facility by August 1 of the year immediately following the data year, the Executive Officer, after consultation with the local air district, will notify the designated representative and/or the owner or operator of the facility to obtain the data required by this article. The facility designated representative and/or owner or operator must provide the required emissions data as specified in 93403 and 93404 to both the local air district and CARB within 30 calendar days of notification.*"

Because sufficient safeguards are already in place to ensure effective implementation and compliance with the requirements, no updates to the regulation are warranted.

B-1.18. Comment: General - Science to Instruct Decisions

SCIENCE including monitoring of emissions and health tracking, including biomonitoring must instruct CARBs decisions and actions. This data and actions in response to it must be included in regular reporting. (ANHE-15-1)

Agency Response: CARB staff agrees that the reporting of emissions, collection of air quality monitoring data, and the identifying and tracking of health impacts are all important elements of CARB's overall mission to protect public health, and should continue to inform CARB's rulemaking process. CTR only addresses

emissions reporting from facilities, but CARB acquires air monitoring data through other programs, and both CARB and districts collect and evaluate health impacts data for consideration of other actions, as appropriate, including the actions taken through implementation of AB 2588. Please refer to *Section A-1.22., "Comment: Provide Working Groups for EF, Risk, Chemicals"* and *Section A-10.11., "Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available"* on emissions reporting and data quality.

B-1.19. Comment: Guidance Development

The regulated community also urges CARB to ensure there is sufficient stakeholder engagement opportunities to provide input on the list of guidance topics discussed during the public webinar on the proposed 15-day changes. Staff indicated that CARB would be working with the California Air Pollution Control Officers Association (CAPCOA) on new implementation guidance related to the regulatory updates on a variety of topics, including: 1) pooled source testing; 2) reporting of use, production and presence where no quantification method exists; 3) reporting of functional group substances; 4) use of Appendix C; 5) development and use of provisional health reference values and 6) consideration of population-wide impact assessments and cumulative risk, to name a few.

We request that CARB clearly identify the complete list of guidance topics and what process CARB and CAPCOA will undertake to solicit stakeholder input. Stakeholders should have the opportunity to comment both on topic areas and on the substance of individual guidance documents, especially if the guidance is intended to serve as a substitute for language that would otherwise be incorporated into the regulation. In addition, to avoid confusion and inadvertent non-compliance, all guidance should be completed and posted ahead of compliance deadlines. (IC25-15-1)

Agency Response: The comment does not specify a particular element of either the amended CTR or EICG regulations, so no update is necessary to address the comment. However, throughout the development of the regulations, staff engaged in a comprehensive stakeholder engagement process, as discussed in prior responses under *Section A-1.14., "Multiple Comments: More Time for Review - Comments"* and *Section A-1.18., "Multiple Comments: More Outreach Needed"*. Staff sincerely intends to maintain this same high level of stakeholder engagement during the implementation of the amended requirements.

Staff commits to working with CAPCOA, industry representatives, community advocates, and others to provide an open process for providing guidance, outreach, and training to those working to comply with the new requirements. We will strive to provide assistance as needed, but cannot commit to the commenters request that "all guidance should be completed and posted ahead of compliance deadlines." This is because what is meant by "all guidance" cannot be defined, and it is not necessary, scientifically justifiable, or morally

defensible to affected communities to delay reporting until "all guidance" is completed (see also the response to *Section A-1.24., "Comment: Provide Guidance"*).

Facilities and sources subject to emissions reporting requirements have successfully met updated reporting requirements for decades with available tools, data, and methods. Together, CARB staff will work diligently with our partners to provide as much assistance, consistency, and direction as possible to help ensure that the successful implementation of the new CTR and EICG requirements, which will benefit the work of air districts, CARB, AB 617 communities of concern, and help citizens throughout California.

B-1.20. *Comment: Outreach - During Implementation*

We believe implementation will be critical as California regional air districts, producers and manufacturers implement these obligations. CalCIMA and CalAPA look forward to continued engagement with CARB staff and districts in facilitating those efforts. Particularly as these rules capture small permittees into complex reporting systems, we know education and outreach efforts will be critically important to ensuring successful compliance and implementation. We are pleased that you recognize that trade associations like ours are essential to this outreach effort. (CalCIMA-CalAPA-15-1)

Agency Response: Please see our responses to *Section A-1.18., "Multiple Comments: More Outreach Needed"*, *Section A-1.19., "Comment: More Outreach Needed - Training"*, *Section A-1.45., "Multiple Comments: Smaller Source Outreach"*, and *Section A-1.20., "Comment: More Outreach Needed - Workshops"* regarding CARB implementation and outreach activities.

B-1.21. *Comment: Support - Harmonization*

Thank you for the opportunity to provide comments on the proposed amendments to both the EICG and CTR posted by the California Air Resources Board (CARB). SWICS is a coalition of local governments and private companies that have financed and built much of the solid waste management and diversion infrastructure in the state. SWICS is supportive of efforts to harmonize the AB617 and AB2588 programs and appreciate all the efforts of staff to work collaboratively with our group and other waste coalitions. (SWICS-15-1)

Agency Response: CARB appreciates the engagement of the commenters and their support for harmonization. Please also see our response to *Section A-1.1., "Multiple Comments: General Support Toxics and Inventory"*.

B-1.22. *Comment: Facility Versus Source Reporting and Unpermitted Sources*

e. Rule should retain reporting by "Facility" and not introduce new categories by "source." The language proposed by the Executive Officer appears to adopt a level for reporting different than what has been in the previous texts going back to 2018.

This new language introduces a new concept of permitted v. unpermitted "sources" within a "facility." Elsewhere there is language about requirements that pertain to "processes." This is getting out of hand.

Previously, the unit for reporting was the "facility." Within a facility would be expected to be different sources that could be of different types. There are varying requirements for what attributes need to be reported for different sources depending on some various factors in various parts of the rules. The permits issued by districts are permits to operate for facilities.

In this proposal we see a distinction between permitted v. unpermitted sources within a facility. Apparently, the goal of this change is to create a distinction between these. However, there is no explanation of what this would mean or how it would relate to the permit to the facility or why it is even necessary. It should be stricken. This would seem to open yet another loophole for arguments for exclusion from reporting of sources that are "unpermitted" at facilities that are "permitted" to operate. How in the world would communities or the public or even the agencies be expected to sort all of this out? Especially given that information about permits is not available. (AK-15-1)

Agency Response: The proposed amendments do not include any fundamental changes to the primary reporting unit, which is by facility, or the data used to determine applicability, which may include permitted and unpermitted sources. See response to *Section A-2.2., "Comment: Unpermitted Emissions for Applicability"* regarding applicability and *Section A-5.9., "Comment: Unpermitted Emissions - District Discretion"* regarding the reporting of permitted sources.

Specific to this comment, applicability determinations are made for a "facility." A single facility may have dozens, or even hundreds, of individual district-issued permits to operate, for various equipment and processes on-site. Then, data for a facility subject to CTR is reported for individual permitted processes at the facility, which provides the granularity needed to better identify the most significant sources of emissions at the facility. Then, as discussed in *Section A-5.9., "Comment: Unpermitted Emissions - District Discretion"* reporting of certain unpermitted sources may also be required under CTR if such sources are subject to reporting under district rules or requirements (e.g., road dust from vehicles). There is no all-encompassing requirement to quantify and report unpermitted sources, because there would be no limit to what could potentially be reportable, and there are no mechanisms in place to identify or quantify all unpermitted sources of airborne emissions. For example, it would be impractical to require emissions reporting from cleaning products, personal care products, on-site tobacco use, and other incidental sources. This is why the primary focus of CTR is on sources that are sufficiently significant that they are included under air district permitting jurisdiction.

B-1.23. Comment: Verification of CTR Emissions Reports

Similarly, we are also concerned that there continues to be no consideration of verification of emissions, even though AB 617 states that “[t]he state board may require, as appropriate, a stationary source to verify or certify the accuracy of its annual emissions reports by a third-party verifier or certifier that is accredited by the state board.” We request that CARB take steps to ensure that certain communities are not left behind by air districts that do not consider unpermitted sources, and that CARB take affirmative steps to oversee reporting and require verification of sources to ensure that the data is as accurate as possible. (EHC-CBE-15-1)

Agency Response: Please see our response to Section A-7.2., “Comment: Verification and Review by Districts” and Section A-4.7., “Comment: Verification and Review by Facility” regarding verification. Please see our responses to Section A-1.27., “Multiple Comments: Data - Need More” and Section A-1.23., “Multiple Comments: Provide Data Transparency” regarding ongoing efforts to help empower communities moving forward as CTR is implemented in the years ahead.

B-1.24. Comment: Quantification Methods - Waste Sector Substances and Status Quo

This section shows excerpts of provisions from the formal EICG 15-Day Changes and our interpretations of those provisions for your confirmation. EICG: Section II.H. Updates to the List of Substances, and Phase-In Provisions

(5) “Availability of Emission Quantification Methods

If no emission quantification method exists to quantify emissions of a substance at the time of its “Effective Phase”, the facility operator only needs to report the presence, use, or production of the substance and the amounts present, used, or produced within the facility, using the Appendix B “Supplemental Use and Production Reporting Form” (SUP) or the equivalent information in a format required by the air district. The availability of an emission quantification method shall be re-evaluated for these chemicals at the time of the next facility update reporting cycle. If a method is then available, emission quantification is required pursuant to the provisions in section VIII.E.(3).”

This provision is applicable to the entire waste sector (wastewater, composting, and landfilling) since there are no emission quantification methods that exist for most of the existing and proposed compounds listed in EICG Appendix A-1. Additionally, the waste sector has no ability to determine the presence (or lack thereof) of a compound as suggested by the use of Appendix B (S-UP) from an onsite source (open, combustion or other reportable sources) without executing the two-step process as proposed in EICG Section IX.H. It is our interpretation that this provision allows for the determination of the tentative presence of compounds and to subsequently quantify their emissions based upon guidance provided by CAPCOA or the relevant air district

and in accordance with EICG Section IX.H. Compounds being characterized in the statewide study would not be reported until the completion of the two-step process (the results of which represent the “best available data and methods”), and reporting would continue business as usual in the meantime (including quadrennial reporting). (CASA-15-1)

Agency Response: Correct, under EICG and CTR, business as usual, or status quo, reporting is allowed for those source categories identified in Sector 3B in Table E-3 of EICG and Table A-3 of CTR until 2028 data reported in 2029. This also applies to those facilities already subject to reporting under EICG and CTR. Refer to *Section A-10.26., “Comment: Waste Sector - Two-Step Source Testing Process and Status Quo”* for additional details regarding the expected implementation process and *Section A-5.16., “Comment: Waste Sector - Status Quo and Two-Step Process”* regarding status quo reporting. Also see *Section B-1.15., “Comment: Quantification Methods - Waste Sector Methods”* previously, for additional information regarding phase-in timing and toxics reporting for the waste sectors. Facilities subject to annual reporting pursuant to section 93401(a) of CTR may continue to use existing methods, including compound lists and emission factors, until the two-step process described by the commenter is complete.

B-1.25. [Comment: Quantification Methods - CTR Use of EICG Two-Step Data for Waste Sector and Status Quo](#)

This section shows excerpts of provisions from the formal CTR 15-Day Changes and our interpretations of those provisions for your confirmation.

The cited CTR provisions provided below are applicable to the waste sector (wastewater, composting, and landfiling) since these facilities cannot control or estimate the amount of EICG Appendix A-1 compounds received for treatment. The provision provided in Section 93404(c)(1)(B) acknowledges that only those compounds that are “actually emitted by the facility” with established quantification methods are to be reported. However, the wastewater sector is unable to quantify additional EICG Appendix A-1 compounds (as detailed below) until the completion of the statewide two-step process and must rely upon the two-step process as the “best available data and methods.”

CASA interprets this section to allow the entire wastewater sector to continue status quo reporting (including quadrennial reporting) until the completion of the statewide pooled emissions study. In other words, compounds being characterized in the statewide study would not be reported in response to the CTR until the completion of the two-step process, and reporting would continue business as usual in the meantime.

CTR: § 93401(a)(4)(C). Applicability. “(C) Activity levels or emissions levels published in Appendix A, Table A-3 for a permitted emissions process at a facility classified with a

matching primary or secondary Standard Industrial Classification (SIC) code or North American Industry Classification System (NAICS) code listed for the permitted emissions process. If the SIC or NAICS codes have a designation of "Any" in Table A-3 for a permitted process, then reporting for the process is required regardless of the SIC or NAICS designation for the facility performing the process, if the listed activity level reporting threshold is exceeded."

CTR: § 93404(c)(1)(B). Emissions Report Contents. Emissions and Sources. "(c) Emissions and Sources. Annual emissions reports for a facility must include the emissions and sources as specified in 93404(c)(1) and (2).

(1) Emissions. For permitted processes and devices (and unpermitted processes and devices, if emissions reporting is required pursuant to district rules or policies), the annual direct and fugitive emissions of the following air pollutants must be reported. Alternatively, at the discretion of the local air district, sufficient activity-level data must be submitted for the air district to calculate such emissions.

(A)...

(B) Toxic air contaminants, as defined herein, in units of pounds per year, except for radionuclides which must be reported in units of curies per year. ~~The list of reported~~ toxic air contaminants must include those chemicals that are actually emitted by the facility by permitted processes and devices (and unpermitted processes and devices, if emissions reporting is required pursuant to district rules or policies), based on existing quantification methods. Reporting must include the substances identified in the 2007 EICG, previously cited in the "Toxic air contaminants" definition, and the substances identified in Appendix B, with reporting of the Appendix B toxic substances phased-in as specified in Table B-1.

If at the time it becomes subject to reporting per Table B-1, a listed toxic air contaminant substance is present or is used or produced at a facility in a way that may result in airborne emissions, one of the alternatives identified as "best available data and methods," as defined in this article, must be used to quantify the emissions, as applicable. If an air district determines that none of the alternatives listed would provide a reasonable, technically justified emissions estimate, and no other method can be determined that will provide such an estimate, then the presence of the toxic air contaminant and the amount used or produced at the facility during the data year must be reported without an estimated quantitative emissions value. Purchase records, substance inventory reconciliation, direct measurement, or other methods may be used to estimate amounts used or produced.

CTR: Table A-1. Initial Data Year by District Group and Sector Phase for Additional Applicability Facilities – Subject Per 93401(a)(4)* ^{****} As with the Sector Phase 3B sectors subject to reporting per Section 93401(a)(4)(C), Sector 3B sources that are subject to applicability under 93401(a)(4)(A) or (B), based on criteria pollutant

emissions, must begin ongoing emissions reporting with 2028 data reported in 2029. Reporting for these facilities is not required prior to 2028 data even if other permitted processes in Sector Phases 1, 2, or 3 are present at the facility.”

CTR: Table B-1. Initial Emission Data Quantification Year for Additional Substances in Tables B-2, B-3, and B-4 **** Any Sector Phase 3B sectors identified in Table A-3 and sources subject to applicability under 93401(a)(4)(A) or (B) must begin ongoing annual emissions reporting of toxics identified in Tables B-2 and B-3 no later than 2028 data reported in 2029. Reporting of the specified toxics for these facilities is not required to begin earlier than 2028 data even if other permitted processes in Sector Phases 1, 2, or 3 listed in Table A-3 are present at the facility.*

**** Table B-4 substances apply to wastewater treatment facilities, as identified in Sector Phase 3B, Sector 52, of Table A-3. These sources must begin ongoing annual emissions reporting of the toxics identified in Table B-4 no later than 2028 data reported in 2029.” (CASA-15-1)*

Agency Response: Please see our response to Section B-1.24., “Comment: Quantification Methods - Waste Sector Substances and Status Quo”.

B-2. Section 93401 – Applicability

B-2.1. [Comment: Thresholds - Consistency Statewide](#)

Inconsistencies in Applicability Criteria Between AB2588 EICG and AB617 CTR: PG&E has several hundred facilities across Northern and Central California that are potentially subject to AB617 CTR Regulations, and are classified as both District Group A and District Group B. While PG&E appreciates that facilities above 4 tpy of criteria pollutants have been removed from the amended language of the AB2588 Emissions Inventory Criteria and Guidelines (EICG) and AB617 CTR (only if located in District Group B), these amendments create inconsistencies between the two regulations. In particular, District Group A facilities will have an additional recordkeeping burden due to multiple regulatory requirements. (PG&E-15-1a)

Agency Response: The CTR and AB2588 EICG provisions are still well harmonized in practice, as explained here. First, the 45-day CTR response to CTR's Section A-2.11., “Multiple Comments: CTR Criteria Pollutant Threshold” already addressed the basic rationale from the CTR perspective of a criteria pollutant threshold below 250 tons per year, and in the range of 4 to 10 tons per year for District Group A vs. B under CTR. Next, in response to comments for the EICG, the proposed 15-day modifications to the EICG have removed applicability requirements for what was “Sector 0” in EICG Appendix E, Table E-3, which had been previously proposed to cover facilities emitting between 4 and 10 tons per year of criteria pollutants (and not otherwise in a Sector listed in EICG Appendix E, and not otherwise covered due to emitting 10 tons per year or more of criteria pollutants). Because the “Sector 0” applicability was based on criteria

pollutant emissions levels (not solely or directly on toxics), and in some cases 4 tons per year is a lower criteria pollutant level than some districts have under permit, "Sector 0" in EICG could possibly have brought some sources into the AB2588 program with less well established toxicity concerns than the other sectors in EICG Appendix E. Therefore, CARB staff has agreed to defer EICG applicability for these "Sector 0" (4 ton per year) sources at this time, for purposes of the AB2588 Hot Spots program specifically, and instead will evaluate additional toxicity data regarding their possible inclusion (for Hot Spots purposes) in future EICG regulatory updates. (While CTR has a reporting-only focus for both criteria pollutants and toxic pollutants, including them into the AB2588 program through EICG could have resulted in additional toxics prioritization and risk evaluation steps).

Each of the other EICG Appendix E Sectors has a strong toxics-explicit basis for Hot Spots applicability, and are therefore essential to include in AB2588 reporting, to be protective of public health and public right-to-know under the full AB2588 Hot Spots program.

Finally, notwithstanding the 4 or 10 ton per year criteria pollutant thresholds, CARB staff expects – in actual practice -- that the most important facilities in the range of 4 to 10 tons per year of criteria pollutants will become subject to EICG reporting under the Appendix E toxics-specific applicability categories anyway (independent of their criteria pollutant thresholds), thereby, in many cases, rendering the criteria pollutant thresholds of 4 vs. 10 tons irrelevant.

B-2.2. Comment: Thresholds - CTR and EICG Inconsistencies

Inconsistencies in Applicability Criteria Between AB2588 EICG and AB617 CTR: PG&E has several hundred facilities across Northern and Central California that are potentially subject to AB617 "Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants" (CTR) Regulations, and are classified as both District Group A and District Group B. While PG&E appreciates that facilities above 4 tpy of criteria pollutants have been removed from the amended language of AB2588 and AB617 CTR (only if located in District Group B), these amendments create inconsistencies between the two regulations. In particular, District Group A facilities will have an additional recordkeeping burden due to multiple regulatory requirements. (PG&E-15-1b)

Agency Response: Please see response to Section A-1.10., "Multiple Comments: Two Regulations/Inconsistency Between CTR and EICG Regulations" for an overall discussion of how the CTR and EICG programs and amendments are complementary, and will ultimately make reporting more consistent throughout the California. As emitting sources are being phased-in over 6-years (to help balance resources and to provide District Group A lessons-learned to District Group B) there will be differences in requirements between air districts. Staff will work with districts and reporters to provide outreach and training to help facility

operators effectively implement the requirements. No regulation updates are necessary related to this comment because the coordinated CTR and EICG requirements create consistency in reporting, and the current process and multiple phase-ins provides the best balance getting data as quickly as possible, without overburdening industry, district, or CARB resources.

B-2.3. Comment: Thresholds - Concern With Change to 10 tpy Threshold Change for District Group B

With regard to the change in the threshold for reporting of toxics to 10 tpy of criteria pollutants to 4 tpy – it is very late to make this change. This should have been raised and addressed earlier so that it could have been substantiated and discussed. The area covered in the Group B is very large. If this exclusion is adopted without any substantiation of its impact, it should adopt on a provisional basis with a review of the impact and the need for any exceptions done afterwards and revisions made if necessary. (AK-15-1)

Agency Response: Please see our response to Section A-2.11., “Multiple Comments: CTR Criteria Pollutant Threshold” regarding the rationale for the inclusion of the 10 tpy threshold, which was included as a 15-day modification to CTR. As there is not a mechanism to adopt elements of CARB regulations on a provisional basis, staff will monitor the program implementation and make adjustments to thresholds as needed in future rulemakings.

B-2.4. Comment: Thresholds - Inclusion of Non-Permitted Activities for Applicability

Determining applicability for small sources. CTR § 93401(a)(4) sets applicability at either 4 or 10 per year (tpy) of criteria pollutants, depending on which district a facility is located in (i.e., either Group A or Group B). Determinations are based on either “actual emissions,” or activity, or can be based on Permit to Emit levels, based on a district’s discretion. § 93402(a) then defines “emissions” as “the release of criteria air pollutants or toxic air contaminants into the atmosphere from *any* sources and processes within a facility, including direct emissions or *fugitive* emissions.” [*Emphasis added.*]

Similarly, Section II.B of the EICG applies to facilities emitting 10 tpy and Section II.E applies to facilities emitting less than 10 tpy but are within a class listed in Appendix E. Section VIII then explicitly requires reporting fugitive dust from motor vehicles and exhaust and fugitive dust from non-motor vehicle mobile sources operated on site.

Is it CARB’s intent to require the assessment and inclusion of emissions from unpermitted or exempt activities, fugitive emissions, portable equipment, and, in the EICG at least, mobile sources, in the *determination* as to whether a facility has “actual emissions” exceeding applicability thresholds? If a facility has a potential to emit for all *permitted* sources and activities below the applicable threshold, is the facility excluded from reporting requirements regardless of the emission level associated with unpermitted/exempt activities, fugitive emissions, portable equipment and/or mobile

sources? In seeking this clarification, we recognize each district's discretion to require reporting based on criteria other than the annual emission thresholds. Our question relates solely to the automatic application of the emission-based applicability thresholds. (CCEEB-15-1)

Agency Response: Please see our response to Section A-2.4., "Comment: Expand/Decrease Applicability - Include Unpermitted Sources", Section A-2.2., "Comment: Unpermitted Emissions for Applicability", and Section A-5.9., "Comment: Unpermitted Emissions - District Discretion" regarding the inclusion of unpermitted sources in determining applicability and reporting requirements. As stated in 93401(a)(4) of CTR, "If local air district rules or policies require reporting of emissions from unpermitted sources for a facility, such sources may be included in the applicability determination specified in (A) through (C), below." Therefore, there may be limited circumstances in which such sources must be assessed to determine applicability.

Regarding the final question regarding "potential to emit," the answer is no. If an air district chooses to use potential to emit to per 93401(a)(4)(A)-(B) to evaluate applicability, the expectation is that they would also include emissions from unpermitted sources, "if local air district rules or policies require reporting of emissions" from these sources. If the data have been collected per district requirements, and emissions computed, it is in the public interest to include these emissions in the applicability determination. The rationale being if the emissions are of sufficient interest for the district to require their reporting, then they are sufficiently relevant to include in applicability determinations. CARB and air district staff will be available to help determine reporting applicability for specific facilities.

B-2.5. Multiple Comments: Thresholds - Consistency Statewide

Comment: Consistent Reporting Thresholds. The District highly recommends standardized reporting thresholds. Whether they are ultimately set at the 4-ton or 10-ton level, these thresholds should be consistent across air districts. This regulation is particularly onerous for businesses to interpret and implement and having disparate thresholds for businesses that operate across the State or between County lines can increase confusion for reporting entities. (SMAQMD-15-1)

Comment: Reporting Thresholds Must Be Consistent: CAP highly recommends standardized reporting thresholds for the CTR Regulation. Whether they are ultimately set at the 4-ton or 10-ton level, these thresholds should be consistent across air districts. This regulation is particularly onerous for businesses to interpret and implement and having disparate thresholds for businesses that operate across the State or between County lines can increase confusion for reporting entities. (CAP-15-1)

Agency Response: The two levels for the criteria pollutant reporting threshold is not anticipated to be difficult for facilities because operators can easily determine annual emissions levels. The two threshold approach was incorporated to better tailor the requirements to reflect regional needs and priorities. Also see the related response to *Section A-2.11., "Multiple Comments: CTR Criteria Pollutant Threshold"*.

B-2.6. [Comment: Thresholds - 10 tpy Too Low](#)

CTR Section 93401(a)(4)(A): We appreciate the increased proposed District Group B facility actual emission threshold of 10 tons/year (tpy). However, 10 tpy is still significantly lower than the threshold that the legislation had intended (i.e., 250 tpy). While we previously requested a threshold of 20 tpy for District Group B, we believe a threshold of 15 tpy to be sufficient and request that ARB consider increasing the threshold to 15 tpy. Specific Requested Revision: *"For a facility located within District Group B, 10 15 tpy of any criteria air pollutant (except for carbon monoxide)."* (DoD-15-1)

Agency Response: Please see our response to *Section A-2.11., "Multiple Comments: CTR Criteria Pollutant Threshold"* which discusses the rationale for inclusion of the 10 tpy threshold for certain air districts, as part of the CTR 15-day modifications, and the rationale for the 4 tpy threshold. No additional modifications were made.

B-2.7. [Comment: Expansion of Applicability Concern](#)

We remain concerned that CARB's approach to updating these regulations will reverse decades of investment by CARB, the air districts and regulated entities to determine which toxic air contaminants drive offsite health risks and therefore warrant further regulatory attention. This targeted risk-based approach has resulted in dramatic improvements in air quality, reducing statewide emissions and related health impacts from exposures to air toxics by approximately 75 percent over the past 25 years.¹ Despite the undisputed success of this approach, CARB has decided to require a much larger universe of facilities to inventory and report hundreds of additional substances, in many cases without regard to their significance as potential risk drivers.

¹ Air Resources Board and California Air Pollution Control Officers Association, Risk Management Guidance for Stationary Sources of Air Toxics, July 23, 2015. (IC25-15-1)

Agency Response: CARB staff disagrees that the amendments will reverse any progress previously made to mitigate the effects of airborne emissions of toxic substances. Staff believes it is necessary to acquire data and evaluate risks for substances that are known to be toxic, are known to be used, and could potentially be emitted to the air. The only way to determine which substances have the potential to be risk drivers is to collect emission inventory data, and the amendments address this issue.

Please see response to *Section A-1.34., "Multiple Comments: Concerns Regarding Expansion of Reporting"* and the associated *Section A-1.35., "Multiple Comments: Exceeds Authority"* which discuss the expansion of the reporting requirements (particularly under CTR). Refer to *Section A-10.14., "Multiple Comments: Concerns Regarding Adding Substances Without Health Risk Values"*, *Section A-9.9., "Comment: Sectors With Chemicals Without Health Risk Values"*, and *Section A-10.12., "Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released"* regarding the necessity to collect toxics data even for substances where health risk values are not currently available. The logical expansion in scope and toxics subject to reporting is necessary to better protect public health, and no additional regulation updates are necessary to address the comment.

B-3. Section 93402 – Definitions

B-3.1. [Comment: Definitions](#)

I think there should be a definition of NAICS codes as there is for SIC codes. (AK-15-1)

Agency Response: The CTR currently includes a definition for the "North American Industry Classification System", or "NAICS," so no update is needed to address the comment.

B-4. Section 93403 – Emission Reporting Requirements

B-4.1. [Comment: Reporting Frequency - Allow Bi-Annual Reporting](#)

CTR Section 93403: New Proposed Subsection under § 93403. Emission Reporting Requirements. We request that CARB add a new sub-section into the Emission Reporting Requirements (§ 93403) to allow for remote facilities to report on a biannual basis and to eliminate required annual reporting for facilities that can demonstrate no significant change in operation over the reporting cycle.

The impetus for our comment relates to unique features of military installations. Military installations tend to be located far from centers of receptors. Operations at military installations do not tend to vary significantly from year to year, because major changes require advanced funding, planning, and often environmental review across the large federal system. Therefore, emissions generally do not change significantly within a 12-month period. Reporting biennially is also twice the current frequency under AB 2588, as such, substantially increasing the data and information that would be available to the public.

Specific Requested Revision: Create new sub-section under § 93403. Emission Reporting Requirements entitled "*Reduced Reporting for Remote Facilities or No Significant Changes in Operations*"

Owners or operators of a GHG, Criteria, or Elevated Toxics Facility subject to reporting per sections 93401(a)(1), (2), or (3) which are remote facilities exceeding 1 mile from a receptor, shall submit Emission Reports on a biannual schedule.

Owners or operators of a GHG, Criteria, or Elevated Toxics Facility subject to reporting per sections 93401(a)(1), (2), or (3) which can certify and demonstrate no significant change in operations within that annual reporting cycle, is not subject to the annual emissions report requirement." (DoD-15-1)

Agency Response: Please see CARB's response to Section A-4.13., "Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - Bi-Annual Reporting" and Section A-5.2., "Multiple Comments: Reduce Reporting Frequency or Scope in Certain Instances - When Changes, Bi-Annual Reporting" which address this comment.

B-4.2. [Comment: Report Processes At Earliest Time of Applicability](#)

Consistent Phase-In Schedule

The added language (§93403(b)(1)) requiring facilities to report emissions for all processes according to the earliest phase-in timing for any one process adds an additional reporting burden for facilities instead of allowing a reasonable ramp-up of reporting requirements. It is further complicated by allowing some sectors, i.e., landfill/waste sectors, out of the requirement while other sectors or facilities may have similar concerns and difficulty in meeting the requirements all at once. We again encourage consistency within the regulation and across sectors, where possible, to help reduce reporting complications. (SMAQMD-15-1)

Agency Response: Staff worked to establish as much consistency as possible, but with the knowledge that imposing global and inflexible requirements to uniformly address all of the potential real-world variability would be impractical. See responses to Section A-9.2., "Multiple Comments: Extend Phase-In Schedule", Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector", and Section A-9.4., "Multiple Comments: Timelines Are Long for Phase-In" regarding the extensive efforts made to provide a reasonable ramp-up of reporting requirements, while also not extending the phase in process unreasonably or indefinitely. Specific to the waste sector reporting mentioned, these sources have unique phase-in requirements due to their unique challenges in estimating emissions. See Section A-9.6., "Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing", Section A-10.21., "Multiple Comments: Waste Sector - Substance List", Section A-9.12., "Multiple Comments: Expand/Decrease Applicability - Remove Recycling Facilities", and others for additional information.

B-4.3. [Comment: Release Location Reporting Timeline](#)

1. 93403 (b)(3)(A) Release Location Data Reporting. Please modify language to allow a local air district to request release location data at any time (not only prior to the beginning of the data year). (SCAQMD-15-1)

Agency Response: No change to CTR is necessary because under existing district authority release location data may be requested from a source under their jurisdiction at any time. And, because CTR is a calendar-year based annual reporting program, it is necessary to generally provide reporters with notification *prior* to the start of the reporting year, to allow time to prepare for collecting the required CTR data for the coming year.

B-4.4. [Comment: Change of Ownership](#)

Proceed with the following change: Language changes in CTR Section 93403 (e) clarifying reporting obligations when facility ownership changes. (IC25-15-1)

Agency Response: This change has been incorporated under the 15-day modifications. See response to *Section A-4.12., "Multiple Comments: Change in Ownership"*.

B-5. Section 93404 – Emissions Report Contents

B-5.1. [Comment: Present, Used, or Produced - Provide Guidance](#)

3. 93404 (b)(1)(C)(12) Report Amount of Substance Produced or Used . This section allows facilities to report the amount of a toxic substance that is produced or used at the facility during the data year, if no best available data and methods exist to estimate the quantity of the substance that is emitted during the data year, pursuant to section 93404(c)(1)(B)

Section 93404(c)(1)(B) references the use of data sources such as purchase records and substance inventory reconciliation to estimate amounts, however, specific guidance and examples of calculations are needed to avoid differing interpretations from local air districts and reporters. Without this, values from facilities and local air districts will not be comparable. (SCAQMD-15-1)

Agency Response: Please see our response to *Section A-5.11., "Multiple Comments: Present, Used, or Produced - Provide Guidance on Best Available"* regarding the primary comment, and *Section A-5.12., "Multiple Comments: Present, Used, or Produced - Remove Requirement"* and *Section A-5.13., "Multiple Comments: Present, Used, or Produced - No Method"* for further discussion of the topic.

B-5.2. [Comment: Release Location Data](#)

Furthermore, an emergency generator located at a large facility such as a power plant that is subject to emission reporting under 93401(a)(1) or (2), would be subject to the Full Report Contents including reporting of Release Location data. Some of the Release Location data elements such as exit gas temperature, exit gas velocity and flow rate may be unavailable for an emergency standby engine. If the purpose of collecting Release Location data is to perform air dispersion modeling for the facility, it seems reasonable that an emergency standby engine should be exempt from the Release Location data reporting requirements because it is a *de-minimis* source of emissions at a large facility. (LADWP-15-1)

Agency Response: Please see our response to *Section A-4.2., "Multiple Comments: Release Location Data"* for a general discussion of release location data reporting, including the importance of gathering that data from larger facilities and the reduction of reporting requirements for smaller sources as part of the 15-day modifications. Specific to this comment, although emissions from a backup emergency generator may be small in relation to the entire facility emissions, the emissions add to the cumulative emissions burden imposed by the facility. This is particularly important for sources which emit diesel particulate exhaust, an identified carcinogen. Further, typically larger facilities already have the reporting and staffing infrastructure in place to relatively easily accommodate release location data reporting, which is not always true for smaller sources.

B-5.3. [Comment: Reporting Facility Data Versus Process Level Data](#)

Facilities v. processes – the change to 93404(c)(1)(B) regarding activity level reporting for the facility level v. the process level – this seems to be very confused in this version of the rule. Previously, the facility level was the level for reporting (and permitting). Now in various places there are distinctions being made between the permitted facility and the permitted process. How many processes can be at a facility? What does that do to the activity thresholds? This has not been vetted or discussed and should not be changed at this late date. (AK-15-1)

Agency Response: The comment references preexisting text that is included in section 93404(c)(1) pertaining to overall emissions reporting. For additional clarity, under the 15-day modifications the language was copied to section 93404(c)(1)(B) which addresses toxics reporting. The change does not modify the previously existing requirements, because it would have already applied to toxics reporting (the modified section is subordinate to 93404(c)(1), and is included only for clarification). See also *Section A-5.9., "Comment: Unpermitted Emissions - District Discretion"* for additional discussion. The requirements to report facility emissions data at the process-level of detail, and to identify individual emission sources at a facility subject to CTR reporting, are also unchanged under the amendments. See also *Section B-1.22., "Comment: Facility Versus Source Reporting and Unpermitted Sources"*.

B-5.4. Comment: Present, Used, or Produced - Terms of Presence and Production

Reporting the presence of a substance when no quantification method is available. Section II.H.(5) of the EICG requires a facility to report the presence, use, or production of a substance using the Appendix B-1 Supplemental Use and Production form or equivalent. Section 93404(c)(1)(B) of the CTR has a parallel requirement, stating that, "If an air district determines that none of the alternatives listed would provide a reasonable, technically justified emissions estimate, and no other method can be determined that will provide such an estimate, then the presence of the toxic air contaminant and the amount used or produced at the facility during the data year must be reported without an estimated quantitative emissions value."

For the terms "presence" and "production" CCEEB understands this to apply to substances that are intended to be used in production, or intended as products of a process, and not to unintended compounds that could potentially be produced or present as a byproduct of combustion or other processes. We ask staff to include in the FSOR a discussion of the limitations in using reported presence as a proxy for quantifiable emissions estimates, including uncertainties over whether substances even become airborne, let alone contribute to risks from exposure. (CCEEB-15-1)

Agency Response: Please see our response to *Section A-5.12., "Multiple Comments: Present, Used, or Produced - Remove Requirement"* which addresses the primary elements of the comment. The commenter's interpretation that the terms "presence" and "production" apply to substances that are intended to be used in production, or as products of a process, is correct. Further, specific to the request for clarification regarding the limitations in using reported use, production or presence as a proxy for quantifiable emissions estimates, the provision is intended only for substances that are known to the owner or operator to be present, and for which an emissions quantification method does not exist. If a listed substance subject to reporting is produced intentionally or unintentionally as a byproduct, *in a way that may result in airborne emissions*, it is subject to reporting under CTR and EICG. Just because emissions are unintentional or a byproduct does not make them any less harmful, so to protect public health no updates were made to the regulations.

CARB acknowledges that amounts of substances that are reported to be used or produced on-site under these provisions (due to a lack of emissions quantification methods) are not intended to be used to quantify emissions nor to quantify health risks, unless and until methods are identified to do so. The intent of the provisions is to identify substances for which additional investigation into the potential for emissions and health effects may exist. For additional discussion regarding the requirement see *Section A-5.11., "Multiple Comments: Present, Used, or Produced - Provide Guidance on Best Available"* and *Section A-5.13., "Multiple Comments: Present, Used, or Produced - No Method"*.

B-5.5. [Multiple Comments: Portable and Mobile Equipment - Should Not be Required](#)

Comment: CARB's regulatory updates also capture sources that were never intended to be included in a stationary source emissions inventory. The Air Toxics Hot Spots Information and Assessment Act (AB 2588, Connelly 1987) was designed to require stationary sources ("facilities") to report the types and quantities of certain substances routinely released into the air from those facilities. The program was never intended to cover non-stationary sources such as mobile sources or portable equipment. In fact, the definition of "facility" is tied to stationary equipment, and "stationary" is explicitly defined as meaning "neither portable nor self-propelled."²

² 17 CCR § 93402. Definitions. (IC25-15-1)

Comment: Requirements to report third-party emissions. Section (§) 93404(c)(2)(C) of the CTR regulation requires specified GHG and/or Criteria Facilities to report portable diesel-fueled engines and devices rated at 50 brake horse power or more "regardless of equipment ownership or permit status, if the engine or device is operated on site at any time during the data year." Similarly, Section VIII.(G)(1) and (2) of the EICG requires all facilities subject to reporting to include specified on-road and off-road mobile sources.¹ In discussions with staff, it is CCEEB's understanding that this is meant to apply equally to facility as well as "third-party" emissions, such as those from common carriers delivering goods, contractors working onsite, and/or tenants in leased spaces within the facility. We refer to such sources and emissions not owned or operated by a facility as "third party."

CCEEB is confused by these sections, which appear to conflict with CARB regulatory definitions of "facility," as shown below (*emphasis added*):

CTR Section 93402(a). "'Facility' means any physical property, plant, building, structure, or stationary equipment, having one or more sources, classified under the same two-digit, i.e., major industry grouping Standard Industrial Classification code (SIC), located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way *and under common ownership or common control.*"

EICG Section X.(14). "'Facility' means the same as defined in Health and Safety Code section 44304. 'Facility' shall not include any motor vehicle as defined in section 415 of the Vehicle Code. (a) Except for the oil production operations defined in section X.14(b), for purposes of this regulation, the phrase 'every structure, appurtenance, installation' shall mean all equipment, buildings, and other stationary items, or aggregations thereof, (A) which are associated with a source of air emission or potential air emission of a listed substance; (B) which involve activities that belong to the same two-digit Standard Industrial Classification code, or are part of a common operation; (C) which are located on a single site or on contiguous or adjacent sites; *and (D) which are under common ownership, operation, or control, or which are*

owned or operated by entities which are under common ownership, operation, or control.”²

Our interpretation of the simple language of the regulations is that third-party emissions are not under common ownership, operation, or control of the facility, and as such, would not be subject to reporting requirements. We ask that staff clarify this in its Final Statement of Reason (FSOR), in particular how CARB defines in which instances third-party emissions would be considered under “common control” and, as such, what is the legal responsibility of facility owners and operators.

¹ Section XI of the EICG also requires reporting of portable engines. However, (B) applicability is based on engines “the facility operates,” which we presume do not include third-party engines as these are not “operated” by the facility. ² H&SC § 44303: “‘Facility’ means every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material.” (CCEEB-15-1)

Agency Response: Affected facilities control the types of portable equipment units brought onsite and are responsible for reporting those emissions. Please also see the response to *Section A-5.27., “Multiple Comments: Reporting Portables is Responsibility of Owner/PERP”*, *Section A-5.26., “Comment: Reporting Portables is Responsibility of Owner - District Discretion & Responsibility”*, and *Section A-5.25., “Comment: Reporting Portables is Responsibility of Owner - CTR”*.

B-5.6. [Multiple Comments: Portable and Mobile Equipment - Guidance for Estimation](#)

Comment: § 93404(c)(2)(C) - Portable Diesel-Fueled Engines and Devices at GHG and Criteria Facilities. This subsection requires a facility to report emissions from portable equipment and devices if “operated on site at any time during the data year” even if the equipment is owned and operated by third parties and not under direct control of the facility itself, beginning with data year 2022. However, nowhere in the rule does CARB specify how such emissions should be tracked and quantified, nor what records would need to be kept to validate third-party data. Instead, CARB states that undefined “best available data and methods” may be used, and that certain options on how to calculate emissions *could* be decided by the local air district, if it so chooses, including whether or not the full report contents of § 93404(b)(1) apply, whether or not data from multiple engines can be aggregated, and whether or not activity data may be submitted in lieu of quantified emissions. This ambiguity is highly problematic; nowhere within any CARB program do staff provide guidance on how to estimate third-party emissions or what would be an acceptable degree of accuracy. Similarly, to CCEEB’s knowledge, no air district has ever issued guidance on how to quantify emissions from third-party portable equipment, and no district has indicated how it intends to interpret and enforce this subsection, nor have we seen plans to

develop any such guidance. This makes compliance with this subsection uncertain and possibly speculative.

For these reasons, CCEEB requests that § 93404(e) be revised as follows:

“With the submitted annual report, the designated representative for a facility subject to this article must provide an attestation to the local air district or to CARB that he or she is authorized by the owner or operator of the facility to submit the emissions report, and that to the best of his or her knowledge, all information submitted by the designated representative pursuant to this article, except for information from third-party owned or operated sources reported pursuant to § 93404(c)(2)(C), is true, complete, and correct.” (CCEEB-15-1)

Comment: CCEEB also asks that CARB work with the California Air Pollution Control Officers Association (CAPCOA) and facilities subject to this new subsection to develop guidance on what would be considered “best available data and methods” for tracking third-party sources, as well as requirements for compliant record keeping. (CCEEB-15-1)

Agency Response: The CTR requirement to report emissions from portable diesel-powered engines applies only to facilities that report data to the MRR program, or that are permitted to emit over 250 tons of a criteria pollutant in a nonattainment area. The intent of this requirement is to acquire diesel particulate matter emissions from these facilities, so that the health impacts from inhalation of diesel emissions may be appropriately taken into account, and to allow those emissions to be known to near-source residents (transparency). CARB acknowledges that this will create some additional reporting burden for facilities, however the CTR allows flexibility in the methods used to quantify the emissions, including the use of engineering estimates, and allows aggregated reporting of portable engines to limit the resource impact on facilities that collect this data. Although, as the commenter mentions, some of these devices are used on site by third party contractors, the facility still has control over what third parties come on-site, and their activity, as well as an obligation to reasonably estimate the air pollution impacts of such third parties upon nearby residents. CARB commits to continued engagement with CAPCOA, air districts, and industry to identify improved and more efficient systems and more consistent methods for acquiring such data, and stands ready to work with facilities to ensure a smooth transition to compliant reporting that does not result in undue burden for facility operators.

B-5.7. Multiple Comments: Portable and Mobile Equipment - Should Not be Required

Comment: Finally, we believe that CARB should reconsider its current position on reporting of emissions from portable diesel-powered equipment. The proposed changes to CTR Section 93404 (c)(2)(C) clarify that reporting requirements for portable diesel engines (≥ 50 bhp) include equipment registered under the Portable Equipment

Registration Program, but facility operators would still be responsible for reporting emissions from PERP-registered equipment.

Requiring facilities to report third party portable diesel engines amounts to putting the facility in the position of a regulator without the necessary resources or enforcement authority. Businesses cannot be expected to verify the completeness and accuracy of emissions data from third-party operators under CTR or EICGR, nor verify and enforce the proper and continuous use of emissions controls under EICGR. This approach places an unreasonable compliance burden on the facility for equipment that is outside of their control.

The PERP program is the most appropriate mechanism for reporting emissions from portable diesel equipment, and the registrant should bear the reporting obligation, not the owner of the facility where the equipment is used on a temporary basis. CARB should require PERP registration for all portable equipment subject to the CTR to ensure that emissions reporting is comprehensive and enforceable.

In our view, this approach would better position CARB and the air districts to evaluate potential health risks wherever portable equipment is used, not just at facilities that meet the statutory criteria for mandatory reporting under the CTR regulation. Should CARB choose to retain the current requirements, facilities should not be subject to certification or attestation requirements when submitting data for these sources under both CTR and EICGR. Facilities cannot certify the completeness or accuracy of emission data provided by third parties. At a minimum, CTR Section 93404(e) should be amended to exclude data for third party-owned portable diesel engines. (IC25-15-1)

Comment: Reporting of Portable Diesel-Fueled Engines: Section 93404(c) requires the reporting of emissions from portable diesel-fueled engines above a rated 50 horsepower at 'GHG facilities' and/or 'Criteria facilities' as defined in the proposed regulation, regardless of equipment ownership or permit status. PG&E and its independent contractors use portable equipment for a variety of operating needs, including planned and unplanned activities and projects. Consequently, the reporting of portable diesel-fired engines outside of the control of PG&E is overly burdensome and tracking the usage and location of these engines will be very difficult, if not impossible. Additionally, CARB has updated this section to indicate that "At the local air district's discretion, additional facilities may be required to report emissions from portable diesel-fueled engines and devices." PG&E wants to reiterate this amendment will impose substantial uncertainty and recordkeeping burden on PG&E and its operations while adding no additional information since the vendors have a separate reporting obligation that should provide the air districts the same information. (PG&E-15-1a)

Comment: The facility should not be responsible for reporting emissions from portable, diesel- fueled engines or devices operated within the facility. The CTR and EICG regulations were intended to collect emissions data for stationary sources.

LADWP has concerns with Section 93404(c)(2)(C) of the CTR regulation which requires stationary source facilities to track and report emissions from portable engines or equipment operated within the facility, regardless of ownership or permit status. LADWP believes the reporting responsibility should lie exclusively with the owner/operator of the portable engine/equipment.

From an implementation perspective, facility emission reporting typically does not include portable equipment operated within the facility boundary. The addition of this responsibility will require subject facilities to implement a data collection system for portable equipment. There would need to be a mutual understanding for recordkeeping and reporting between the facility operator and the portable equipment user. In effect, the facility operator will become an emissions reporting proxy for the owner/operator of the portable equipment used within the facility. The data would need to flow from the portable equipment user to the facility operator who would report it to CARB. This can be an administrative challenge especially when multiple third parties are involved.

If the portable equipment is transient (e.g., used temporarily at the facility for construction), including emissions from the portable equipment in the facility's emissions report will not represent normal facility operations. LADWP believes it is not appropriate to co-mingle mobile source emissions with stationary source emissions, unless the mobile source emissions are part of the facility's core operations.

Furthermore, the CTR requires the designated representative for the facility to submit an attestation with the emission report. The attestation states that "all information submitted by the designated representative pursuant to this article is true, complete, and correct." If emissions from portable engines "regardless of ownership" are included in the facility's emissions report, this means that the facility must vouch for the accuracy of emissions for equipment belonging to a third party, without firsthand knowledge of the data. It would not be appropriate to sign an attestation for emissions from portable equipment that is not under the facility operator's control.

LADWP recognizes that CARB wants to collect emissions data from portable equipment as part of the statewide emissions inventory. However, the current proposal to require facilities to report data from portable equipment operated within the facility may not be the right approach because it would yield an incomplete picture of emissions from portable equipment. LADWP recommends that CARB remove section 93404(c)(2)(C) from the CTR regulation, and instead add a reporting requirement to the Portable Equipment Registration Program (PERP) regulation. This recommendation was discussed in detail in LADWP's previous comments dated November 16, 2020. Having the owner/operator of the portable equipment report emissions for the portable equipment under the PERP regulation would eliminate the middleman and provide complete and accurate data by calculating emissions using equipment-specific data rather than generic default emission factors. (LADWP-15-1)

Agency Response: Please see response to Section A-5.27., “Multiple Comments: Reporting Portables is Responsibility of Owner/PERP”, Section A-5.18., “Multiple Comments: Burdensome to Report Portables”, Section A-5.19., “Multiple Comments: Burdensome to Report Portables/PERP”, Section A-5.20., “Multiple Comments: Revise Portable Language”, Section A-5.26., “Comment: Reporting Portables is Responsibility of Owner - District Discretion & Responsibility”, and Section A-5.25., “Comment: Reporting Portables is Responsibility of Owner - CTR”.

B-5.8. [Comment: Portable and Mobile Equipment - Include PERP Exemption](#)

Additionally, the Portable Equipment Registration Program (PERP) regulation defines utilities as Providers of Essential Public Service (PEPS) and exempts these engines from recordkeeping and reporting requirements per PERP Regulation section 2458(a)(1)(C) (PG&E is classified as a PEPS). Based on these recordkeeping exemptions, we will be unable to calculate actual emissions from PG&E-owned PERP equipment. PG&E believes it would have been appropriate to include an exemption for PEPS in order to maintain consistency with the PERP program. (PG&E-15-1a)

Agency Response: Although utilities are providers of essential services, utility-owned or -operated facilities can be sources of significant emissions of greenhouse gases, criteria pollutants and their precursors, and toxic air contaminants. Utilities are not exempt from emissions reporting under CARB's MRR program, the AB 2588 toxics program, nor the CTR. Affected facilities control the types of portable equipment units brought onsite and are responsible for reporting those emissions; however, CTR offers flexibility regarding the methods used to estimate emissions at facilities, including emissions from portable engines. Please also see the response to Section A-5.27., “Multiple Comments: Reporting Portables is Responsibility of Owner/PERP”.

B-6. Section 93421 – Abbreviated Reporting

B-6.1. [Multiple Comments: Abbreviated Reporting - Diesel Engines](#)

Comment: LADWP noted some inconsistencies in how the CTR regulation treats diesel-powered emergency standby engines. In section 93421 *Abbreviated Reporting*, diesel-powered emergency standby generators and direct-drive emergency standby “fire suppression” and “fire water” pump engines are eligible for abbreviated reporting. However, section 93421 does not include diesel-powered direct-drive emergency standby water pump engines used in the potable water distribution system, the wastewater system, and for flood control. It is unclear why these other types of emergency standby engines should be treated differently and subject to the full reporting requirements. (LADWP-15-1)

Comment: LADWP recommends that CARB treat all emergency standby engines consistently under the CTR regulation. All emergency standby engines should be

eligible for abbreviated reporting regardless of the nature of use, and Release Location data should not be required for an emergency standby engine just because it is located at a facility subject to reporting under applicability criteria 93401(a)(1), (2) or (3). (LADWP-15-1)

Agency Response: CARB staff agree that there are other sources that may be good candidates for abbreviated reporting, and it is for this reason that CARB staff included the provisions of CTR Section 93421(b), which provides for a petition process for including additional abbreviated reporting sources. Please also see our response to *Section A-8.7., "Comment: Expand Abbreviated Reporting to Include Emergency Water Pumps"*.

B-6.2. Comment: Abbreviated Reporting - EICG Overlap and Requirements

Emergency standby generators and fire pump engines. Article 2, § 93421 of the CTR regulation allows a facility to use "Abbreviated Reporting" to report its emission for specified qualifying activities, including the operation of emergency standby generators and fire pump engines.³ However, abbreviated reporting overlaps with the EICG, which has more detailed requirements and includes any potential source, as noted previously, not just the generator or fire pump itself.

In CCEEB's discussions with staff, it is our understanding that CARB's intention is for emissions reported annually through the CTR program be acceptable for compliance with quadrennial toxics reporting under the AHS program. If that is the case, then we ask staff to clarify in its FSOR whether and how abbreviated reporting satisfies AHS/EICG requirements, describing in detail how facilities should best interpret and implement the overlapping requirements.

Additionally, in Section XI of the EICG report, CARB requires a facility with one or more stationary diesel engine that operates above the reporting threshold to report emissions from both stationary and portable diesel engines at the facility. In this case, is reporting limited to diesel particulate matter (DPM) emissions from the stationary and portable engines? That is, if the facility has other emission sources, but does not trigger applicability requirements under any other provisions of the EICG, is it correct that the inclusion of the facility in Section XI remains limited to reporting DPM emissions from specified sources?

³ Abbreviated reporting is also available for small boiler and heaters and agricultural operations, if these are the only sources at a facility. (CCEEB-15-1)

Agency Response: It is CARB's intention for emissions reported through the CTR program to be acceptable for compliance under the four-year (quadrennial) reporting requirements of the EICG. Facilities reporting under CTR's abbreviated reporting provisions would be submitting similar information to air districts under the EICG. If the local air district requires reporting of emissions beyond that which is required by CTR, pursuant to their implementation of AB 2588 (e.g., emissions from non-permitted processes, or stack parameter data not required

for abbreviated sources under CTR), those emissions may be reported to CARB, but such additional emissions reporting is not subject to the CTR requirements.

B-6.3. [Comment: Abbreviated Reporting - Additional Activities](#)

Petition for Additional Qualifying Activities for Abbreviated Reporting: Section 93421 of the proposed regulation includes a provision for petitioning additional qualifying activities for abbreviated reporting. PG&E requests that CARB explicitly outline the approval process for petitions to request additional qualifying activities for abbreviated reporting. PG&E recommends publishing the criteria that will be used to justify the approval of such a petition in upcoming implementation guidance. The proposed amendments do not currently state how petitions requesting additional qualifying activities for reporting will be evaluated, which makes it difficult for entities to prepare petitions or even understand what may be eligible. (PG&E-15-1a)

Agency Response: The abbreviated reporting petition process of Section 93421(b) explicitly specifies the data to be provided for petition. Please see our response for *Section A-8.2., "Multiple Comments: Abbreviated Reporting Petition Process"* for more information. Additionally, CARB staff intends to provide additional guidance on this topic as necessary.

B-7. Appendix A – Applicability Thresholds and Lookup Tables for Facilities Subject to Reporting Per Section 93401(a)(4)

B-7.1. [Multiple Comments: Reporting Timelines - Phase-In is Too Long](#)

Comment: We support the efforts of CARB to develop better information. However, the timeframe that has been proposed to find out what pollutants are being released is too long. Every draft of this rule extends the deadlines for compliance with reporting. We need to get the information and then immediately start reducing emissions and removing toxic pollutants that cause cancer and other problems that leave our communities at risk. (CSS-15-1)

Comment: The Timeline for Implementation and Reporting Should Be Accelerated: The reporting timeline proposed in the final CTR rules and EICG is too long to deliver the information that is critically needed to swiftly reduce air toxics in frontline and environmental justice communities. Under the "15-day" proposal, many facilities will not report until 2026. Some key sources including recycling facilities, wastewater treatment plants, and biosolids incinerators, are pushed out to 2028. The timeline for all facilities to report their toxics emissions goes on for years. While facilities prepare to report their toxic emissions over several years, communities overburdened by toxic air pollutants will continue to bear that pollution burden and will lack the critical information needed to reduce harm. (EDF-15-1)

Comment: The proposal would delay some reporting deadlines until many years from now. Communities should not have to wait until 2026 and 2028 to get information on local emissions. (CCA-15-1)

Comment: CARB must move faster to provide reporting. The timeline for facilities to report cannot go on for years. The polluters should not be issued permits if they cannot tell us what and how much they are releasing into our neighborhoods. The deadlines for compliance with reporting requirements are too long. This will also bring accountability and transparency to the program and the agency given it is decades long overdue to change the reporting rules and update the list of air toxics emissions. (PSRLA-15-1)

Comment: Third, we are concerned about the extended deadlines for facilities, which even extend out to 2029 in some cases. It is not acceptable that communities will need to wait that many years to have a clearer understanding of the emissions impacting their community. The information is needed now to start reducing these emissions. It is also not acceptable to not require reporting of all PFAS, when even the Notice of Availability admits that "there is evidence that exposure to PFAS can lead to adverse health impacts." (EHC-CBE-15-1)

Comment: Every draft of this rule extends the deadlines for compliance with reporting. What are we doing in the meantime while this pollution goes on? We need to get the information and then start reducing emissions. (DG-15-1)

Comment: We support the efforts of CARB to develop better information. However, the timeframe that has been proposed to find out what pollutants are being released is too long. Every draft of this rule extends the deadlines for compliance with reporting. We need to get the information and then immediately start reducing emissions and removing toxic pollutants that cause cancer and other problems that leave our communities at risk. (ORTK-CSS-15-1)

Comment: The proposed time to begin reporting is much too far off. People are getting sick and suffering now. (ANHE-15-1)

Comment: The proposed timeline for identifying which toxic chemicals are being released is far too long. Public Health Professionals cannot act without this essential and time sensitive information. (ANHE-15-1)

Comment: The timeline for producers of toxic emissions to report what they are polluting communities with demonstrates a lack of concern for the people the CARB is charged with protecting. Pollution producers should already know what they are emitting into our communities. This information must be made a priority. (ANHE-15-1)

Comment: The extension of deadlines for compliance with reporting, found in every draft of this rule, are unacceptable. Protecting our health and our children's future cannot wait. (ANHE-15-1)

Comment: The phase in periods for reporting continues to be lengthened. Implementation needs to reflect the pace of business so that provisions are implemented before they become outdated. Every version of these rules seems to push the timeframe for implementation of reporting out another year. If you take eight

years to simply implement the rules, the lists for contaminants and facility types will already need to be updated.

For this program to be effective, the chemicals identified need to be updated at close to the pace at which as uses and releases change. The process needs to be designed to incorporate change as an expected event and not view the listings as a one off. (AK-15-1)

Agency Response: Please see our response to *Section A-9.4., “Multiple Comments: Timelines Are Long for Phase-In”*. Please also see *Section A-9.2., “Multiple Comments: Extend Phase-In Schedule”*, regarding more time for the phase-in. No regulation updates were required because the phase-in approach strikes a reasonable balance between expeditiously gathering needed data, focusing on the most important sources first, but also under a schedule that helps assure successful implementation.

B-7.2. [Multiple Comments: Waste Sector Reporting Timeline](#)

Comment: What reporting is expected of Waste Handling Facilities prior to 2028? SWICS appreciate and support CARB’s development of a separate Sector Phase 3B for Waste Handling Facilities. However, since many landfills must report GHGs pursuant to H&SC section 38530 (i.e., applicability criteria in 93401(a)(1)), the proposed language appears to indicate that these facilities would be unable to postpone the initial reporting year for toxics until the 2028 data year. We have concerns over this. As expressed by the entire waste sector the majority of Appendix A-1 compounds do not have approved laboratory test methods, which may cause significant problems when estimating emissions. Additionally, the sheer number of new compounds to address would be a significant problem. Accordingly, we would like to confirm that Section 93404(c)(1)(B) acknowledges that only those compounds that are “actually emitted by the facility” with established quantification methods are to be reported. Furthermore, until the completion of two-step process testing, these GHG reporting facilities will be unable to estimate emissions of the majority of Appendix A-1 compounds. Moreover, we must rely upon the two-step process as the “best available data and methods.” We interpret this section to allow the waste sector to continue status quo reporting until the completion of required two-step characterization studies. In other words, compounds being characterized in these studies would not be reported in response to the CTR until the completion of two-step process testing. (SWICS-15-1)

Comment: e. Reporting by Waste Handling Facilities Should Not Be Delayed. The EO proposal creates a special class of facilities with special provisions for the “waste handling” sector. These are broken out in several places, (though seem to be missing from Table A-3.)

I agree that it makes sense to adopt special provisions for the waste handling sector for two reasons. One reason is cited in the EO revisions package. This subgroup is for facilities in this sector may not have control over or even knowledge of all of the

substances delivered to their custody. This is a perennial problem especially for wastewater treatment plants. The degree to which this occurs differs among different types of facilities.

A second reason that these facilities make sense for a special category is because they may be good venues to sample the waste stream to identify substances that may be in use and, in this case, prone to being volatilized into the air. This could help to validate the current list of air toxics and identify how many compounds and which compounds rare not included but are showing up at waste facilities. This can aid in overall environmental management.

What has been done here is the an unfortunate in that CARB has simply deferred any reporting until 2029. This is not appropriate because these facilities can be major sources. So, some level of informative reporting should be initiated in the first round. These wastewater facilities are already dealing with PFAS and so it is not unreadable to start a reporting phase in at the early end.

Ideally, CARB and other Cal EPA entities at least including the Water Board should devise a feasible approach that can inform the toxics control effort as a whole, including both air and water, and that leads to development of better management strategy as well as sufficient emission control or zero discharge for these facilities.

This would seem to be a priority area both for investment of research dollars and technical resources to devise informative monitoring, technologies, and control measures to minimize emissions to communities. Clearly, the inventory process cannot manage all of this and perhaps has done the best they can by punting the issue down the road. This is another example of the need for CARB to develop a strategy for air toxics that integrates its several siloed divisions into a cogent approach in service of the people of the State.

This should also be seen as an on-going activity and not a one-off process that can be "completed." As the text rightly says, these facilities have to "address the complexity and diversity of potential toxic emissions from the waste streams they process." This is not something that will stop at some point. This is something that will continue to change over time and that needs to be addressed by a systems approach.

With regard to recycling and material recovery, as noted in Part 7, second full paragraph on page 6 of the outline of changes, with reference to Subsection IX.H(1)(d) – the EO revision would exclude recycling and material recovery facilities from source testing requirements. It is contradictory to argue on the one hand that such facilities need special treatment and extended deadlines because they have especially complex waste streams over which they have no control and then argue on the other hand that they don't have any potential for emissions. (AK-15-1)

Agency Response: The comments address two opposing viewpoints. First, that waste handling facilities should be provided more time to comply with the new

requirements, and second, that reporting for such facilities should not be delayed. See responses to *Section A-9.5., "Multiple Comments: Waste Sector - Phase-In by Sector"*, *Section A-9.6., "Multiple Comments: Waste Sector - Provide Enough Time to Complete Pooled Source Testing"*, *Section A-10.22., "Multiple Comments: Provide Enough Time to Complete Pooled Source Testing"*, and *Section A-5.29., "Comment: Waste Sector - Quantification Methods & Toxicity Data"* regarding why the waste sector is provided additional time for reporting. Responses to *Section A-10.26., "Comment: Waste Sector - Two-Step Source Testing Process and Status Quo"* and *Section A-5.16., "Comment: Waste Sector - Status Quo and Two-Step Process"* address the anticipated implementation process pertaining to CTR and EICG reporting under the new requirements, and status quo reporting in the interim. As discussed in prior responses, updates were made under the 15-day revisions to address the real-world challenges faced by the waste sectors in quantifying emissions.

We do want to clarify for the first commenter that even if a quantification method is not available, reporting may still be required per CTR 93404(c)(1)(B and EICG II.H.5, "If at the time a substance becomes subject to reporting per Table B-1, a listed toxic air contaminant substance is present or is used or produced at a facility in a way that may result in airborne emissions, one of the alternatives identified as "best available data and methods," as defined in this article, must be used to quantify the emissions, as applicable. If an air district determines that none of the alternatives listed would provide a reasonable, technically justified emissions estimate, and no other method can be determined that will provide such an estimate, then the presence of the toxic air contaminant and the amount used or produced at the facility during the data year must be reported without an estimated quantitative emissions value." Similar language exists in EICG Section II.H.5, pertaining to the "Effective Phase" in Table 2 of Section II.

B-7.3. [Comment: Reporting Timelines - Support for Extended Phase-In](#)

Further, we support the modifications extending compliance timelines for smaller districts. CARB has correctly recognized the significant scope of these two rules, and as a result, these changes help mitigate the significant increase in workload at the district and producer levels that will occur to implement them. The phased implementation created with the modifications made to reporting timing should aid smaller producers and air districts in complying with these new obligations. (CalCIMA-CalAPA-15-1)

Agency Response: CARB worked with numerous stakeholders in developing these amendments in an effort to aid compliance with the regulation, and appreciates the comment.

B-7.4. [Multiple Comments: Thresholds - Recycling Facilities](#)

Comment: SWICS appreciate CARB's consideration of our November 19, 2020 and February 23, 2021 letters and willingness to adopt some of our recommendations

regarding recycling and material recovery facilities (MRFs). As discussed previously, SWICS has concerns over proposals to include recycling facilities and MRFs in the Toxic Hot Spots Program for the many reasons outlined in our previous letters and testimony to the Board. CARB's proposed change to the Activity Level Reporting Threshold from pollutant discharge to materials handling times is an important step in treating these facilities appropriately. Handling of MSW is always regulated through a series of local and state regulations cutting across many agencies; one of the foci of those regulations is nuisance (e.g., dust and odors). (SWICS-15-1)

Comment: With regard to the proposed language, SWICS has two requests. First, as written, the holding time would be applied to all "material". CARB acknowledged in a response to one of our member's comment that the intent was not all material, but degradable material. We would appreciate that this intent be reflected by adding either the word "degradable", or "putrescible" in front of "material" in these regulations. (SWICS-15-1)

Comment: Second, CalRecycle, working with the Local Enforcement Agencies (LEAs), enforce holding times for degradable material of 48-hours plus holidays over long weekends. The standard of 24-hours, though a goal of most facilities, would be impossible to meet on a regular basis. SWICS requests that the 24-hour holding time be modified to 48-hours, plus holidays, to be consistent with CalRecycle regulations, such as CalRecycle regulation 14 CCR § 17410.1. These holding times were adopted to avoid odors that would result from decaying organic material but would also limit any VOC emissions. (SWICS-15-1)

Agency Response: CARB incorporated most of the commenters suggestions, as they clarify the intent of our proposal. However, the threshold for Sector 50 ("recycling facilities") was retained at 24 hours rather than the 48 hours (or more) suggested. Please also see response to *Section A-9.17.*, "*Comment: Sector Applicability: Composters and Recycling Facilities*".

B-7.5. [Comment: Thresholds - Five Hour Diesel Engine Threshold Triggers Reporting for Nearly Every Engine](#)

Applicability Criteria: While PG&E appreciates the removal of the Sector No. 0 applicability criteria of 4 tpy from Appendix E, the majority of facilities below the existing 10 tpy criteria will still be subject to the amended Sector No. 8 criteria of 5 engine runtime hours per year. Current maintenance and testing requirements would result in inclusion of nearly every diesel engine in California for AB2588 reporting per the Sector No. 8 activity level reporting threshold. PG&E wants to reiterate that this amendment will impose substantial recordkeeping burden on PG&E and its operations. (PG&E-15-1b)

Agency Response: The comment provided references the EICG Appendix E (and AB 2588), but because the 5-hour reporting threshold applies to both EICG and CTR for diesel engines, the staff response applies to both regulations. In partial

response to this comment and a prior comment, under the 15-day modifications staff revised the applicability threshold to exclude "non-emergency" operations, so the threshold is only based upon routine operations. However, as the commenter mentions, even routine testing and maintenance (i.e., non-emergency) operations are likely to trigger the 5-hour applicability threshold for many engines. This is intentional in the development of the threshold to be health protective, as is described in the response to *Section A-9.20., "Multiple Comments: Emergency Generator Threshold"*, so no further modification was made.

B-7.6. Comment: Thresholds - Appendix A Activity Thresholds

As we have noted previously, the changes made by CARB in these 15-day modifications have aided our ability to understand the obligations created by the rules. In particular, we believe the changes made to Table A-3, clarifying the activity-level reporting thresholds that apply to permitted processes and clarifications to when districts might request additional information, will significantly aid producers in identifying and retaining the proper information for the reporting program and to help prevent misinterpretation. (CalCIMA-CalAPA-15-1)

Agency Response: CARB worked with numerous stakeholders in developing these amendments in an effort to aid compliance with the regulation, and appreciates the comment.

B-7.7. Comment: Thresholds - Throughput Versus Emissions Metric

Appendix E. Point 12, Table E-3 bullet points for Sector 49 and 50: These points change the criteria for inclusion for certain types of facility to a throughput metric rather than an emissions metric. This is not necessarily a bad idea but justification for these particular throughput levels is needed. These seem very high and likely to generate emissions of concern. Even if quantification is difficult, that should not be grounds for excluding a facility if the emissions have any potential to include air toxics, which seems highly likely in these cases.

Rather than setting an arbitrary and unsubstantiated threshold, ARB could set a provisional throughput level and then establish monitoring follow-up to determine whether emissions of concern occur at that threshold or below. After a set trial period of perhaps one or two years the adequacy of the throughput measure can be evaluated with actual information. Some provision for early review in the event of community impact or complaint would also be needed. (AK-15-1)

Agency Response: CARB changed the thresholds for Sector 49 ("Composting of organic waste") and Sector 50 ("Recycling facilities, and material recovery facilities that separate organic waste from recyclable materials") from an emissions-based limit to a throughput-based limit to make it easier for regulated entities to understand whether they are subject to the requirements of the proposed amendments. The thresholds that were ultimately proposed are not

arbitrary and unsubstantiated. CARB intends to modify the regulations, if needed, to support the information needs of CARB's programs, and if emissions data indicates that lower thresholds are necessary.

B-8. Appendix B – Additional Substances Subject to Quantification and Reporting

B-8.1. [Comment: Reporting Timelines - Support for Extended Phase-In](#)

Proceed with the following change: Section II (H)(2) defers the Initial Emission Data Quantification Year for New Substances for district group B by one year. (IC25-15-1)

Agency Response: Under the 15-day revisions, staff incorporated the referenced deferral of initial data quantification under EICG, as well as for the parallel timing requirements in CTR Tables A-1 and B-1. See the response to *Section A-9.2.*, *“Multiple Comments: Extend Phase-In Schedule”* for additional detail.

B-8.2. [Comment: Toxics Phase-In Schedule - Based on Health Values and Quantification Methods](#)

All Appendix A-1 substances should be phased in based on availability of both health reference values and quantification methods, and substances without health reference values and quantification methods should be moved to Appendix A-2. CARB has indicated that all substances in ChemSet 1 should be reported to help prioritize OEHHA’s development of health reference values. However, if there are no quantification methods then the prioritization will be based on incomplete and potentially misleading information. For example, the reported value may be zero, based on emission factors which are inappropriately applied, or values determined by the local air district which can vary among air districts. Instead, CARB should work with the air districts to conduct ambient air quality surveys which provide a much stronger characterization of actual public exposure. These surveys can be prioritized using the information reported under Appendix A-2. This approach would be consistent with how OEHHA and CARB are required to prioritize the development of health reference values pursuant to Health and Safety Code Section 39660(f):

“The office and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of, and exposure to, usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community.” (emphasis added) (IC25-15-1)

Agency Response: Please see our response to *Section A-10.12.*, *“Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released”* and *Section A-9.9.*, *“Comment: Sectors With Chemicals Without Health Risk Values”* for discussion of why the reporting of substances without health risk values is important and necessary. For a broader discussion of the toxics lists developed for CTR and EICG reporting, see the

response to Section A-10.14., "Multiple Comments: Concerns Regarding Adding Substances Without Health Risk Values".

B-8.3. [Multiple Comments: Report All Toxic Air Contaminants](#)

Comment: We need to immediately address all of the air toxics that are released into our air and identify all of the places that are releasing emissions, especially pollutants like PFAS. Currently, we don't know about all of the places that are releasing emissions into the community. We need to be able to identify them. Industries should be required to report all of the chemicals that they are discharging so we can make sure that harmful discharges are reduced. We cannot allow pollutants like PFAS, called "forever chemicals" because they never break down, to be brought into our communities. PFA's are linked to cancer and other health effects. (CSS-15-1)

Comment: I want the industries to report all of the chemicals that they are discharging to we can make sure that harmful discharges are reduced. (DG-15-1)

Comment: We need to immediately address all of the air toxics that are released into our air and identify all of the places that are releasing emissions, especially pollutants like PFAS. (ORTK-CSS-15-1)

Comment: It's critical that all toxic pollutants, including pesticides, are taken into account that cause cancer or other health problems that leave our communities at risk. These should all be included in the reporting so we have a complete understanding of what communities face.

We see this disproportionate burden in the use of pesticides, many of which are Toxic Air Contaminants and are used in close proximity to schools and daycares around the state. Many of these compounds can cause health impacts at very low doses and can have a particularly devastating impact on children who are especially vulnerable as they undergo sensitive stages of development. In 2014 the California Department of Public Health issued its report "Agricultural Pesticide Use Near Public Schools in California," finding that while Latinx students comprised 54% of the student population in the 15 counties studied, Latinx students were 46% more likely than white students to attend schools with use of highly hazardous pesticides within ¼ mile and 91% more likely to attend schools with the highest use of highly hazardous pesticides.

This disproportionate impact is seen not just at schools but also in the pronounced racial disparity in concentration of pesticide use between counties with the largest share of Latinx residents and those with the smallest. California counties with a majority Latinx population use 906% more pesticides per square mile than counties with fewer than 24% Latinx residents. The two groups of counties have a similar total population and area. In the eleven counties with a majority Latinx population, there were 22 pounds of pesticides used per person in 2018, or 2,373 pounds per square mile. By contrast, for the 25 counties with the lowest proportion of Latinx residents (fewer than 24%), pesticide use was just 2.4 pounds per person, or 262 pounds per square mile. These regions, such as the San Joaquin Valley, that suffer from

disproportionate use of pesticides, including Toxic Air Contaminant pesticides, are also regions identified as bearing the burden of other pollutants. It's critical that the state consider these toxic pollutants together in order to garner a true understanding of the potential health risks communities face.

Last year CARB formally acknowledged its authority over Toxic Air Contaminant pesticides, noting that:

“ . . . per section 39655 of the Health and Safety Code and section 14022 of the Food and Agricultural Code, some pesticides are also classified as TACs and so can be regulated as a TAC, and as smog-forming compounds as they become waste gases outside of their pesticidal use; State law establishes a system of overlapping authorities between pesticide and air regulators to address these complex problems.” *CARB Resolution 20-06, AB 617 Community Air Protection Program – Community Emissions Reduction Program for Shafter, adopted on February 13, 2020.*

In November 2020 the following language was added to the Board resolutions, directing staff to integrate pesticide data for uses under DPR's authority with data under ARB's authority:

BE IT FURTHER RESOLVED that the Board directs CARB staff to work with the California Department of Pesticide Regulation, CAPCOA, air districts, and other stakeholders to create a single, unified list that includes all relevant toxic air contaminants, including agricultural chemicals and pesticides, with the goal of cross-linking pesticide and other toxics emissions databases to provide a unified site to access air toxics emissions data. *CARB Resolution 20-31*

More work is needed on the integration of pesticides between CARB and DPR, and we request the item be discussed in the fall briefing this year. (CPR-15-1)

Agency Response: For an applicable facility, PFAS are required to be reported if emitted by the facility. CARB staff have added over 100 pesticides to the substance list. Please also see CARB's response to *Section A-10.1., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both"* and *Section A-10.19., "Comment: Pesticides"*.

B-8.4. Comment: Evaluation of Substances - Eliminate Chemical Groups

CARB should eliminate the seven chemical groups from ChemSet 1. The 171 individually listed substances - which include substances in each of these groups - should be the near-term priority. CARB does not have sufficient information for the other substances in these groups to include them in the first phase of implementation. (IC25-15-1)

Agency Response: This comment primarily applies to the concurrent EICG rulemaking, but the EICG response is included here because significant elements of the CTR Appendix B substances subject to reporting are based on the EICG

Appendix A amendments. CARB staff would like to clarify that this comment appears to apply to the eight (not seven) PFAS chemical groups in Appendix A, since the appendix also lists 171 individual substances separately from the eight PFAS groups. We interpret this comment as basically requesting that none of the PFAS chemical functional groups be included in ChemSet-1 (which is the earlier priority phase of the new chemicals). CARB staff considered and balanced this comment against others that raised the importance of continuing to address emerging and slightly modified PFAS chemicals through the functional groups. Please refer to *Section A-10.11., "Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available"* and *Section A-10.7., "Multiple Comments: Support Substances"* in the 45-day comments for discussion of the importance of the chemical functional groups.

Weighing all the comments, CARB staff has made changes to 3 out of 4 PFAS groups that this comment applies to (the other 4 groups were initially proposed as ChemSet-2). Specifically, CARB staff changed the Effective Phase from ChemSet-1 to ChemSet-2 for the following PFAS groups: 1) Perfluoroalkyl carbonyl, carboxylic acid, and alcohol compounds, 2) Perfluoroalkyl sulfonyl, sulfonic acid, sulfonate and sulfonamide compounds, and 3) Perfluoroalkyl phosphate compounds.

However, CARB is leaving one remaining PFAS group, Fluorotelomer-related compounds, in the high-priority list (ChemSet-1). This group is emerging as one of the most important and most prevalent PFAS groups being used to replace the banned or phased out original PFAS chemicals (PFOA and PFOS), and has shown significant and growing commercial usage. Furthermore, studies have found fluorotelomer compounds in airborne samples, so they are of definite concern for air emissions. The environmental and body persistence properties of these substances make them a high priority for collecting emission inventory data. The public health challenge is that there are many forms of fluorotelomers that can be created through slight chemical modifications. To cover these chemicals comprehensively, CARB needs to address the known individual fluorotelomers already in use (e.g., those that have already been assigned a Chemical Abstract Service number by existing lists that the staff reviewed), as well as ensuring that the reporting requirements will be applicable to newly created fluorotelomer-related substances.

B-8.5. [Multiple Comments: Air Toxic Health Values - Include all Toxics](#)

Comment: All Identified Toxic Pollutants Should Be Included: The proposals defer reporting for many substances without a "health value," like a reference dose or cancer risk estimate, until an unspecified future time. Critically, communities cannot wait until health values are set to know the toxic pollutant levels affecting them. The final CRT rules and EICG can and should include all identified toxic air pollutants, even those without a health value. (EDF-15-1)

Comment: The proposal would omit reporting of toxins for which no health value has been assigned. We ask that all toxic emissions be reported. Even if they have no health values currently, the information will be helpful for residents to understand what is being emitted in their communities. (CCA-15-1)

Comment: We suggest changing the rule to include all pollutants emissions, especially if we do not have health values for them. We must do a robust hazard assessment and identify all pollutants that are toxic. CARB should base its decisions and actions on science. Saying that pollutants don't matter because agencies have not set health values yet is not truthful or scientific and perpetuates harm to human health. (PSRLA-15-1)

Comment: At a minimum, ChemSet 2 implementation under the EICGR should be phased in based on availability of health reference values for individual substances, as CARB is proposing for the CTR regulation. The value of the relief provided under the CTR regulation for ChemSet 2 will be greatly diminished if quantification and reporting of all ChemSet 2 substances is still required under ECIGR. (IC25-15-1)

Comment: Appendix A-1 only identifies the source lists from which each new listing is derived. We believe this section should also identify any available health reference values (HRV) that CARB intends to use for AB 2588 compliance and the specific source of each HRV. At present, stakeholders have no certainty that "available" HRVs reflect the scientific rigor and validation necessary to support future facility screening, health risk assessment or other regulatory purposes. (IC25-15-1)

Comment: It will be important that future investments of CARB, local air district and regulated community resources are directed toward actions that will result in material health risk reductions. Including substances that have theoretical hazards but are not likely to present significant health risks can dilute the public health benefits that would otherwise result from the regulation. The development of health reference values is a necessary step in determining the potential for a substance to present a significant health risk. We also believe that CARB should phase in EICGR reporting requirements for new substances based on availability of health reference values, as it has proposed for reporting of ChemSet 2 substances in the CTR regulation. (IC25-15-1)

Comment: Many of the new chemicals added to the air toxics list do not have derived "health values" or risk-based limits. The state will not require reporting for emissions of these chemicals, which is problematic, because reporting information could help CARB identify hot spots and prioritize chemicals for evaluation of health-based limits. Such reporting data could also identify pollution hot spots that warranted emergency action. There is no defensible reason to stall emissions reporting for chemicals without health-based limits. (SC-15-1)

Comment: CARB should base its decisions and actions on science. Saying that pollutants don't matter because agencies have not set health values yet is not truthful or scientific. All of the pollutants listed should be reported. CARB has it backwards by

saying that air toxics without health values don't need to be reported. They do need to be reported. This can still identify those that emit a lot of toxics. You can see the pattern without a health value. Taking out toxic pollutants that cause cancer and other problems leaves our communities at risk. These should all be included in the reporting so we know what is out there. (DG-15-1)

Comment: Saying that pollutants don't matter because agencies have not set health values yet is not truthful or scientific. All of the pollutants listed should be reported. Removing toxic pollutants that cause cancer and other problems because a health value is not set yet leaves our communities at risk. These should all be included in the reporting so the public is fully informed. (ORTK-CSS-15-1)

Comment: The rules must require that all identified toxics and pollutants be included, even if there is not a completed health value assessment to date. Waiting until health outcomes are apparent (which may be delayed because they occur with small exposures over time) will be too late. We must prevent illness by using caution. This is true for all chemicals including toxic gases and pesticides. (ANHE-15-1)

Comment: a. Toxic Compounds Have Been Arbitrarily Exempted from Reporting. Perhaps the most significant improvement to policies in the rules adopted by the Board is the long overdue update to the list of substances to be considered as air toxics.

However, the EO proposal is to remove from reporting substances for which there is no established "health value" or "toxicity value" adopted by an agency like a REL adopted by OEHHA.

There is no substantive rationale for this. Usually, toxicity values are developed both identification of hazard traits including toxicity combined with some evidence of presence or release. Even if a substance were extremely hazardous, it would not like be a priority to develop a toxicity value if it were not being used or emitted.

Compounds identified through the exhaustive review conducted by ARB staff were included in the list to be evaluated by the facilities subject to the rule. The facilities are to evaluate whether they emit (or in some case use) the substance. If they don't use it or release it, there is no reporting.

We would expect that some of the substances included on the list due to their hazard traits might be used or released in large amounts. We would also expect that some of the substances included on the list due to their hazard traits would not. This would then provide a substantive basis for proceeding to develop or seek out toxicity values. You would go on to develop toxicity values for substances that have high hazard traits and are being used or released. You would probably not go on to develop toxicity values for substances that have high hazard traits but that are not being used or released. It would not be a priority.

The EO proposed changes would turn this on its head. It would exempt substances for which a health value had not yet been adopted from review by facilities. So, facilities would not determine whether they were using or releasing that substance. There would not be any information to provide a substantiated basis to make a decision about whether to develop a toxicity or health value.

If you skip the ascertainment step and simply exempt toxic compounds, then what would ever cause the agency to go back and develop a health value? They would go into another black hole of ignorance. Again, the people would assume the burden of uncontrolled releases for any of the compounds in use.

It may be important to acknowledge that local air districts have in the past ignored toxic air contaminants for which such health or toxicity values have not been adopted. This is an unfortunate practice. But it should not be condoned and expanded by CARB.

It is also relevant to note that the pace of development of such toxicity values can be very slow, in part because such evaluations are routinely contested and sometimes even litigated by vested interests.

It is appropriate to use provisional values developed under the Office of Environmental Health Hazard's (OEHHA's) existing method and used to provide a point of reference. In the meantime, the reporting data is needed to set priorities for developing the health values. (AK-15-1)

Agency Response: Please see our response to *Section A-10.1., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both"* for a discussion why not all EICG substances are reportable under CTR. Please also see our response to *Section A-10.14., "Multiple Comments: Concerns Regarding Adding Substances Without Health Risk Values"* and *Section A-10.12., "Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released"* responding to comments and concerns regarding the required reporting of substances that do not have health risk values. No regulation updates are necessary because the amended regulations require reporting of the most important toxics data needed, while reducing reporting burdens to the extent possible.

B-8.6. Multiple Comments: PFAS - Include in ChemSet2

Comment: Proceed with the following change: Deferral of the PFAS functional group to ChemSet 2. This deferral makes sense given the enormous breadth of this functional group and the lack of available quantification methods and health reference values for individual substances. We note however that Appendix A-1 still retains fluorotelomer compounds in ChemSet 1 and would urge CARB to include these compounds in ChemSet 2. (IC25-15-1)

Comment: Reporting Perfluoro and Polyfluoro compounds as Air Toxics. CCEEB provided comments and questions about perfluoro and polyfluoro (PFAS) compounds in our letters from November 16, 2020 and February 25, 2021, which we incorporate here by reference. We appreciate the move to reclassify this category of compounds into ChemSet-2, and we look forward to working with staff to understand how airborne emissions of PFAS compounds drive human health exposures, as well as the development of valid test methods for different sectors and industrial uses, including remediation activities and the use of recycled water onsite. (CCEEB-15-1)

Agency Response: The CTR lists of substances in Tables B-2, B-3, and B-4 of Appendix B are directly based on the concurrent work to update Appendix A of EICG. In developing the substances subject to reporting CARB staff considered and balanced this and other comments against others that raised the importance of continuing to address emerging and slightly modified PFAS chemicals through the functional groups. Please refer to *Section A-10.11.*, “Multiple Comments: Substances Where No Toxicity Data, Methodologies, or Emissions Quantification Not Available” and *Section A-10.7.*, “Multiple Comments: Support Substances” in the 45-day comments for discussion of the importance of the chemical functional groups. Weighing all the comments, although the specific comment applies to EICG, staff incorporated conforming edits to CTR under the 15-day modifications.

Specifically, the originally proposed CTR Table B-1 (renumbered to B-2 under the 15-day modifications) was revised under 15-day changes to remove the following three PFAS chemical groups including (1) Perfluoroalkyl carbonyl, carboxylic acid, and alcohol compounds, (2) Perfluoroalkyl sulfonyl, sulfonic acid, sulfonate and sulfonamide compounds, and (3) Perfluoroalkyl phosphate compounds. This was done because under the EICG 15-day modifications, the groups were moved from EICG ChemSet-1 to ChemSet-2. However, CTR currently includes only the substances from EICG ChemSet-2 in CTR if the substances have health risk values. These three functional group categories contain some substances which have health values (such as PFOS and PFOA, which are included in Table B-2 and will be subject to annual reporting), but the groups also include numerous substances which do not yet have numeric health values. For this reason, these functional groups were not include in Table B-3 of CTR at this time, however, in the future, CARB will consider addition of additional substances or groups of substances to Table B-3, through the rulemaking process.

CARB staff has retained one PFAS functional group in ChemSet-1 (corresponding to CTR Table B-2). The remaining PFAS chemical functional group, “Fluorotelomer-related compounds”, is emerging as having significant and growing commercial usage, and is one of the most important and prevalent PFAS groups used to replace the banned or phased out original PFAS chemicals (PFOA and PFOS). Therefore, the overall group is retained in Table B 2 as well as specific fluorotelomers of concern. Further, individual fluorotelomers of specific concern for wastewater treatment facilities are specifically identified in Table B-4

of CTR under the 15-day modifications, to aid the industry sector in focusing quantification efforts, considering the large number of fluorotelomer substances that exist.

This PFAS group-specific emphasis is necessary because studies have found fluorotelomer compounds in airborne samples, so they are of definite concern for air emissions. The environmental and body persistence properties of the PFAS make it a high priority to collect the emission inventory data about these growing fluorotelomers as expeditiously as possible. The public health challenge is that there are many, slightly varying forms that can be designed of fluorotelomers. To cover these fluorotelomers comprehensively, CARB needs to include both the known individual fluorotelomers already in use (e.g., those that have already been assigned a Chemical Abstract Service, or CAS, number by existing lists that the staff reviewed, including those in CTR Table B-4)), as well as defining the overall chemical functional group in Table B-2 for the fluorotelomer-related compounds. Defining the fluorotelomer chemical functional group in the EICG Appendix A ensures that applicability will also be determined by the group definition. This is essential so that a minor chemical modification that results in a new CAS number will not skirt around reporting requirements, and will still meet the applicability for a chemical in the group to be reported. Please refer to *Section A-10.6., "Multiple Comments: Toxics List - Updates"* and *Section A-10.2., "Multiple Comments: Support for Reporting Toxics Under Both Regulations - Full List"* in the 45-day comments for further discussion of the importance and necessity to include chemical functional group applicability for emerging chemicals.

B-8.7. Multiple Comments: Air Toxic Health Risk Values - Updates to Values

Comment: ChemSet-2 Chemicals: The proposed amendments to Table B-3 of Appendix B introduce a high level of uncertainty in year-to-year reporting, especially for a company as diversified as PG&E. During the Q&A session of the February 11, 2021 webinar, CARB staff stated that any acceptable health risk value, be it Proposition 65, the American Conference of Governmental Industrial Hygienists (ACGIH), the National Institute for Occupational Safety and Health (NIOSH), the US Environmental Protection Agency (EPA) Integrated Risk Information System (IRIS) database, or others, could trigger inclusion into Table B-3 of AB617 CTR. PG&E acknowledges that CARB mentioned that it would track the status of these chemicals, but the ever-changing chemical list for annual reporting introduces a high level of non-compliance risk for PG&E.

PG&E requests that CARB provide explicit information in upcoming implementation guidance on who will track this information, when updates should be expected, and how the information will be relayed to facilities by local air districts. (PG&E-15-1a)

Comment: Reporting substances with no quantification method but with (any) published health value. Table B-3 in the CTR rule, which corresponds to ChemSet2 of

Appendix A-1 of the EICG, lists substances that must be quantified starting with data year 2026. During its February 11, 2021 workshop, staff indicated that this list was based on the availability of any published health value, regardless of the exposure pathway and whether or not the originating health study considered exposures via airborne emissions. As CCEEB commented in our February 25, 2021 letter, we hope to continue to work with CARB staff to understand its intended use of published health values in assessing air toxics, and ask that staff include in the FSOR a discussion of the degree of uncertainty when using such an approach to characterize risks from air toxics.

In terms of AHS health risk assessments and facility prioritization, CCEEB understands that only health values approved by the Office of Health Hazard Assessment and reviewed by the Scientific Review Panel will be used, as required under AB 2588. That is, Table B-3 and Appendix A-1 are not meant to shortcut or circumvent the statutorily required scientific review process, but can help inform priorities for this work. (CCEEB-15-1)

Agency Response: Table B-3 of Appendix B within CTR includes only those substances with known health risk values in Appendix A-1 of EICG that will be phased in under "ChemSet-2". Staff research on the known health values of these chemical substances is not meant to circumvent statutory requirements of OEHHA and SRP's scientific review process on the health impacts of toxic chemicals but rather inform and prioritize those chemicals to be reported under both CTR and EICG. Any updates to CTR Table B-3 to add or remove substances in the future will be done through a complete rulemaking process, which will prevent any year-to-year uncertainty or surprises regarding the substances to be reported as the additional toxics reporting requirements are phased in. For additional information regarding the use of health risk values, see *Section A-10.14., "Multiple Comments: Concerns Regarding Adding Substances Without Health Risk Values"*, *Section A-10.12., "Multiple Comments: Limit Substances Phased-In Based on Method Availability, Health Risk, or Expected to Be Released"*, and *Section A-9.9., "Comment: Sectors With Chemicals Without Health Risk Values"*.

B-8.8. [Comment: Evaluation of Substances - Present in Ambient Air](#)

We continue to believe that CARB should provide information on its evaluation of individual substances listed pursuant to Health and Safety Code Section 44321 (f) to support the conclusion that each substance is present in ambient air at levels that constitute a chronic or acute threat to public health. (IC25-15-1)

Agency Response: As mentioned previously (see *Section A-10.17., "Multiple Comments: Functional Groups - Concern"*, *Section A-10.20., "Multiple Comments: Waste Sector - Compost Chemicals"*, and *Section B-8.11., "Comment: Air Toxic Health Risk Values"*) the CTR lists of reportable toxics are based on the EICG Appendix A toxics list. CTR will continue to rely on work

performed under EICG regarding updating CTR substances subject to reporting. Therefore, in response to this comment, refer to EICG's 45-day comments *Section A-10.10., "Comment: Substance List Justification"* in regards to information on the evaluation of individual substances added to Appendix A pursuant to Health and Safety Code Section 44321(f).

B-8.9. Comment: Air Toxic Health Values - Only Include Substances with Values for CTR

Proceed with the following change: Requiring annual reporting for ChemSet 2 substances under the CTR regulation only if a health reference value is available. (IC25-15-1)

Agency Response: As part of the 15-day revisions to CTR, staff proceeded with the mentioned change. Table B-3 of Appendix B of CTR only includes those ChemSet-2 substances from the revised EICG Appendix A that have health risk values.

B-8.10. Comment: PFAS - More Urgency Needed

d. The proposal seems to weaken provisions for highly dangerous PFAS chemicals. Another important element of the rules adopted by the Governing Board in November is that they bring PFAS chemicals into the air toxics program. This is also long overdue but welcome.

The PFAS compounds have the most dangerous combinations of traits as they can be toxic, extraordinarily persistent, bioaccumulative, and mobile in water. Hundreds or thousands of them are distributed in commerce, and those in use are changing all the time.

US EPA and chemical manufacturers hide the chemical identities of many PFAS chemicals, obstructing environmental management and health research. Environmental agencies have been largely negligent up to now in failing to take action to control these compounds.

The PFAS chemicals were among those listed with regard to functional chemicals groups. This was done to allow for inclusion of relevant compounds that emerge at a later point or for which chemical identify information is withheld or for which methods have not been made available. I don't see where this appears in the current draft, though the PFAS requirements have been changed and expanded in some ways, and the presentation is confusing.

The EO proposal also pushes back reporting for these supremely problematic compounds. Some of them are in a second reporting tier and some in the third. Yet a different set is identified for reporting by wastewater facilities but not until 2029.

Due to the high hazards of these chemicals, they should be moved back into the early inclusion group. It is imperative to begin to understand these emissions. Reporting should not be pushed back, and, if anything, accelerated.

The rationale for extended deadlines is to “provide facilities additional time to prepare for complying with the requirements. ” Any facility will want extra time to prepare for complying with requirements. However, it is the responsibility of the Board and the districts to provide for the health of the people. In this case, these are highly dangerous compounds that should not be allowed to be emitted in any significant quantity, and deadlines to determine if they are present in emissions should not be extended.

The reasons given for this are time to be spent on data management and training and time for facilities to identify compounds. However, because the mix of compounds is not static and changes over time, delaying will not solve the problem of preparation. If you spend six years figuring this out, then whatever you decide to do will be outdated. ARB and the districts need to modernize their methods to be capable of addressing inputs that can be expected to change rather than to rely only on delays of reporting.

In the Modifications to Appendix D, In the second paragraph, with reference to the main table for Appendix D, the note would allow facilities to use alternative testing for PFAS-related compounds if the protocol includes substances in note 7. This would not replace functional definition. That will be needed because the combination of PFAS in use changes constantly. It may be appropriate to require the testing to at least include the substances in note 7 but the methods must also evolve over time to incorporate additional compounds that are identified and to use non targeted methods and estimates of total organic fluorine compounds to provide metrics for the amount of PFAS that may be present but not included on the current list. (AK-15-1)

Agency Response: CARB appreciates the support in recognizing the importance of adding PFAS chemicals into the air toxics program as well as the PFAS functional group to capture new and emerging PFAS substances in industry. CARB understands and recognizes that PFAS compounds can be toxic, persistent, bioaccumulative, and mobile in water. Refer to the response for *Section B-8.6., “Multiple Comments: PFAS - Include in ChemSet2”* for the strategy incorporated by staff under the 15-day modifications to address this and other PFAS-related comments as they pertain to CTR.

Additionally, refer to *Section A-10.17., “Multiple Comments: Functional Groups - Concern”* on the importance of collecting PFAS emissions and managing PFAS as a functional group class, and *Section A-10.1., “Multiple Comments: Support for Reporting Toxics Under Both Regulations - All Toxics for Both”* on how the phasing of the PFAS chemicals was determined. Also, note that EICG and CTR regulations have will have future updates, so there will be opportunities to continue addressing emerging chemicals that meet the definition and applicability of the functional group classes in the future.

B-8.11. [Comment: Air Toxic Health Risk Values](#)

Saying that pollutants don't matter because agencies have not set health values yet is not truthful or scientific. All of the pollutants listed should be reported. Removing toxic pollutants that cause cancer and other problems because a health value is not set yet leaves our communities at risk. These should all be included in the reporting so the public is fully informed. (CSS-15-1)

Agency Response: Under CTR, when full implementation is in place, over 60,000 facilities will be subject to reporting. Because of the number of facilities, and the resources required to collect and process data, staff prioritized the toxics subject to reporting to focus on those of most concern, and those with established health risk values. As mentioned previously (see *Section A-10.17.*, “*Multiple Comments: Functional Groups - Concern*” and *Section A-10.20.*, “*Multiple Comments: Waste Sector - Compost Chemicals*”) the CTR lists of reportable toxics are based on the EICG Appendix A toxics list. Table B-2 of CTR Appendix B includes ChemSet1 substances under EICG. CTR Table B-3 includes ChemSet2 EICG substances with established health risk values. CTR Table B-3 includes specific PFAS substances reportable for wastewater treatment facilities, beginning with 2028 data reported in 2029.

Under the CTR amendments, this is a significant expansion of toxics reporting for facilities statewide, submitted on an annual basis (unlike under EICG which only requires quadrennial reporting for most facilities). Also, under the existing CTR requirements, facilities are also subject to reporting the toxics under the preexisting 2007 EICG Appendix list of toxics.

With CTR, it was not practical or necessarily beneficial to require reporting of all EICG Appendix A substances on an annual basis. Instead the focus was on the most likely significant substances. But, as a potential fail-safe, every four years most facilities will have some reporting obligation under EICG, in which all Appendix A substances must be evaluated, so any high-level emissions of substances not required to be reported under CTR can be identified under the EICG reporting. For additional information relevant to the comment, see *Section A-1.1.*, “*Multiple Comments: General Support Toxics and Inventory*” for a discussion of how substances were added to EICG Appendix A, and *Section A-9.9.*, “*Comment: Sectors With Chemicals Without Health Risk Values*” for a discussion of health risk values.

B-9. Comments Pertaining Only to the EICG Proposed Amendments

B-9.1. [Multiple Comments: Portable and Mobile Equipment - Motor Vehicle Concerns](#)

Comment: In terms of the new subsection (1) on motor vehicles, CCEEB asks staff to clarify in the FSOR what is meant by “routine and predictable motor vehicle activity at

the facility” and provide specific, detailed examples of what activity is and is not included. (CCEEB-15-1)

Comment: In terms of the new subsection (2) on non-motor vehicle mobile sources, CCEEB finds the amended language confusing and hard to interpret. For example, the first sentence applies to mobile sources which operate “within the facility” and says, “the following inventory information is required to be included...” However, there is no “following information” described afterwards. The next sentence says the facility operator must report “sources which stay within the facility,” but examples given include locomotives, airplanes, pleasure craft, and ships, which presumably do not remain within the facility footprint. The section does say that a district “may” require activity data on mobile sources that “are periodically located within the facility property,” but does not indicate when or how a district would make this determination, nor is any guidance available to explain how these mobile sources would need to be quantified. CCEEB asks that staff provide clarification in the FSOR or consider future 15-day changes to provide consistency and clarity to these requirements. (CCEEB-15-1)

Agency Response: These comments pertain only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please refer to the detailed responses provided to *[this CTR FSOR, Section A-11.1, “Multiple Comments: Mobile Sources - Remove Requirement”]*, *[this CTR FSOR, Section A-11.3, “Multiple Comments: Mobile Sources - Dust Emissions”]*, *[this CTR FSOR, Section A-11.25, “Comment: Mobile Sources - Ships and Marine Vessels”]*, and *[this CTR FSOR, Section A-11.24, “Comment: Mobile Sources - On-Site Only Clarification”]*. Examples are given in those prior responses to clarify many cases to illustrate the intent of “routine and predictable”, and to compare full reporting vs. just reporting of “activity” information regarding usage. Among the examples provided are examples of the types of motor vehicle sources that would not be covered by reporting (e.g., employee cars are not covered), and examples of non-motor-vehicle mobile equipment that stays on the facility property and would be subject to full reporting (e.g., a switcher locomotive that stays onsite at a railyard facility), and examples of “activity” data reporting for sources that are periodically (“routinely and predictably”) operated onsite (e.g., idling of locomotives or aircraft during predictable maintenance that is done onsite at a maintenance type of facility).

The comment asked for clarification regarding the wording in EICG Section VIII.G.(2) regarding “the following information is required to be included in the facility’s emission inventory plan and emission inventory report”. This sentence is a lead-in sentence that is referring to the next two sentences that follow it in Section VIII.G.(2), which make a distinction between two different cases that require differing levels of information to be reported. In the first case, if the source stays within the property (e.g., the switcher locomotive example above), then the information that is required to be reported is a complete emission inventory of the listed toxics. In the second

case, if the source is only periodically located on the property, then the information that is to be reported would be "activity data regarding the usage" of the sources, which the district "may" require.

B-9.2. [Comment: Cumulative Impacts](#)

Proceed with the following change: The new draft eliminates language in Section IV stating that a cancer burden of 0.5 or greater is an "acceptable indication of significant population exposure" [Section IV (A)(1)(d)(iii)]. This change is consistent with CARB's clarification that air district evaluation of population-wide impact assessments is not required. (IC25-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please see response to [this CTR FSOR, Section A-11.15, "Comment: Establishing a Predetermined Cancer Burden"] in EICG's 45-day comments.

B-9.3. [Comment: EICG Appendix C Suggestion for Readability](#)

Other changes to Appendix C. Here and elsewhere, the staff are continuing to try to improve the formatting and usability of the data table, and this is appreciated.

One additional improvement would be to use two columns for the emittent ID and the CAS number. There is an entry for every substance for the emittent ID, which can be the CAS number but is not always the CAS number. It is a continuing hassle to try to match these data fields because of the differing types of identifiers used in this one column. One way to make that simpler would be to list the ones that are CAS numbers in a separate column (as well as in the emittent column when used as emittent ID). This could be done on a "supplemental" version of the data table available as a download rather than in the printed version if preferred. It would reduce the need for manual manipulation of the data. (AK-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB appreciates this comment and understands the issue described. The reason behind intermingling CAS with CARB's assigned 4-digit IDs into a single column is to avoid redundancy in the printed regulatory documents; however, the suggested solution seems viable and we will add a column in the supplemental version that lists only CAS numbers.

B-9.4. [Comment: Evaluation of Substances - Reclassifications](#)

Proceed with the following change: Changes to Appendix A-1 reclassifying 25 newly added substances from "existing" to ChemSet 1. This change clarifies that these

substances are subject to the phase-in provisions established in Section II rather than the current facility reporting cycle. (IC25-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

As requested by the commenter, staff retained the referenced 15-day change in the final amendments.

B-9.5. [Comment: General - District Setting More Stringent Requirements](#)

With reference to the proposed 15-day changes, ARB States,

Modifications to Section I. Purpose and How to Use This Report. Section I is modified to include clarifying language that air districts have the authority to adopt more stringent requirements than those outlined in the EICG. The change was made to align with Section 44365(b) of the Health and Safety Code that reads:

"This part does not prevent any district from establishing more stringent criteria and requirements than are specified in this part for approval of emissions inventories and requiring the preparation and submission of health risk assessments. Nothing in this part limits the authority of a district under any other provision of law to assess and regulate releases of hazardous substances."

With reference to the attached Study from Columbia University and the Johns Hopkins Bloomberg School of Public Health entitled, "*Vent Pipe Emissions from Storage Tanks at Gas Stations; Implications for Setback Distances*", ARID Technologies supports air districts establishing more stringent criteria and requirements regarding reducing benzene emissions from fuel station storage tank vent lines. These pervasive emissions typically occur in the off-hours and during Holiday shut down periods at California fuel stations.

We think that science and engineering should lead the process for optimizing toxic emissions reductions with associated economic benefit. We also think that fuel marketers should be given options for choosing the most cost-effective means to comply with logical regulations, considering site specific factors for individual marketers.

Given the transition to the Biden Administration, with robust rulemaking, the power and creativity of inventors and entrepreneurs can be unleashed to further innovate and provide elegant solutions to a wide array of current and future energy and environmental challenges. (AT-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Much of the AB 2588 Hot Spots Program implementation relies on enforcement and discretion at the Air District level. CARB Staff appreciate ARID Technologies in supporting implementation at the Air District level to ensure the protection of public health.

B-9.6. [Comment: Portable and Mobile Equipment - Include Clarifications for EICG](#)

Proceed with the following change: Removal of references to lawn mowers, leaf blowers and chainsaws as examples of non-motor vehicle mobile sources [Section VIII (G)(2)]. We interpret this change to mean that these sources are not required to be included in a stationary source emissions inventory. Similarly, we maintain that emissions from other state and federally regulated mobile sources, such as transitory vehicles and ships, do not belong in an AB 2588 emission inventory and references to these sources should be removed from the regulation. (IC25-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB has removed lawn mowers, leaf blowers, and chainsaws under Section VIII.G.(2) in the EICG 15-day changes. Please note that staff also received a public comment to include ships under Section VIII.G.(2) and this non-motor vehicle mobile source has been added.

B-9.7. [Comment: Portable and Mobile Equipment - Motor Vehicle Concerns](#)

Concern with the proposed collection of mobile sources (motor and non-motor) emissions data under the EICG. LADWP is concerned with the proposed collection of emissions data for on-site mobile sources in EICG section VIII(G)(1) and (2). The proposed language is vague and does not specify any requirement to consider the accuracy and trueness of the data. There is currently no guidance, or CARB- and/or District-approved procedure to quantify dust emissions for “routine and predictable motor vehicle activity”. LADWP understands that the facilities are able to propose a quantification method; however, there is an inherent risk that the proposed method may not be considered acceptable by CARB or the air districts.

In addition, the excerpt below from Section VIII(G)(2) includes an unsupported reference to inventory information. The paragraphs following this section fail to specify the inventory information needed for non-motor vehicle mobile sources.

(2) Other (Non-Motor Vehicle) Mobile Sources: For non-motor vehicle mobile sources (those not meeting the definition of motor vehicles) which operate within the facility, the following inventory information is required to be included in the facility’s emission inventory plan and emission inventory report...

It is also unclear if data collection applies to external vehicles that enter the facility, such as delivery trucks, contractors, and employee vehicles. Inclusion of external

vehicles poses a similar issue to facilities being asked to report emissions from transient portable equipment under the CTR. The facility operator would need to implement a data collection system to track all vehicles within the facility. If external vehicles are included, the facility operator would have to obtain data from external users, but the external users are under no obligation to provide the data.

At this time, LADWP recommends removing Section VIII(G)(1) and (2) and to continue discussions with stakeholders to further vet this concept. Alternatively, LADWP recommends that external vehicle usage be excluded altogether since it is not part of core facility operations. (LADWP-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please see [this CTR FSOR, Section A-11.24, "Comment: Mobile Sources - On-Site Only Clarification"] in the responses to 45-day comments for clarification on the on-site mobile sources. Please also see the detailed responses in [this CTR FSOR, Section A-11.1, "Multiple Comments: Mobile Sources - Remove Requirement"] and [this CTR FSOR, Section A-11.3, "Multiple Comments: Mobile Sources - Dust Emissions"], regarding the interpretations for including specified onsite mobile sources and the toxic components of their dust emissions, as well as the 15-day changes made to remove lawn mowers, leaf blowers, and chainsaws from the list of examples, and add ships. Additionally, in response to comments we have also posted the 1989 letter on our website for historical reference, and included the letter as an additional FSOR reference. Please note that the letter itself does not need to be added as an EICG appendix because the new section VIII.G. contains the same provisions as the letter and was added to the EICG specifically to bring the contents of the letter into the regulation. It would be redundant to add the letter as an appendix to the EICG when Section VIII.G. covers the same content.

B-9.8. [Comment: Portable and Mobile Equipment - Motor Vehicle Concerns](#)

Section VIII.G.(1) and (2) - Motor Vehicles and Non-Motor Vehicle Mobile Sources. CCEEB continues to have concerns with CARB interpretation of Health & Safety Code §§ 44345(b) and 44340, and incorporate by reference our comments to the board on November 16, 2020. At a minimum, we ask staff to post its 1989 legal memo on mobile sources emissions to the EICG webpage and include it as an appendix or attachment to the FSOR as so that it can be included as part of the formal regulatory documents. (CCEEB-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please refer to [this CTR FSOR, Section B-9.1, "Multiple Comments: Portable and Mobile Equipment - Motor Vehicle Concerns"] in the 15-day comment responses and please see [this CTR FSOR, Section A-11.24, "Comment: Mobile Sources - On-Site Only Clarification"] in the responses to 45-day comments for clarification on the on-site mobile sources. Further, please refer to the detailed responses in [this CTR FSOR, Section A-11.1, "Multiple Comments: Mobile Sources - Remove Requirement"] and [this CTR FSOR, Section A-11.3, "Multiple Comments: Mobile Sources - Dust Emissions"], regarding the interpretations for including specified onsite mobile sources and the toxic components of their dust emissions, as well as the 15-day changes made to remove lawn mowers, leaf blowers, and chainsaws from the list of examples, and add ships. Additionally, in response to comments we have also posted the 1989 letter on our website for historical reference, and included the letter as an additional FSOR reference. Please note that the letter itself does not need to be added as an EICG appendix because the new section VIII.G. contains the same provisions as the letter and was added to the EICG specifically to bring the contents of the letter into the regulation. It would be redundant to add the letter as an appendix to the EICG when Section VIII.G. covers the same content.

B-9.9. [Comment: Quantification Methods - Source Testing](#)

Proceed with the following change: New language in Section IX stating that "The district may require source testing of any process and/or device when there are no adequate emissions factors, existing source test results or other method available to determine emissions." This language appropriately clarifies that source testing is not required where other emissions estimation methods are available [Section IX (G)(a)]. (IC25-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

Please refer to EICG's 45-day comments [the EICG FSOR, Section A-6.10., "Comment: Implementation of Amendments - Best Available Data"] and [this CTR FSOR, Section A-11.16, "Comment: Explicitly Specify District May Require Source Testing When No Other Quantification Method Exists"] in regards to using best available data and methods.

B-9.10. [Comment: Two-Step Testing Protocol - Waste Sector](#)

This section shows excerpts of provisions from the formal EICG 15-Day Changes and our interpretations of those provisions for your confirmation. EICG: Section IX.H. Two-Step Process and Protocol for Specified Open Sources at Waste-Handling Facilities.

"Appendix D requires a two-step process and protocol for qualitative screening followed by quantitative testing, for specified open sources at waste-handling facilities. Due to the unique function and operation of these facilities in receiving and processing inflows over which they have significantly less control than a typical

business, waste-handling facilities are subject to their own phase-in schedule as outlined by Sector 3B in Appendix E. Waste handling facilities that emit greater than 10 tons per year of criteria pollutants and which are part of an approved pooled source test protocol may also follow the Sector 3B reporting schedule as set forth in Appendix E. For waste-handling facilities in an approved two-step testing process as set forth below, the Sector 3B phase-in schedule shall mean that the emissions from all operations at the facility are due to be reported by the 2028 data year reporting deadline, even if other processes in Sector Phases 1, 2 or 3 are present at the facility.

The two-step process applies to open sources at the following types of facilities for which waste-handling is the primary function:

Wastewater treatment at wastewater treatment facilities, including publicly owned treatment works (included in SIC 4952 or NAICS 221320);

Collection and disposal of refuse at landfills (included in SIC 4953 or NAICS 5622xx, 562920);

Composting of organic waste at composting facilities (included in SIC 2875, 4953 or NAICS 325314, 562212, 562219);

~~Recycling facilities, and material recovery facilities that separate organic waste from recyclable materials (included in SIC 4953 or NAICS 562212, 562920); Scrap and waste wholesale handling and recycling, including but not limited to junk metals, shredding operations, and auto dismantling (included in SIC 5093 or NAICS 423930).~~

In the first step, the facility operator shall submit an initial emission inventory plan that includes proposed testing protocols for qualitative testing of representative open sources and can include other sources at all relevant emitting processes, devices, or activities at the facility. The testing protocols shall be designed to identify all listed substances of concern for the facility (independent of the Effective Phase shown in Appendix A-1 for the substance) for purposes of emission quantification in the second step. Facilities already subject to on-going quadrennial/update reporting need not report the new Effective Phase substances in update reports due prior to the completion of the two-step process, as long as the facility is included in an approved two-step process and continues their reporting of existing substances in the interim.

This provision acknowledges the need for and allows waste sector facilities (wastewater, composting and landfilling) to perform a two-step process on all identified potential sources because:

The waste sector facilities cannot control the amount of EICG Appendix A-1 compounds they receive.

Unlike most other industry sectors, the material entering these facilities do not have Safety Data Sheets to estimate emissions of EICG Appendix A-1 compounds.

There are no emission quantification methods that exist for most of the EICG Appendix A-1 compounds for any identified potential source.

We interpret this section to allow waste sector facilities (as identified in Section IX.H.1) to work collectively to perform a statewide pooled emissions study that is defined by an approved emissions inventory plan identifying the proposed source testing protocols (based on guidance from CAPCOA or relevant air district) for qualitative testing of emissions from any identified potential sources (open, combustion or other reportable sources). CARB recognizes the benefit of performing a single statewide wastewater sector pooled emissions study to identify and then quantify (as part of step two) EICG Appendix A-1 emissions from all potential sources.

If a study of this nature (statewide) cannot be complete in time to comply with reporting deadlines as currently outlined in Sections IX.H.6 and IX.H.11, we understand that Section IX.G enables the air district to approve the time necessary to perform the scope of the statewide two-step pooled emissions study in full, while maintaining a firm reporting deadline of 2029 for reporting year 2028. (CASA-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff concurs with the overall intent and interpretations in the comment, but we would like to point out a few minor caveats to some specific wording to ensure clarity. (1) CARB staff is not comfortable with the blanket comment sentence that says: "There are no emission quantification methods that exist for most of the EICG Appendix A-1 compounds for any identified potential source". We suspect that sentence was meant to have a narrow context (e.g., pertain only to sources within waste-handling facilities, and only to the newly added substances), but even then, the sentence could be misconstrued (e.g., in general, there may always be at least some potential quantification options such as engineering calculations, or adapting of methods, etc.). That sentence seems unnecessary in any case, because the main point is in the next sentences, and CARB staff agrees that Section IX.H.1. allows waste-handling sector facilities to work collectively to perform a statewide pooled emission study. (2) CARB staff would like to clarify that in the next sentence, the emissions inventory plan should identify "all the appropriate quantification methods", including identifying the proposed source testing protocols...". (This helps clarify that the plan should be comprehensive, and it could include both testing as well as non-testing methods, depending on the source and/or chemical). (3) That sentence in the comment goes on to say: "...for qualitative testing of emissions from any identified potential sources (open, combustion or other reportable sources)." CARB staff concurs that the plan for the first step of the two-step protocol is for a "qualitative" testing and screening step, but we want to be sure the commenter is clear that the second step is quantitative. (4) CARB staff would like to clarify that the primary purpose of the two-step protocol (under EICG Appendix D and Section IX.H.) is to address the "open" sources (for which methods are less well defined and may require

flux-chamber type capture and testing). However, CARB staff agrees that nothing precludes a facility from including their other types of sources (e.g., combustion) in the same emission inventory plan process and coordinating with the air district on matching the same timing as the overall two-step process for the open sources.

B-9.11. Comment: Two-Step Testing Protocol - Waste Sector - Removal of Recycling and Material Recovery Facilities

The Two-Step Process at Waste Handling Facilities? As outlined in amendments to the EICG, Recycling facilities, and material recovery facilities that separate organic waste from recycle materials, have been removed from the section allowing a two-step process. One explanation provided by CARB Staff for this removal was that it is anticipated that the list of emissions from these facilities should be small, thus not needed. We request that the ability for these sources to use the two-step process be restored. As previously indicated, we do not believe these facilities should be part of this regulatory process, however, these facilities should be treated as any other waste handling facility if in the future they are regulated. (SWICS-15-1)

Agency Response: This comment pertains only to the proposed amendments to the EICG, and not the proposed amendments to CTR. The response in the EICG FSOR is:

CARB staff has not proposed to make a further change in response to this comment, because the ability/flexibility requested by the comment is already available, and the requested change is not appropriate (or necessary) to accomplish what the commenter is asking, as further clarified in the following. First, CARB staff would like to clarify why it was necessary to remove the “two-step” protocol provision for the recycling/material recovery/organic waste separation category from EICG Section IX.H.(1) , and then clarify how the ability and flexibility requested in the comment already exists, and that the sector is in fact being treated in parallel to other waste handling sectors, specifically in terms of the timing extensions granted to the waste handling sectors.

First, as indicated by the title of Section IX.H. and the first paragraph of Section IX.H., the “two-step process and protocol” is for “specified” sources where EICG “Appendix D requires a two-step process and protocol”. Each of the subsections under Section IX.H.(1) was intended to correspond to an Appendix D explicit source testing requirement, where a specified sector appears in Appendix D with a formal requirement worded as “two-step test”. This explicit “two-step test” requirement can be seen in EICG Appendix D item 8. (waste water treatment facilities), item 21. (landfills), item 22. (composting), and item 23. (scrap metal recycling and recovery: metal shredded), all of which contain the requirement to conduct a “two-step test”, and therefore need to match a subsection in Section IX.H.(1). Appendix D represents a formal CARB requirement for actual source testing (e.g., not just an estimation approach) for these sectors; and Section IX.H.(1) provides the details of how to comply with the “two-step test” that is required for those sectors. These are the only

sectors that have a requirement to conduct that type of testing, so these are the only sectors that were necessary and appropriate to list in Section IX.H.(1). It was never necessary or appropriate to list the recycling/material recovery/organic waste separation category as an additional subsection under Section IX.H.(1), because that category does not have a REQUIRED source test under Appendix D. So CARB staff removed that former subsection IX.H.(1)(d) to correctly align with the Appendix D items.

Because the recycling/material recovery/organic waste separation category does not have a CARB-required source test obligation under Appendix D, this category has the flexibility to propose in its normal AB2588 "emission inventory plan" whatever are the most appropriate emission quantification methods for their sources (which could include "estimation" methods that don't necessarily rely on testing). The AB2588 "emission inventory plan" process is provided for by the AB2588 statute (for all facilities), and it is subject to air district review and approval. From the perspective of the EICG, nothing precludes a group of related facilities from pooling together and each submitting a joint proposal for a pooled quantification approach (whether they choose testing and/or other types of quantification/estimation methods they wish to handle cooperatively). As CARB staff has mentioned, one of the reasons that Appendix D did NOT impose a formal source test requirement on this sector, is that it is anticipated that the nature and extent of the toxic emissions from these operations will not be as diverse and complex as from a wastewater treatment plant, for example (where consumers, commercial, and industrial process upstream could discharge virtually any AB2588 chemical into the waste water). For the material recovery facilities, the nature and extent of toxic substances will be more limited and focused, and it is anticipated that emission factors and other estimation approaches are likely to be adequate for quantification to the required degree of accuracy for these facilities. As always, CARB staff is committed to being available to support implementation questions, and/or assistance with statewide coordination.

Lastly, the recycling/material recovery/organic waste separation category is in fact already being granted the same extended timeframes for compliance as the other waste handling sectors (which is what the comment requests). The EICG Appendix E, Table E-3 provides the same "Sector Phase 3B" extended timeframe for all waste-handling related sectors, as shown in lines 48-52, of which item 50 is the one pertaining to this comment (Recycling facilities, and material recovery facilities that separate organic waste from recyclable materials). So, in summary, from the EICG perspective, nothing precludes the ability to propose the type of flexibility and timing requested by the commenter for this category. Further change to the EICG regulation is neither necessary nor applicable.

V. Peer Review

Health and Safety Code section 57004 sets forth requirements for peer review of identified portions of rulemakings proposed by entities within the California

Environmental Protection Agency, including CARB. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer review process. Because the proposed amendments are primarily related to emissions data reporting requirements, and do not directly incorporate any new science or principles, overall peer review is not relevant or pertinent to the primary amendments.

However, the regulation does require reporting of toxic substances not previously subject to reporting, based on their potential to cause harm to humans. Although not directly peer reviewed as a complete set, the inclusion of additional substances subject to reporting under CTR were developed by CARB staff in partnership with experts at the California Office of Health Hazard Assessment, the Department of Pesticide Regulation, and the oversight of the California Scientific Review Panel on Toxic Air Contaminants. This ensures that the additional toxics subject to CTR reporting have been carefully considered prior to being included in the reporting requirements.

With regard to the current rulemaking, CARB staff determined that the rulemaking, at issue, which focuses on reporting requirements, does not contain scientific basis or a scientific portion subject to peer review, and thus no peer review as set for in section 57004 was performed or needed to be performed.

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