

**PROPOSED**

State of California  
AIR RESOURCES BOARD

**PROPOSED AMENDMENTS TO THE  
EMISSION INVENTORY AND CRITERIA AND  
GUIDELINES REPORT FOR THE AIR TOXICS  
"HOT SPOTS" PROGRAM**

Resolution 20-30

**November 19, 2020**

Agenda Item No.: 20-12-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the California Clean Air Act of 1988 (Assembly Bill (AB) 2595, Sher, Stats. 1988, ch. 1568), requires that the State ambient air quality standards be attained by the earliest practicable date to protect public health, particularly the health of children, older people, and those with respiratory diseases;

WHEREAS, the Legislature found in the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (the Act), Health and Safety Code Section 44300 et seq., Chapter 1252, Statutes of 1987, (AB 2588, Connelly), that releases of toxic air pollutants may create "hot spots" where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects, and contribute to the cumulative health risks of emissions from other sources in the area;

WHEREAS, the Act directs CARB to identify facilities that must report air toxics emissions, which emissions must be reported, and how they are reported to the local air district, for the purpose of providing data to inform the public, estimate exposures and develop controls;

WHEREAS, the Act sets forth a program to develop air toxics emission inventories, assess the risk to public health from exposure to air toxics, provide notice to the public of the risks, and implement a plan to reduce those risks;

WHEREAS, the Act gives local air districts primary authority to implement and design a Hot Spots Program;

WHEREAS, section 44344.7 of the Health and Safety Code gives local air districts certain criteria for exercising discretion on how to implement their Hot Spots Program with respect to evaluating and notifying facilities when a change to the risk or emissions inventory requirements is made;

WHEREAS, the Emission Inventory Criteria and Guidelines (EICG) Report for the Air Toxics "Hot Spots" Program is incorporated by reference in title 17, California Code of Regulations (CCR) section 93300.5 in accordance with the Act;

WHEREAS, Section 44321 of the Health and Safety Code authorize CARB to compile and maintain a list of chemical substances recognized as presenting a chronic or acute threat to public health in six designated lists of substances compiled by federal and State regulatory programs references in the statute. These include CARB's own list of Toxic Air Contaminants (TAC), United States Environmental Protection Agency's (EPA) Hazardous Air Pollutants (HAP), the International Agency for Research on Cancer (IARC), the California Proposition 65 (Prop 65), the National Toxicology Program (NTP), and the Hazard Evaluation System and Information Service (HESIS);

WHEREAS, section 44321 of the Health and Safety Code 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;

WHEREAS, staff consulted with the Scientific Review Panel (SRP) on Toxic Air Contaminants in four public meetings, on June 28, 2019, October 4, 2019, November 22, 2019, and February 27, 2020, and received an Interim Findings letter where the SRP has noted that staff has convincingly demonstrated that:

- (1) CARB staff has proposed appropriate new substances compiled in accordance with the six lists outlined in Section 44321, subdivisions (a) to (e) of the AB 2588 statute.
- (2) The substances proposed for addition based on the authority granted to CARB by Section 44321 (f) of the statute have been recognized to present a chronic or acute threat to public health when present in ambient air.
- (3) Substances in the three broad "functional group" categories proposed by CARB (poly and per-fluorinated chemicals; derivatives and substituted versions of polycyclic aromatic compounds containing any halogen atom; and isocyanates) can be reasonably expected to present a chronic or acute threat to public health when present in ambient air;

WHEREAS, improved emission inventory data would enable CARB and the air districts to carry out their obligations under multiple programs and legislative mandates, including:

- (1) Section 39607 of the Health and Safety Code, which directs CARB to establish a program to gather, monitor and evaluate air pollution data by geographical location, and make available on CARB's internet site an inventory of emissions data on greenhouse gases, criteria pollutant, and toxic air contaminants throughout the state, including district data on criteria pollutants and toxic air contaminants emitted by stationary sources;
- (2) Section 39650 et seq. of the Health and Safety Code, which establishes the policy of the State to control emissions of toxic air contaminants, based on the best available scientific information, and directs the Board to establish airborne toxic control measures (ATCM);
- (3) Section 39701 of the Health and Safety Code, which directs CARB to coordinate and collect research data on air pollution to support several air quality goals in the state, including the control of non-vehicular emissions and the control of specific contaminants to meet ambient air quality standards;
- (4) Section 41511 of the Health and Safety Code, which gives CARB the authority to adopt rules and regulations in carrying out its duties that require the owner or the operator of any air pollution emission source to take such action as it may determine to be reasonable for the determination of the amount of such emission from such source;
- (5) AB 197 (E. Garcia, Stats. 2016, ch. 250), which requires an integrated approach for assessing emissions greenhouse gas, criteria pollutant, and toxic air contaminant emissions for stationary sources. AB 197 further improves public right-to-know and fosters emissions data transparency, particularly in its most disadvantaged communities. AB 197 utilizes air toxics emissions inventory data collected through the AB 2588 program and includes the following key requirements:
  - a. The State Board shall make available, and update at least annually, on its Internet Web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for specified facilities;
  - b. The criteria pollutant and toxic air contaminant emission data for stationary sources shall be based on data provided to the State Board by air pollution control and air quality management districts;
  - c. The State Board's Internet Web site shall include displays of the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants throughout the state, broken down to a local and sub-

county level for stationary sources, and to at least a county level for mobile sources;

WHEREAS, California's air quality programs have led to significant public health improvements; however, certain communities continue to experience environmental and health inequities from air pollution;

WHEREAS, many of these communities are affected by multiple stationary, area, and mobile sources of air pollution and suffer disproportionate health impacts;

WHEREAS, 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;

WHEREAS, expedited emissions reductions of toxic air contaminants and criteria air pollutants in communities with high cumulative exposure burdens are critical to reduce these disproportionate health impacts;

WHEREAS, to address these concerns, AB 617 (C. Garcia, Stats. 2017, ch. 136) added sections 39607.1, 40920.8, 42411, 42705.5, 44391.2 and amended sections 40920.6, 42400, 42402 of the Health and Safety Code, as a significant step in transforming California's air quality programs to address air pollution disparities at the neighborhood level;

WHEREAS, AB 617 includes the following key elements such as: establishing a uniform statewide reporting system of annual emissions of criteria air pollutants and toxic air contaminants from stationary sources, developing a statewide strategy for reducing criteria pollutant and toxic emissions, and selecting the most highly impacted communities and working with all stakeholders to reduce emission impacts in those communities;

WHEREAS, section 44360 of the Health and Safety Code requires the Office of Environmental Health Hazard Assessment (OEHHA) to establish guidelines for the preparation of health risk assessments under the Air Toxics Hot Spots Program;

WHEREAS, the latest OEHHA Health Risk Assessment Guidelines published in February 2015 include age sensitivity factors to take into account the increased sensitivity to carcinogens during early-in-life exposure;

WHEREAS, section 44340 of the Health and Safety Code requires each facility operator to prepare and submit to the district a proposed comprehensive emissions inventory plan in accordance with the criteria and guidelines adopted by the state board pursuant to Section 44342;

WHEREAS, the Board staff, in consultation with representatives of the air pollution control and air quality management districts and OEHHA, and in response to comments from affected industry representatives and other interested persons, has proposed a number of amendments to the EICG Report, which has been discussed with the public at two workshop meetings, and at other meetings and teleconferences with industry, health and environmental groups, and district representatives;

WHEREAS, the proposed amendments are necessary to support the collection of emission data, identifying facilities having the potential for localized impacts, understanding health risks, and requiring that owners of significant-risk facilities reduce their risks below the level of significance to protect public health;

WHEREAS, staff has proposed amendments to the Emission Inventory and Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 29, 2020, and made available for public comment for at least 45 days prior to the Board meeting held on November 19, 2020, on this topic;

WHEREAS, the Board has considered the impact of the proposed EICG Regulation on the economy of the State and the potential for adverse economic impacts on California business enterprises and individuals;

WHEREAS, the regulation amendments include the most recent OEHHA Risk Assessment Guidelines as of February 2015 incorporated by reference;

WHEREAS, the regulation amendments include the most recent California Air Pollution Control Officer Association (CAPCOA) Facility Prioritization Guidelines as of August 2016 incorporated by reference;

WHEREAS, the best available science was used to update risk assessment guidance using screening air dispersion modeling intended to be simpler to prepare, and to use more basic but highly conservative inputs, to demonstrate estimated potential health risks are confidently below a level of significance for cancer and non-cancer health impacts;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

WHEREAS, consistent with Government Code sections 11346, subdivision (b), and 11346.45, subdivision (a), and with the Board's long-standing practice, CARB staff held public workshops and had other meetings with interested persons during the development of the proposed regulation;

WHEREAS, as part of outreach efforts, CARB staff worked closely with local air districts throughout the state, individually, through workgroups, and through the California Air

Pollution Control Officers Association, to refine the amendments, to more fully understand current air district inventory programs and needs, and to identify and implement mechanisms to minimize air district and industry resource impacts;

WHEREAS, CARB staff hosted two online public workshops (attended by 683 and 490 participants, respectively) to discuss the proposed EICG amendments; mailed notifications regarding the workshops and the proposed regulatory amendments to nearly 1,500 facilities and associations potentially subject the amendments; and emailed nearly 22,000 individuals, companies, associations, and others via CARB email lists or individually;

WHEREAS, CARB staff individually called over 75 industry-specific associations or associations representing businesses, such as chambers of commerce, to engage them in the regulatory development process, informing them of the proposed amendments and to answer any questions;

WHEREAS, in developing the proposed EICG Regulation, CARB staff considered input provided in over 20 written comment letters received following the public workshops, as well as other comments received via email and verbally;

WHEREAS, CARB staff's outreach efforts also included engaging with numerous interested parties including individual regulated facilities, environmental groups, community organizations, industry groups and associations, local air districts, consultants, local government agencies, chambers of commerce, and members of the public;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff has determined that the proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter V of the Staff Report;

WHEREAS, the proposal is also categorically exempt from CEQA under the "Class 6" exemption (14 CCR 15306) because it is an action for the collection of information (i.e. basic data collection, research, experimental management, and resource activities) which does not result in serious or major disturbances to an environmental resource;

WHEREAS, the Board finds that:

The proposed regulation amendments support multiple CARB and air district program needs and are necessary to reflect significant advances in our understanding of health risks of toxic air pollutants;

The proposed regulation amendments align the Air Toxics “Hot Spots” program, established pursuant to Health and Safety Code Section 44300 et seq., with other regulations and requirements already in place to ensure consistency and minimize duplication of effort;

The proposed regulation amendments support public right-to-know requirements under AB 197; community air protection components under AB 617; air toxics emission report under National Emission Inventory requirements; development of Air Toxic Control Measures, air monitoring studies and CalEnviroScreen inputs; and other Board activities;

The EICG amendments were designed to be implemented in a cooperative manner with California’s local air districts, recognizing the existing district emission inventory programs, knowledge of local emissions sources, and expertise present in the districts;

The EICG amendments were developed using the best available economic and scientific information;

The updated reinstatement provisions in the EICG amendments were developed to consider the combined impacts relevant to the community air protection components of AB 617;

The EICG amendments were developed using the best available science for source testing protocols and screening assessment;

The proposed EICG Appendix A substance list incorporates all relevant best available science on health values and other related impacts and has been amended in close collaboration with OEHHA and approved by the Scientific Review Panel through four public meetings with the Panel and an Interim-Findings Letter;

The proposed amendments meet the statutory requirements to implement a long-term program to identify, assess, and control ambient levels of hazardous air pollutants, and other required measures, as identified in sections 44301(f)-(h) of the Health and Safety Code;

The proposed amendments were developed in an open public process, in consultation with affected parties, through numerous public workshops,

individual meetings, and other outreach efforts, and these efforts are expected to continue;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed amendments include a provision to allow an interested party to petition the Executive Officer to add of one or more new substances to the list of reportable chemicals;

The proposed amendments are consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin;

The proposed amendments are exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment; and

The proposed amendments are also categorically exempt from CEQA under the "Class 6" exemption (14 CCR 15306) because it is an action for the collection of information (i.e. basic data collection, research, experimental management, and resource activities) which does not result in serious or major disturbances to an environmental resource.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption amendments to section 93300.5, Title 17, California Code of Regulations, as set forth in Appendix A of the Initial Statement of Reasons released to the public on September 29, 2020.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue collaboration with the local air districts and CAPCOA in the implementation of the EICG, to ensure efficient and complete execution of the requirements established by the the EICG.

BE IT FURTHER RESOLVED that in consideration of the shared responsibilities between CARB and local air districts in consistently implementing the EICG requirements, the Board directs CARB staff to coordinate closely with CAPCOA and the air districts to avoid duplication of efforts with respect to pooled source testing.



BE IT FURTHER RESOLVED that the Board directs CARB staff to coordinate closely with air districts and stakeholders to develop early actions for air toxic emission reductions.

BE IT FURTHER RESOLVED that the Board directs CARB staff continue to work with OEHHA to ensure the most robust scientific information is used in the development of provisional health guidance values.

BE IT FURTHER RESOLVED that the Board directs CARB staff to provide further guidance on functional group reporting to assist in consistent implementation.

BE IT FURTHER RESOLVED that the Board directs CARB staff to work with CAPCOA, air districts, and stakeholders to establish statewide uniform emission estimation methods and data reporting to the extent feasible, and that estimation method development will include a transparent public process to incorporate stakeholder expertise and feedback.

BE IT FURTHER RESOLVED that the Board directs CARB staff to work with CAPCOA, air districts, and other stakeholders to develop a work group that evaluates the way data is presented and compiled within CARB's Pollution Mapping Tool.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15-day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate any additional environmental analysis to the extent required by CARB's regulations at section 60004, Title 17, California Code of Regulations.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Appendix A of the Initial Statement of Reasons released to the public on September 29, 2020. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall 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. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.