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STATE OF CALIFORNIA
AIR RESOURCES BOARD
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February 21, 1997

Linda Murchison, Ph.D.
California Air Resources Board
2020 L Street
Sacramento, CA 95814

Subject: Comments on proposed amendments to the "Emission Inventory Criteria and Guidelines Report"

Dear Dr. Murchison:

The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on ARB staff's "Proposed Amendments to the Emission Inventory Criteria and Guidelines Report Adopted Pursuant to (AB2588)" dated February, 1997. As you know, one of our longstanding concerns with this guideline and other AB 2588 regulations is the need to clearly and carefully communicate ARB's intent to minimize the potential for arbitrary, ineffective and unnecessarily costly implementation at state and local levels. This concern resurfaces in several areas of the proposed amendments. Some of our specific concerns are discussed in the attached comments.

More generally, since the adoption of the most recent amendments to the Inventory regulation in July, 1996, there have been several major developments that will significantly affect the AB 2588 program:

- The signing of Executive Order W-137-96 which requires Cal-EPA agencies to implement the recommendations developed by Cal-EPA's Risk Assessment Advisory Committee (RAAC).
- Passage of AB 564 which exempts low risk facilities from the AB 2588 program unless new information becomes available that would cause those facilities to exceed the low risk thresholds recently adopted in the regulations.
- Release of draft OEHHA guidelines on Exposure Assessment and Stochastic Analysis.
- OEHHA's public announcement that it will release three additional documents which will include both new and revised health effects values for acute, chronic and carcinogenic substances.
- Issuance of a Cal-EPA management memorandum (December 9, 1996) specifying requirements for economic analysis associated with the adoption of administrative regulations.

WSPA is concerned that the potential impacts associated with implementation of OEHHA's proposed risk assessment methodologies and new/revised health effects values in the AB 2588 program have not been sufficiently identified and analyzed, particularly in light of Executive Order W-137-96 and the December 9, 1996 Cal-EPA management memorandum. Unless these implementation issues are identified and resolved before adoption of the proposed Inventory amendments and the proposed risk assessment guidelines, many facilities may be placed at a disadvantage through arbitrary and inconsistent implementation of the AB 2588 program in spite of the legislative and regulatory streamlining improvements put in place over the past five years. This streamlining was achieved only through the cooperative and deliberate efforts of ARB and the AB2588 stakeholders. It is critical that ARB, OEHHA, industry and other stakeholders continue to work together to establish a comprehensive AB 2588 program that focuses only on substances which clearly impact human health and which carry a compliance cost commensurate with their human health benefit.

Executive Order W-137-96 directs Cal-EPA boards and departments to begin implementing RAAC recommendations, intended to improve the manner in which those agencies conduct human health-based risk assessment and incorporate that information into risk management decisionmaking. Two of the general recommendations are fundamental to effective integration of the OEHHA's proposed risk assessment guidelines and the AB 2588 program:

- "Cal-EPA should establish a process to bring together risk assessment and risk management personnel to better translate emerging methods in risk assessment into risk management policy" (#8), and
- "The (RAAC) recommends that Cal-EPA consider an approach in conducting chemical risk assessments that balances the level of effort and resources with the importance of the risk assessment." (#11)

Unless the implementation issues relating to the role of OEHHA's risk assessment guidelines in the AB 2588 program are resolved prior to adoption of the subject 15 day package, WSPA believes that the intent of the Executive Order will not be achieved.

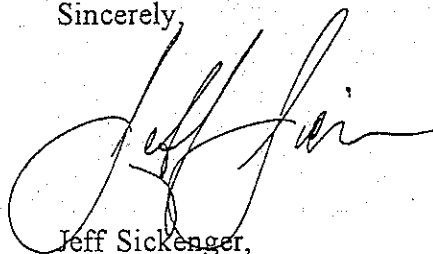
In addition, the interaction of the proposed amendments with the proposed OEHHA risk assessment methodologies and health effects values will inevitably create new economic burdens on businesses subject to the AB 2588 program. Since this interaction was not anticipated when ARB first proposed these amendments, the economic effects were not contemplated in the Initial Statement of Reasons. We strongly recommend, pursuant to current statutes and the December 9, 1996 Cal-EPA management memorandum, that a new Economic Impact Analysis be prepared for these regulations -- taking into consideration the interaction with OEHHA's proposed risk assessment guidelines.

Dr. Linda Murchison
February 21, 1997
Page: 3

WSPA contacted your staff requesting a meeting with ARB and OEHHA to discuss our concerns prior to release of the proposed amendments. Unfortunately, ARB staff was not available during the 15-day comment period. Of course, we intend to pursue this discussion at the earliest possible date. In the interim, we believe it would be prudent to delay adoption of the proposed Inventory amendments pending further discussions between ARB and OEHHA staff to identify and resolve implementation issues associated with the new risk assessment guidelines.

WSPA looks forward to further discussions with ARB on these issues. If you have any questions about this letter or the attached comments, please contact me at (916) 498-7753.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff Sickenger".

Jeff Sickenger,
Environmental Issues Coordinator

cc: Peter Venturini - ARB
Richard Bode - ARB
Dr. Richard Becker - OEHHA
Dr. William Vance - OEHHA
Dr. George Alexeeff - OEHHA

Specific Comments

Proposed Amendments to Emission Inventory Criteria & Guidelines Report

A. Section II(C)(2)(c)(ii) - Page 12

The term "appropriate health effects value" is ambiguous. Given our concerns with Section E97 of Appendix F, discussed below as Issue J, the term "appropriate" could be interpreted to mean that in the absence of an approved OEHHA health effect value, the facility operator would have to produce an "appropriate" health effect value. Alternatively, we would interpret the term "appropriate" to mean that the risk assessor should not quantify those substances which do not have approved health effect values. ARB should clarify its intent in this regard.

B. Section J1(a) - Page 16

This section states that a facility may not be exempt from the AB 2588 program if the "district has good cause to believe the facility may pose a potential threat to the public health..." even though the cancer and non-cancer prioritization score is less than or equal to 1. This seems to violate the intent of the exemption provisions mandated by AB 564. We recommend that ARB either 1) delete this section entirely; or 2) replace the term "potential" with the term "substantial" to indicate to the districts the mere existence of the slightest possibility of a threat is not sufficient to deny an exemption from the AB 2588 program.

C. Section II(J)(3)(i) - Page 17

This section requires reinstatement into the AB 2588 program if a new substance is added to the Appendix A list. There is no requirement listed in this section that the substance must have an approved health-effect value. We recommend that this section be revised as follows: "The facility emits a newly listed substance with an approved health effect value as specified in Section 7 of Appendix F."

AB 2588 is a risk based program. If a substance does not have a health effect value, inventory data cannot be used to evaluate risk. Therefore, the costs associated with source testing and emission inventory reporting are not justified by human health benefits. (See discussion of Issue J relating to concerns with Appendix F).

D. Section II(J)(3)(iii)

This section requires reinstatement if a health effect value is increased. As discussed in Issue C above, the increase of a health effect value alone should not pull a facility back into the emission inventory process unless the increase would cause the facility to move into a higher prioritization category (e.g., low-to-intermediate or high). Unless the increase in a health effect value would substantially affect facility classification, the cost to quantify emissions for

that substance can not be justified. We recommend that this section be revised as follows:
"The facility emits a substance for which the cancer potency value or non-cancer reference exposure levels, as specified in section E(7) of Appendix F, has increased and the district has good cause to believe this increased would cause the facility to move into a higher prioritization category".

E. Section IV(A)(4)(ii) - Page 26

See issue A above.

F. Section V (H)(3)(f) and (g) - Page 36

The term "appropriate health effects value" could be problematic. See issue A above.

G. Section IX (A) - Page 53

This section modifies the test methods for several Appendix A substances. ARB should include a policy memo in an Appendix to the Report indicating that it is not ARB's intent for local districts to require new source testing based solely on the fact that new test methods have been adopted.

H. Section X Definitions - Page 63

Definition 12 "Hazard Index"

This definition incorporates by reference the 1992 CAPCOA Air Toxics Hot Spots Program Risk Assessment Guidelines, revised in October, 1993. This reference raises policy issues about how the forthcoming OEHHA risk assessment guidelines will interact with the AB 2588 program. It is not clear whether the OEHHA guidelines will supplement or replace the health effects values and methodology contained in the CAPCOA guidelines. Nor is it clear whether the AB 2588 guidelines and regulations will have to be reopened after the issuance of the OEHHA guidelines. Certainly, facilities that have performed health risk assessments using the CAPCOA guidelines should not be required to revise their health risk assessments in accordance with the OEHHA guidelines. It is difficult to comment on the proposed Inventory amendments without definitive policy statements addressing these issues.

Definition 16 "Prioritization Score"

This definition incorporates by reference the CAPCOA Air Toxics Hot Spots Program Facility Prioritization Guidelines, July 1990. Again, this reference raises policy questions about how the new risk assessment guidelines will interact with the AB 2588 program. First, the OEHHA guidelines are proposing to revise health effects values for some Appendix A substances and add new health effects values for substances which previously did not have values. Both actions could affect a facility's prioritization score. In addition, with the inclusion of health effects values for more substances and stochastic methods to better

characterize uncertainty and variability, we believe that the AB 2588 prioritization process needs to be revised to better reflect risk assessment results.

These issues should be addressed by ARB, OEHHA and industry in a coordinated, cooperative manner. Until they can be resolved, we recommend that ARB defer adoption of the proposed Inventory amendments.

I. Appendix B-II - Page B-II-1

This section seems to imply that the districts are mandated to use the new AB 2588 reporting forms. Based on our previous discussions about the burden associated with "re-tooling" AB 2588 computer programs, language was added in Section VII.C.(2) to clarify that districts have the option to use existing forms. The language in this section should convey the same message.

J. Appendix F Section E(7) - Page F-2

As discussed in Issue I, it is difficult to comment on Section E(7) in light of OEHHA's work on health effects values and new risk assessment methodologies. As noted above, ARB should not adopt the proposed Inventory amendments until interaction issues have been resolved.

In addition, this section states that "some appropriate health effect values" are available in the California Potency Factors Update, some "appropriate factors" are contained in the CAPCOA Risk Assessment Guidelines", and some are located in U.S. EPA's IRIS database. All of these documents are incorporated by reference. The last sentence of this section states that "The CAPCOA Risk Assessment Guidelines will be superseded by the OEHHA Air Toxics Hot Spots Risk Assessment Guidelines. Ad-hoc incorporation of health effects values will create inconsistency in the risk assessment and risk management processes. Availability of new risk assessment guidelines in the near term could lead to additional uncertainty and (possibly) additional administrative burden for the regulated community and the public.

Finally, additional clarification is needed regarding the statement that all health risk values are subject to review by OEHHA. Presumably, facilities will not be responsible for developing health risk values for Appendix A substances that do not have OEHHA-approved health effects values. What is less clear is whether OEHHA will allow different facilities to use multiple values for the same substance. This ambiguity could lead to inconsistent risk assessment and risk management and continual reworking of emission inventories and risk assessments.



96-6-1
7/25/96

STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 7/17/96
BY BOARD SECRETARY
XC: Board members
JDD MHS
JB Legal
TSD

July 12, 1996

Dr. Linda Murchison, Chief
Stationary Source Emissions Inventory Branch
Air Resources Board
2020 L Street
Sacramento, CA 95814

Dear Linda:

The Western States Petroleum Association (WSPA) appreciates the effort you and your staff have invested in addressing our concerns with ARB's proposed changes to the AB 2588 Emissions Inventory Criteria and Guidelines regulation. We are pleased to note certain changes in the current draft Guideline that help resolve some of our concerns about the implications of ARB's proposal in terms of district implementation and ongoing AB 2588 program streamlining activities. This letter is intended to affirm our support for those changes and to reiterate our request for additional modifications (Attachment 1) to limit the potential for misapplication and/or mischaracterization of the guidelines.

In addition, upon further review of the June 7, 1996 staff report, we are concerned that certain language in Sections I and II does not accurately convey the intent of the proposed regulation. Of course, the success of this and further AB 2588 streamlining efforts depends on consistent and accurate characterization of program goals and regulatory intent. We have included specific recommendations in Attachment #2 to address our concerns in this regard.

WSPA again appreciates the opportunity to comment on the proposed guidelines. We look forward to further discussions with ARB staff before the July 25 Board hearing to work toward resolution of our outstanding concerns. If you have any questions, please do not hesitate to contact me at (916) 498-7753.

Sincerely,

Jeff Sickenger
Environmental Issues Coordinator

cc: ✓ Richard Bode - ARB
Beth Schwehr - ARB

Attachment 1

Outstanding Concerns

Section V.H. - Update Summary Form

WSPA supports the new language contained in subsections (3)(f) and (g) which suggests that districts consider if a newly listed substance or a new or revised health effect value would affect a facility's reporting status. This language will help to clarify that full inventory updates are only appropriate where new information could have a significant affect on a facility's estimated risk.

In order to further ensure consistency in terms of district interpretation of these provisions, we request that ARB also add the following language in subsection (3)(f):

"emissions of any listed substances not previously reported, including newly listed substances for which a health effect value has been established by OEHHA, that may cause the facility to exceed the criteria specified in Section IV for the facilities current update category;"

This change is consistent with the language in subsection (3)(g).

Section IV.A.(1)(e) & IV.B.(2) - Facilities Emitting Specified Quantities of HAP's

WSPA continues to oppose provisions that would keep 'deminimis risk sources in the AB 2588 program. If, as stated by ARB staff, the HAP provisions are speculative in nature and are intended to help demonstrate equivalency with the federal residual risk program*, then these concepts should only be addressed once EPA defines that program. Moreover, insofar as these provisions are intended to help districts quantify the aggregate impact of multiple high volume sources, it is important to note that there are other provisions in the proposed guideline (such as the reinstatement provisions in sections III and IV) which districts can exercise for this purpose, if and when they determine that such analysis is appropriate. In either case, we feel strongly that the proposed HAP provisions detract from the risk-based goals of the program and are therefore not appropriate.

* WSPA is unaware of any documentation from EPA that AB 2588 information could satisfy section 112 (f) requirements.

Section VII.C.(2) - Reporting Formats and Forms

WSPA supports the new language contained in subsection (2) which specifies that information "shall be submitted in an alternative format as approved by the district ...". This language resolves our concern about the cost and administrative burden associated with modifying existing forms.

Attachment 2

Additional Recommendations on Guideline Intent

Section I.B.

Delete the second paragraph which discusses ARB's use of the AB 2588 program to "meet the requirements of the federal air toxics program mandated by the federal Clean Air Act." See comments on section IV.A.(1)(e) & IV.B.(2) in Attachment 1.

Section I.D.2.

Modify the proposed language as follows:

"The staff recommends amendments to the emission inventory guidelines that will: (1) exempt from update reporting, specified facilities identified as posing a low level of concern; (2) narrow the circumstances justifying full inventory plans and reports for intermediate level facilities; (3) streamline the inventory reporting process for other facilities; (4) focus the program's efforts on the most significant facilities and substances; and (5) reduce the costs and burdens on facilities and districts."

This change will help clarify the basic intent of ARB's revised Guideline.

Section I.E. (Bullet #2: "Categories for Update")

Delete the first paragraph on page 8 which discusses use of the AB 2588 program to demonstrate equivalency with Title III of the Clean Air Act. See comments on section IV.A.(1)(e) & IV.B.(2) in Attachment 1.

Section I.E. (Bullet #4: "Substances Subject to Program")

Revise the last paragraph as follows:

"Health and Safety Code section 44321 requires the Air Resources Board to compile and maintain the list of substances ~~from designated reference lists of substances~~. ~~Add to Appendix A-I several new substances that have been added to the lists of other federal and state regulatory programs, for which there is information indicating adverse health effects and the potential to become airborne.~~ Add ten additional PAH compounds which are included in the ARB's source test method for PAHs to the list of individual polycyclic aromatic hydrocarbon (PAH) compounds. Add ten additional dioxin and furan

compounds which are included in the ARB's source test method for dioxins and furans. The ARB does not require that emissions of these substances be quantified until health risk factors have been developed by OEHHA."

This change is necessary for consistency with, and will help clarify the intent of, the new language in section V.H.(3)(f) and (g).

Section II.B.1.(b)(1)

Delete the entire section discussing use of AB 2588 to demonstrate Title III equivalency. See comments on section IV.A.(1)(e) & IV.B.(2) in Attachment 1.

Section II.B.3.

Delete the third paragraph which discusses use of AB 2588 to demonstrate Title III equivalency. See comments on section IV.A.(1)(e) & IV.B.(2) in Attachment 1.

Section II.D.

Revise the third paragraph as follows:

"If a facility manufactures, formulates, uses or releases any of the new substances proposed to be added, the existing regulation specifies the timetable for reporting the substance. The regulation specifies that if a substance is added to the list by April 1 of a given year, the facility operator shall include the substance in any emission inventory plan or its next required update. Therefore, if the proposed additions are approved and become effective by April 1, 1997, facility operators will be required to report the new substances in any plans or updates due thereafter. In order to minimize the facility operator's costs associated with additional source testing and preparing new emission inventories, the facility operator is not required to quantify emissions of substances for which there are no OEHHA-approved health risk values."

This change is necessary for consistency with, and will help clarify the intent of, the new language in section V.H.(3)(f) and (g).

C A L I F O R N I A

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July 23, 1996

California Air Resources Board
2020 L Street
Sacramento, CA 95814

Attention: Board Secretary

Re: July 25, 1996, Public Meeting Agenda, Item 96-6-1; Proposed Amendments to Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report.

The following comments regarding the proposed amendments are submitted on behalf of the California Mining Association (CMA) and its member companies. CMA's diverse membership includes large and small mining operations, producing a variety of mineral commodities in California. CMA not only represents the hard-rock mining industry, such as gold, silver and tungsten, but also industrial minerals such as gypsum, borates, and rare earth elements, as well as construction aggregates, such as rock, sand and gravel.

BACKGROUND OF CMA'S CONCERNS

The Staff Report for the Proposed Amendments to the Emission Inventory Criteria and Guidelines Report describes these amendments as the second phase of a two-phased effort to streamline the Air Toxics Hot Spots program (page 1). While much of the proposal appears to accomplish this objective, which CMA supports, of great concern to CMA is a proposed modification which addresses small operations that emit less than ten tons of criteria pollutants per year. Specifically, we object to the inclusion of Section II(E)(3). This section pertains to facilities that are not listed in Appendix E of the Emission Inventory Criteria and Guidelines report as subject to the program, but may be arbitrarily classified as "Facilities Identified By the District as posing concern to Public Health" (page 10, Section II of the amended Report).



The Staff Report describes these as "unique facilities" which meet specified criteria indicating that they "may pose concern to public health" (page 8). In our view, this proposal would empower local air districts to bring under the Air Toxics "Hot Spots" Program small operators on an ad hoc and potentially arbitrary basis, without specific criteria to guide their decisions.

Compliance with the Program can be expensive, and represents a significant burden to small operators. Lessening the regulatory burden is one of the reasons given by the Staff for streamlining the Program, as part of the California Environmental Protection Agency's Regulatory Improvement Initiative (RII). The RII, in turn is being undertaken pursuant to the Governor's Executive Order No. W-127-95, regarding "regulatory relief" efforts to reduce the regulatory burden on California business and the economy (page 4 of staff report). In our view, the proposal regarding so-called "unique facilities" is a step backward from this directive, is not authorized by law, and does not meet minimum standards of regulatory clarity. It also is not good policy. We request that it be deleted, or at least be reviewed in significantly more detail as to its burdens and benefits, and if needed, amended to provide specific criteria for the inclusion in the Program of any such "unique facilities."

THE PROPOSAL REGARDING "UNIQUE FACILITIES" IS NOT AUTHORIZED UNDER THE AIR TOXICS "HOT SPOTS" INFORMATION AND ASSESSMENT ACT OF 1987, AS AMENDED.

With respect to so-called "less than 10 tons per year facilities", the Act, at Health and Safety Code Section 44322 (c), specifically provides:

For those facilities that release, or have the potential to release, less than 10 tons per year of total organic gases, particulates, or oxides of nitrogen or sulfur, the state board shall, on or before July 1, 1990, prepare and submit a report to the Legislature identifying the classes of those facilities to be included in this part and specifying a timetable for their inclusion." (Emphasis supplied)

It seems obvious from the foregoing that what the Legislature intended was to itself first review the classes of small facilities that would be brought into the Program by the Air Resources Board. This has been done through the report submitted by the Board. While some adjustments of the identified classes may be permissible under section 44322 (c), the proposal to empower local air districts to bring into the program still unidentified small facilities, of no previously identified class, and without specific criteria or legislative direction as contemplated by section 44322 (c), is contrary to the legislative intent and is not authorized by law.

The factors set forth at page 10 of Section II of the amended Report do not satisfy the legislative directive. The stated factors are:

At district option, in making the determination, the district may take into account any of the following factors: estimates of the quantity of toxic emissions from the facility; potency or toxicity of the substances released from the facility; nature of the release characteristics of the emissions; proximity of receptors; level of uncertainty in the estimated quantity or toxicity of the emissions; presence of one or more substances for which there is no approved, quantitative health effects value but for which there is quantitative or qualitative data indicating adverse health effects; control equipment affecting the emissions; anticipated or permitted levels of operation of the facility; comparison of anticipated operations and releases from the facility relative to other facilities which have been found to exceed the criteria for 'low level' facilities, as specified in Section IV; proximity of other facilities and sources of toxic emissions; other factors affecting the release, toxicity, dispersion, or potential risk of the likely emissions from the facility; and any other factor the district considers relevant.

Instead these factors would allow a district to make ad hoc determination, based on prejudgments by district personnel.

THE PROPOSAL AS TO "UNIQUE FACILITIES" ESTABLISHES AN UNFAIR EVALUATION CRITERION FOR SMALL FACILITIES WHICH WAS NOT APPLIED TO LARGER FACILITIES

Section II(E)(3)(a)(I) at page 10 of the proposed modification indicates that facilities having criteria pollutant emissions less than 10 tons per year may also be included in the Program if,

"...in the judgement of the district, there is a reasonable basis for determining that the facility may individually or in combination with other facilities pose a potential threat to public health..."

The proceeding language proposes that a small facility should be included in the Program as a result of a neighboring facilities emissions. This could potentially result in an insignificant facility being included in the Program because of a neighbor's significant emissions. Also, the proximity of "other facilities" is ignored in the proposal. This could be interpreted equally as meaning a neighboring facility, or all facilities emitting a given contaminant in the same air basin.

To date, the Program has been applied on a facility-by-facility basis. Published CAPCOA guidelines for performing health risk assessments in response to the Program focus upon estimating cancer burden and noncancer health effects based only on facility emissions. Facilities previously included in the Program were not evaluated with respect to their neighbor's emissions. Therefore, the proposed modification establishes an unfair evaluation criterion for small facilities which was not applied to larger facilities.

Air Resources Board
July 24, 1996
page 4

THE PROPOSAL AS TO "UNIQUE FACILITIES" DOES NOT PROVIDE SUFFICIENT REGULATORY CLARITY TO SATISFY EITHER THE ACT OR THE REQUIREMENTS OF THE CALIFORNIA ADMINISTRATIVE PROCEDURE ACT

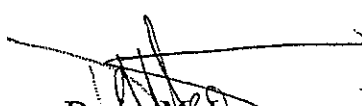
As stated, the Act requires legislative approval of specified classes of facilities to be included in the less than 10 tons per year category. The proposed inclusion of Section II(E)(3) does no such thing. The proposal also is contrary to the California Administrative Procedure Act, which contains the reasonable requirements that not only must a regulation adopted by a state agency be authorized by law, but that it also have clarity. (Govt. Code Section 11349.1.) "Clarity" is defined in Govt. Code Section 11349 as "...written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them." The above factors provide no such clear meaning to small operators as to the regulatory requirements.

THE PROPOSAL IS BAD POLICY

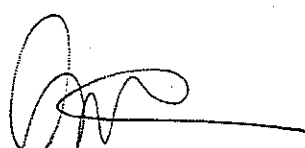
Particularly in view of the directives of the Governor's regulatory relief program, the proposal as to "unique facilities" could impose unwarranted burdens on small mine operators by allowing ad hoc, retroactive impositions of costly compliance requirements, without identified air quality benefits. Any such policy deserves in-depth review as to its benefits and impacts, and the development of specific criteria for its application, rather the one-half page or rationale set forth in the Staff Report.

We appreciate the opportunity to provide this input and offer our assistance in preparing revisions to the proposal.

Sincerely,



Dennis W. Jones
Executive Director



James E. Good
General Counsel

cc: CMA Executive Committee
Interested Parties

4

GENCORP
AEROJET

P O Box 13222
Sacramento CA 95813-6000

July 22, 1996

Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, California 95812

Air Resources Board,

Aerojet - General Corporation (Aerojet) is pleased to submit comments on the proposed amendments to the Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report. We support the intent of the amendments to the program for streamlining reporting requirements. The proposed new Section 93300.5 to Title 17 CCR to incorporate by reference the Emission Inventory Criteria and Guidelines Report (Report) and appendices will replace the former Sections 93301-93355 and Appendices. Section I, page 1 of the Report specifically states: *"The requirements of this report are enforceable as regulations because this report is incorporated by reference into Title 17 of the California Code of Regulations, Section 93300.5."* We support this re-codification as part of the California Environmental Protection Agency's Regulatory Improvement Initiative undertaken in response to the Governor's Executive Order, No. W-127-95, to reduce the regulatory burden on California's businesses.

The notice of public hearing to consider adoption and amendments to the Report in part states on page 4: *"The following documents are proposed to be incorporated by reference into the Report: (4) California Air Pollution Control Officers Association (CAPCOA) 'Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, July 1990'; (5) California Air Pollution Control Officers Association (CAPCOA) 'Air Toxics 'Hot Spots' Program Revised 1992 Risk Assessment Guidelines, October 1993'....."* Incorporating these and other documents "by reference" into the Report, will in effect codify these into regulation.

The CAPCOA Hot Spots Risk Assessment Guidelines (Guidelines) were developed "in house" and have never gone through the public review process, review by the Office Of Scientific Affairs nor review by the Office of Administrative Law¹. Yet the ARB and OEHHA staffs do review risk assessments completed under the "Hot Spots" program pursuant to the "requirements" of the Guidelines. They have, in effect, become defacto (underground) regulations. The relationship among CAPCOA, ARB and OEHHA has never been specifically distinguished and separate. The CAPCOA guidelines, according to its preamble, were *"Prepared....in consultation with the ... OEHHA, and the ... ARB..."*. The CAPCOA toxics committee *"includes representatives of 16 districts and staffs of the ARB and the OEHHA"*. (page I-1, CAPCOA 10/93) The Guidelines specifically state: *"the intent of the committee in developing the*

1. Administrative Procedure Act (APA), Government Code Section 11340, et seq., added by Stats. 1979 c567-1, operative July 1, 1980.

guidelines was to provide risk assessment procedures for use in the Air Toxics "Hot Spots" Program." (page I-3, CAPCOA 10/93) [Emphasis added]

We have recently submitted comments to the Governor's Roundtable on Economic Competitiveness regarding the use of guidelines as regulations. In a response prepared by the Undersecretary for the Cal-EPA, it was specifically mentioned that *"A number of Air Districts reference the CAPCOA Risk Assessment Guidelines in their policies and procedures for implementing and enforcing the ACT, but have not made them mandatory. Rather, these districts make reference to the CAPCOA Risk Assessment Guidelines to assist facility operators in developing risk assessments that will receive favorable evaluation by OEHHA under the risk assessment review process set out in the ACT."* Noncompliance with the Guidelines would most likely result in an unfavorable evaluation (disapproval) with obvious results. This further indicates that these guidelines are indeed used as regulatory documents, a potential violation of the APA. [Emphasis added]

In September of 1992, the Governor signed proposed amendments to the "Hot Spots" statutes (AB1731 - Calderon) to require the OEHHA to prepare and revise facility health risk assessment guidelines for use in the "Hot Spots" program. The law also established procedures for review by the public, industry and the Scientific Review Panel on Toxic Air Contaminants. The OEHHA has completed the first portion of this effort by publishing, in 1995, the Acute Non-Cancer Health Effects and Technical Support Document for the Determination of Acute Toxicity Exposure Levels. Based upon recent conversations with the OEHHA staff, the remaining portions are expected to be released for public comment, in draft form, later this year.

By copy of this letter, Aerojet is requesting the Office of Administrative Law to review and make a determination if the current (and proposed) practice of using the CAPCOA Risk Assessment Guidelines as described herein would render the "Guidelines" defacto regulations, violating the provisions of the Administrative Procedure Act, Government Code Section 11340, et seq.

Sincerely,

E. J. David for Karen Gunderson

Karen Gunderson, Manager
Environmental Management
Aerojet Sacramento Operations

cc: Mr. Peter M. Rooney, Undersecretary
California Environmental Protection Agency
555 Capitol Mall, Suite #525
Sacramento, California 95814

Mr. Lee Grissom, Director
Governor's Office of Planning
and Research
1400 Tenth Street
Sacramento, California 95814

Mr. John D. Smith, Director
Office of Administrative Law
555 Capitol Mall
Sacramento, California 95814

Mr. Val Siebal
Special Assistant to the Secretary
California Environmental Protection Agency
555 Capitol Mall, Suite #525
Sacramento, California 95814

Mr. Bob Fletcher, Chief
Emissions Assessment Branch
Air Resources Board
2020 L Street
Sacramento, California 95814

Dr. George V. Alexeeff, Ph.D., Chief
Air Toxicology and Epidemiology Section
Office of Environmental Health Hazard Assessment
2151 Berkeley Way, annex 11
Berkeley, California 94704

Mr. Richard Bode, Manager
Emission Inventory Methods Section
Technical Support Division
Air Resources Board
P.O. Box 2815
Sacramento California 95812

BRITHINEE ELECTRIC



620 SOUTH RANCHO AVENUE • COLTON, CALIFORNIA 92324 • TELEPHONE 909/825-7971 • FAX 909/825-6312

June 10, 1996

96-6-1
7/25/96

STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 7/2/96
BY BOARD SECRETARY
JDD MHS
JB Legal
TSD

Mr. John Dunlap III
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Dear John:

I have just finished reviewing the Staff recommendations for changes to the Emission Inventory Criteria and Guidelines Report for the Air Toxics Hot Spots Program.

First, I think your staff has done an excellent job of identifying what was originally intended in AB2588, determining where we are now that seven years of emissions data have been collected and suggesting where we go from here with this program.

I have attended several of their workshops and I must say they were among the most informative and productive of any I have gone to in the past 10 years.

After my review of the Staff recommendations, I would encourage the board to adopt these changes as submitted.

Staff's findings seem to support the old 80-20 rule. As is usually the case, 20% of the companies produce 80% of the work or in this instance, 20% of the companies produce 80% of the emissions.

It makes a great deal of sense to me to focus on those 20% and look at the remaining 80% only if they request new permits or substantially change their operations. This could be determined through the annual inspections the districts undertake anyway.

These proposed changes would greatly alleviate the paperwork burden on the districts as well as the onerous recordkeeping we small businesses have to do to furnish this information.

I see this change as creating a win-win situation for all of us.

Sincerely,


Lynda Butek

California Trade and Commerce Agency
Regulation Review Unit
801 K Street, Suite 1600
Sacramento, California 95814

Phone: (916) 323-0484
Fax: (916) 322-0669

Regulation Review Unit Comments

Date : July 25, 1996

TO: Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, California 95812

Phone: (916) 322-5594
Fax: (916) 322-4737

FROM: James J. Lichter, Analyst *J. L.*
Regulation Review Unit

SUBJECT: Proposed Amendments to Regulations in Title 17 Related to the Emission Inventory Criteria and Guidelines Report (OAL Notice File #Z96-0528-07)

The Regulation Review Unit (RRU) has completed a review of the subject regulation and is submitting comments to be included in the rulemaking file.

In the California Air Resources Board (ARB) staff report, with issue date June 7, 1996, staff is proposing amendments to exempt low-risk facilities from reporting requirements and to streamline reporting requirements for intermediate- and high-risk facilities. The staff is also proposing to streamline other requirements in the report and to add improvements that will focus reporting on those facilities and substances of most concern.

The staff report serves as the initial statement of reasons for this proposed rulemaking. ARB staff refers to the proposed *Emission Inventory Criteria and Guidelines Report*, dated May 1996, as the *May 1996 Guidelines*, and that report is included as Attachment II to the staff report.

RRU would like to express its appreciation to ARB staff for their expeditious responses to our requests for information. The remainder of this fax discusses comments and suggestions that RRU has regarding the contents of the rulemaking file.

Proposed Regulation Text Is Missing

The proposed regulation text, 17 CCR 93300.5, was not included in the staff report. Based on my July 22 telephone conversation with ARB staff, we understand that this missing regulation text will be included in the 15-day modifications package that ARB staff will propose to the Board at the July 25, 1996, hearing.

RRU also notes that 17 CCR 93300.5 is incorrectly referred to as 17 CCR 93330.5 on the following pages of the staff report: 4, 5, 7, 10 and 13.

Changes Are Not Clearly Indicated

Government Code (GC) section 11346.2(a)(3) states that "The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations." And 1 CCR 20(b) states that "Material proposed for 'incorporation by reference' shall be reviewed in accordance with procedures and standards for a regulation published in the California Code of Regulations."

RRU believes that the changes from the *April 1996 Guidelines* (which resulted from an earlier regulatory action, OAL Notice File #Z96-0402-09) to the *May 1996 Guidelines* are not clearly indicated as required by the statute and regulation cited above. This situation will increase compliance costs for businesses, since they will not be able to quickly and easily identify the new requirements to which they may be subject.

Some of the changes from the *April 1996 Guidelines* to the *May 1996 Guidelines* are listed in Table 1 on pages 14-16 of the staff report. However, Table 1 appears only in the staff report and is not included in the *May 1996 Guidelines* report itself. If adopted by the Board, the latter report will be the document incorporated by reference into 17 CCR 93300.5. Businesses that want to identify any new or changed requirements will not easily find that information in the *May 1996 Guidelines* report. Moreover, Table 1 has the following deficiencies:

1. There is no indication of the several proposed changes in the structure of the appendices from the *April 1996 Guidelines* to the *May 1996 Guidelines*. (Based on a telephone conversation with ARB staff, RRU is aware that the 15-day modifications will propose that all appendices should be bound together with the main report in the *May 1996 Guidelines* as they were in the *April 1996 Guidelines*.)
2. There is no mention, in Table 1, of the new Appendix F.
3. A reviewer of the staff report cannot know the contents of the deleted Section 308(d) without referring to the prior *April 1996 Guidelines*.
4. The construction of the new Section III from the earlier Sections 305.5, 306.6 and 309 is unclear.

Thirty-two Substances Added to Appendix A-I

Thirty-two substances have been added to Appendix A-I, Substances for which Emissions Must Be Quantified. They are identified only by an add date of 7/96. These additions are not clearly indicated as required by GC section 11346.2(a)(3) and 1 CCR 20(b) cited above. This situation

may result in businesses being out of compliance with the *May 1996 Guidelines* solely because they were unaware of these additions to Appendix A-I.

Appendix Note 3, page A-21, states that the add date is "The date the Board approved addition of the substance to the original list." An add date of 7/96 may be consistent with the July 25, 1996, Board hearing but seems inconsistent with the *May 1996 Guidelines* report title.

Other Documents Incorporated by Reference

ARB staff proposes to incorporate the *May 1996 Guidelines* into the California Code of Regulations by reference in accordance with 1 CCR 20. As stated in the notice of proposed regulatory action, ARB also incorporates into the *May 1996 Guidelines* numerous other documents by reference. The other references create a "three-level" regulatory document structure that can potentially increase compliance costs for businesses, although ARB claims that all such documents are readily available.

RRU recommends that ARB staff add a Section XI or an Appendix G to the *May 1996 Guidelines* and explicitly list all documents, with complete current citations, incorporated by reference at the "third level." This will enable affected businesses and interested parties to more easily identify all pertinent documents that may contain requirements to which they may be subject in attempting to comply with the proposed regulation.

Other Comments

Appendix E refers to SIC codes but is unclear as to exactly how these codes are defined. RRU recommends that a definition be added to "Section X. Definitions" to indicate that the Standard Industrial Classification (SIC) codes are as defined in the *Standard Industrial Classification Manual 1987* as published by the U. S. Office of Management and Budget. Appendix E also uses brackets, [], to "... indicate an SIC formerly used by the Executive Office of the President, Office of Management and Budget, which has been reassigned." RRU recommends that all such instances be deleted and replaced with the current 1987 SIC code. If ARB wants to retain any of those earlier codes, it should indicate why this is necessary and provide the reference that defines the earlier codes.

If you have questions regarding our comments, please contact me at 323-0484. We look forward to receiving a copy of your response to our comments and a copy of the final statement of reasons, so we can better understand the findings of your agency regarding the proposed regulation.

cc: Don Perry, Director
Office of Economic Research
California Trade and Commerce Agency

Contra Costa County

HEALTH SERVICES DEPARTMENT

OFFICE OF THE DIRECTOR

The Board of Supervisors

Jim Rogers, 1st District
Jeff Smith, 2nd District
Gayle Bishop, 3rd District
Mark DeSaulnier, 4th District
Tom Torlakson, 5th District

County Administrator

Phil Batchelor
County Administrator



William B. Walker, M.D.
Director & Health Officer

20 Allen Street
Martinez, California 94553-3191
(510) 370-5003
FAX (510) 370-5099

July 23, 1997

Ms. Wendy Grand-Champ
Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Re: Emission Inventory Criteria and Guidelines Regulation

Dear Ms. Grand-Champ:

I am writing on behalf of the California Conference of Local Health Officers (CCLHO) to offer our comments on the Emission Inventory Criteria and Guidelines Regulation. The original Air Toxics "Hot Spots" legislation won CCLHO support because it filled important public health gaps in California Law and in Title III of the Superfund Amendments and Reauthorization Act of 1986, in particular the Toxic Chemical Release Inventory. Indeed, it has been extremely successful in leading businesses to voluntarily reduce harmful emissions by millions of pounds a year. We participated in some of the teleconferences held by the Board during development of the proposed regulation. While we have concerns about exemptions in the revised regulation, we want to highlight certain elements of it that are key to protecting the public's health.

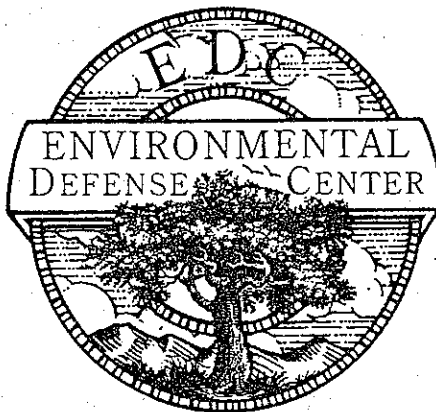
The proposed regulation gives a district the option to include facilities not listed in Appendix E but which a district reasonably believes may pose a threat to public health either individually or in combination with other facilities [Section II.E.(4)]. Although information is collected facility by facility, health officials find great value in viewing the data from all facilities in a single community. When facilities are near each other, no one selectively breathes the emissions from just one. Together, the facilities' data offer the potential for analysis of cumulative population exposure and risk. This district option is a vital public health tool for local health officials.

For this reason we also support the inclusion of facilities that are major or potentially major sources of Hazardous Air Pollutants [Section IV.A.(1)(e)].

Sincerely,

A handwritten signature in dark ink, appearing to read "William B. Walker, M.D.".

William B. Walker, M.D., Chair
Environmental Health Committee
California Conference of Local Health Officials



July 23, 1996

Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

BY FAX: 916.323-0764 AND MAIL

322-4737

RE: Proposed Revisions to AB 2588 Regulations

Dear CARB:

Please accept these comments from the Environmental Defense Center, a public interest law firm which represents numerous community and environmental groups in Santa Barbara, San Luis Obispo and Ventura Counties.

It is obviously the goal of every bureaucracy to continually streamline its ever-growing operation. Thus the proposed changes to the ARB's Hot Spots program in this vein are not unexpected. It is unquestionably a large task to oversee and monitor the thousands of facilities statewide that emit toxic substances into California's air. This situation is, in turn, compounded by the fact that the list of known substances which must be monitored has lengthened repeatedly. When the ARB therefore proposes to "streamline" its program of monitoring and reporting, these changes have the possibility of being very beneficial through cost savings and improvements in efficiency. Yet for such improvements to be acceptable, they must not give these benefits at the expense of the stated purpose and goal of the program itself. Unfortunately for the citizens of California, that is exactly what these proposed "streamlining" efforts will do. The proposed changes in the Hot Spots program undercut not only the goals of the program, but roll back the successes of the program to date, as well.

The Toxic Hot Spots program was established in 1987 with the goals of developing a statewide inventory of site-specific air toxics emissions, assessing the risk to public health from exposure to these emissions, and notifying the public of any health risks associated with these emissions. Yet by attempting to exempt so-called "low risk" facilities from the program, the ARB would negate these goals under the proposed changes. No longer would the program develop and maintain an ongoing list of toxic emissions from these facilities, no longer would the ARB assess risks from substances emitted from these facilities in light of the most recent scientific knowledge, and no longer would the ARB notify the public of these risks. While the toxic emissions from so-called "low risk" facilities may be relatively less harmful than those from "high risk" facilities, they are still toxic and harmful in absolute terms. EDC notes that there is a growing body of scientific evidence of a zero threshold dose-response relationship for many chemicals on the Toxic Hot Spots list. Additionally, current scientific research is discovering insidious synergistic toxicity relationships between many Toxic Hot Spots chemicals, and that children, elderly and chemically sensitive individuals are not adequately protected under the



current system and 1 per million death rate. Thus, the mere fact that emissions from "low risk" appear relatively small when compared with the worst toxics emitters, does not exempt them from the stated goals of the Hot Spots program. The proposed changes thus overstep their goal of streamlining and reach instead to the heart of the program goals themselves.

In addition, these proposed changes run counter to the benefits that have come from the implementation of the Hot Spots program to date. As stated in the ARB's staff report on this issue, the Hot Spots program has "resulted in the first and only comprehensive State inventory of air toxics emissions...Facilities can use the inventory information to identify and modify the processes or substances within the facility posing the greatest potential public health risk...[and make] voluntary changes to their processes to reduce these emissions...Now that facility operators are more knowledgeable of the toxicity of substances that are used at their facilities,...[they] will continue to make strides to voluntarily reduce and avoid emissions of air toxics." This program has obviously been quite effective in both identifying problems, and in helping facilities themselves correct these problems. Yet by exempting facilities whose emissions are relatively low, the ARB would halt the benefits of this program in relation to these facilities. The comprehensive inventory would be hurt by the exclusion of pertinent data, the public would be hurt by the lack of notice as to risk (which while low, is never- the-less measurable), and the facilities themselves would be hurt by missing out on the ability and incentive to self-correct their emission problem.

These proposed changes deeply undercut the purpose and benefits of the Hot Spots program without even a large cost savings. The estimated savings to facilities exempted from the program is \$150 per facility. Overall savings from the proposed changes are estimated at a mere \$50,000 every four years. A cost reduction this small, indeed only \$12,250 per year statewide, is not an adequate trade-off for the loss in reporting and ongoing knowledge of the emissions of these facilities.

These proposed changes to the Hot Spots program are also problematic because they would give exempted facilities themselves, the responsibility for reporting any changes in their emissions status. Once a "low-risk" facility has been relieved of the responsibility of continued reporting, many factors affecting its risk category could change without the knowledge of the ARB or other responsible officials. If the facility begins emitting more toxic substances, or if the distance between the facility and nearby residents decreases, its risk category will have surely changed. The ARB would remain ignorant to these changes under the proposed system, however, unless the facility operator dutifully reports them. There exist powerful incentives (i.e. legal, monetary, administrative, etc.) which run counter to this admission of changed emission status. These proposed changes thus will set up conflicts of interest and situations in which no actor has responsibility for protecting California's air from toxic emissions.

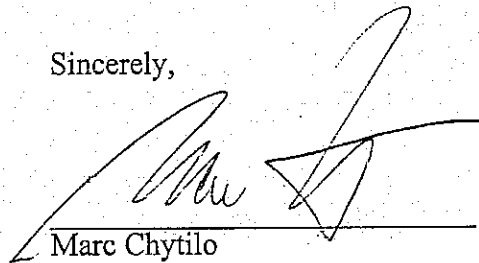
The ARB proposes changes to the Hot Spots program which are against the best interests of the citizens of California and the effected facilities themselves. These changes would gut a program which has been very effective in raising awareness and knowledge about toxic emissions for the meager savings of \$150 per facility. While it is obviously important to make the program operate more efficiently and focus the majority of its efforts on the largest emitters, the exemption of 50% of

facilities from the program just because they emit less is not warranted. Small emissions are still emissions. They are toxic. They present risk. And they must continue to be monitored until their emissions are stopped, either from outside pressure, or from voluntary efforts spurred on by the Hot Spots program in its present form.

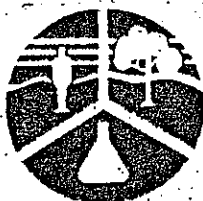
EDC implores CARB to carefully weigh the purported economic benefits to a small number of polluters against the potential health effects of exposure and uncertainty that will follow from these proposed changes. CARB's first responsibility must be to the individual members of the public, and in particular to the children, elderly, and chemically sensitive for whom existing regulations are inadequate. The proposed revisions to this program fail to adequately protect these populations and thus be reconsidered and re-proposed.

Thank you for your attention to these critical issues.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Marc Chytilo', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'M' and a final flourish.

Marc Chytilo
Chief Counsel
Environmental Defense Center



ENVIRONMENTAL HEALTH COALITION

1717 Kettner Boulevard, Suite 100 • San Diego, CA 92101 • (619) 235-0281 • Fax (619) 232-3670
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San Diego Audubon Society

*Affiliations noted for identification
purposes only*

Executive Director
Diane Takvorian

Mission Statement

Environmental Health Coalition is dedicated to the prevention and cleanup of toxic pollution threatening our health, our communities, and the environment. We promote environmental justice, monitor government and industry actions that cause pollution, educate communities about toxic hazards and toxics use reduction, and empower the public to join our cause.

Printed on non-deinked 100% post-consumer recycled paper with soy-based inks

July 23, 1996

Wendy Grand-Champ
Board Secretary
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

**Re: Public Comment: "Staff Report: Initial Statement of
Reasons for Proposed Rulemaking-Proposed Amendments to the
Emission Inventory Criteria and Guidelines Report... May 1996"**
(Issue Date: June 7, 1996)

Dear Ms. Grand-Champ:

This letter represents the comments of the Environmental Health Coalition (EHC) to the above referenced document (the "Report"). The AB 2588 "Hot Spots" program has proven to be a vital public information tool. Although EHC recognizes the efforts of ARB to "streamline" reporting requirements for intermediate- and high-level facilities, we strongly oppose the ARB staff proposal for complete exemptions from further emission inventory plans and update reporting for "low-level" facilities because this widespread exemption practice would countermand the public's right to know about air toxics that affect our communities.

"Low-level" facilities may cumulatively or individually pose significant risks

The purpose of the "Hot Spots" program is to identify, inventory, and publicly disclose all air toxics hot spots; in an effort to improve the environmental health of our communities. But the Report essentially states that the purpose of the proposed amendments is to limit emissions reporting efforts to only those facilities "which pose the greatest 'hot spot' concern." While it makes sense to prioritize greater risk over lower risk facilities during the implementation phase, it is destructive to the Hot Spots program to completely exempt low-level facilities altogether from further update reporting simply because they are not currently the "greatest" concern.

STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 7/23/96
BY BOARD SECRETARY

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The Report does allow for a "unique facility" exception to the low-level exemption, which is to be determined by district discretion. This would allow for the denial of an exemption if a low-level facility poses cumulative or other significant risks. But the Report provision allows the district to merely consider risks posed by an otherwise low-level facility. There is no affirmative duty for the district to require documentation or to deny the exemption, even if there is "good cause to believe" that there are risks associated with the otherwise "low-level" facility. Therefore, EHC would like the requirement for impact documentation and subsequent denial of exemption to be mandatory if the district has "good cause to believe that a facility may individually or in combination with other facilities pose a potential threat to public health," rather than be dependent on district discretion as the Report proposes. After all, if the district has "good cause to believe" that a particular facility poses a potential threat to public health, granting an exemption to such a facility is clearly against the letter and intent of the "Hot Spots" Act.

Even worse, under the Report proposal, if the district does have "good cause" to believe that a facility poses a public health threat, and the district does require the facility to document its emissions and health impacts, the district may nevertheless grant an exemption even if the documentation does not support the claim for the exemption. This is contradictory to public health and the program's right-to-know mandate; and is therefore unacceptable.

Program reinstatement triggers must not be dependent on facility self-reporting

Under the Report's proposed amendments, local districts must rely on the exempted facility operators to self-monitor and self-report when there have been changes to the facility or operation that should trigger re-entry into the program. But the thousands of facilities that would become exempt under this proposal have no incentive to self-monitor or self-report. In fact, a more obvious incentive would be to avoid re-entry.

Under the Report, an exempted facility would be required to reinstate update reporting upon receipt of a notice from the district. The ARB staff propose that "a facility be responsible" for notifying the district of changes in operations or structure that might cause it to no longer qualify for the "low-level" exemption. Receptor distance monitoring will be the shared responsibility of both the district and the facility. Considering that the Report proposals would also greatly reduce the revenue to operate the program, it is unrealistic to expect the district to perform monitoring functions for exempted facilities. Therefore, the districts will rely on exempt facilities to actively engage in diligent self-monitoring to determine if they should re-enter the program. This is neither a reliable nor consistent method of operating a comprehensive emissions inventory program, especially when there are serious public health risks involved.

Integrity of the Air Toxics Hot Spots program will be lost

The program was designed to create and maintain a comprehensive inventory of air toxics emissions and the risks associated with their sources. If the program is cut back drastically through complete exemptions for low-level facilities (nearly half of all currently in the program), it will not be possible to meet the comprehensive inventory goal of the program. Furthermore, it will be difficult to assess cumulative risks associated with more than one source with any accuracy.

Exempting low-level facilities is an environmental justice issue

As with other adverse environmental impacts, air toxics emissions disproportionately affect low-income communities and communities of color. This disproportionate impact is also true for "low-level" sources. For example, most individual and cumulative air toxics burdens in the San Diego area are suffered by the same community: Barrio Logan and Logan Heights. This community is characterized by a high concentration of residents that are low-income and people of color, primarily Latino. An exemption of low-level facilities would mean that these already disproportionately impacted people would be surrounded by facilities that emit toxic substances but that essentially do not report their emissions inventory updates to the district.

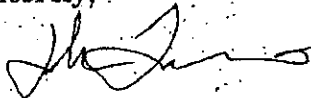
This *de facto* dismantling of the AB 2588 program is especially distressing in light of a recent California Environmental Protection Agency report that indicated that "the 'Hot Spots' program provides [the] greatest benefits to lower income neighborhoods."¹ This statement was made as part of a summary of statutory programs which are hailed as promoting environmental justice. It follows that if thousands of low-level facilities are exempted from the program, the impacts will be felt most in lower income communities—thus increasing their already disproportionate environmental burdens.

Conclusion

The AB 2588 program performs an essential role in monitoring air toxic emissions by requiring regular reporting from thousands of facilities state-wide. The program in its current form provides an incentive for facilities to reduce their emissions, and provides important data to communities that suffer from high cumulative risks from toxic exposure. Exemptions under the ARB Staff Report will be destructive to the program and will side-step our communities' "right to know". The re-entry triggers for exempted facilities under the Report provide an incentive to simply not self-report emissions increases or changes, and no real disincentive to keep otherwise unavoidable emissions increases low.

The amendments proposed by the Report will severely weaken the AB 2588 program, a vital public information tool. EHC is concerned with the impact and practical application of the proposed changes to the program, and urge the ARB to reject the Staff Report proposal to exempt "low-level" facilities.

Sincerely,



John Lemmo

cc: Ron Roberts

¹ Cal/EPA Report, Vol. 5, No. 4, p.8.



96-6-1
7/25/96

STATE OF CALIFORNIA
AIR RESOURCES BOARD
RECEIVED 7/22/96
BY BOARD SECRETARY
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45500 Fremont Boulevard

Fremont, CA U.S.A. 94538

(510) 498-5500

July 19, 1996

Linda C. Murchison, Chief
Air Resources Board
PO Box 2815
2020 L Street
Sacramento, CA 95812-2815

Re: Suggested Revision of Section IV.A of the May 1996 draft of the EMISSION INVENTORY CRITERIA AND GUIDELINES REPORT

Dear Ms. Murchison:

After reviewing the May 1996 draft of the EMISSION INVENTORY CRITERIA AND GUIDELINES REPORT, NUMMI appreciates the opportunity to make the following comments. We believe that the categorical exclusion of facilities classified as major sources of federal Hazardous Air Pollutants (HAPs) from "low level" status in Section IV.A.1.e is unnecessary, given that under Section IV.A.4, the District has the authority to reclassify any "low level" status facility it deems appropriate. It seems unreasonable and unjustifiable to burden facilities that present a very low level of health risk to the public with the requirement of generating and filing updated reports where other "low level" facilities are exempt. Furthermore, the CARB proposal for major HAP sources is counter to the intent of the new Air Toxics "Hot Spots" Program; namely, to implement a classification system based on *health risk assessment*.

Based on the above, NUMMI recommends that CARB remove the "major HAP source" provision which categorically prevents such low risk facilities from being exempt from unnecessary reporting.

Thank you for considering our comments. If you have any questions about this matter, please feel free to contact me at (510) 498-5790.

Sincerely,

Tony Fisher by [Signature]
Anthony R. Fisher, Ph.D.
Senior Advisor

AF/jo