

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE EMISSION INVENTORY CRITERIA AND GUIDELINES REPORT FOR THE AIR TOXICS "HOT SPOTS" PROGRAM

The California Air Resources Board (CARB or Board) will conduct a public hearing at the date and time noted below to consider approving for adoption proposed amendments to the "Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program" (the Guidelines or EICG, including all appendices), which is also being incorporated by reference as a proposed amendment to Title 17, California Code of Regulations, Section 93300.5.

DATE: November 19, 2020

TIME: 9:00 a.m.

Please see the Public Agenda which will be posted ten days before the November 19, 2020, Board Meeting for any appropriate direction regarding a possible remote-only Board Meeting. If the meeting is to be held in person, it will be held at the California Air Resources Board, Byron Sher Auditorium, 1001 I Street, Sacramento, California 95814.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., November 19, 2020, and may continue at 8:30 a.m., November 20, 2020. Please consult the agenda for the meeting, which will be available at least ten days before November 19, 2020, to determine the day on which this item will be considered.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on October 2, 2020. Written comments not submitted at the hearing must be submitted on or after October 2, 2020, and received **no later than November 16, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention

of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

[Electronic submittal](https://www.arb.ca.gov/lispub/comm/bclist.php): <https://www.arb.ca.gov/lispub/comm/bclist.php>

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

Authority and Reference

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600, 39601, and 44342. This action is proposed to implement, interpret and make specific sections 41805.5, 44320, 44321, 44322, 44323, 44324, 44325, 44340, 44341, 44342, 44343, 44344, 44344.4, 44344.5, 44344.7, 44346, 44360, and 44365 of the Health and Safety Code, section 6254.7 of the Government Code, and California Code of Regulations, title 17, Sections 90700-90705, Appendix A.

Informative Digest of Proposed Action and Policy Statement Overview (Gov. Code, § 11346.5, subd. (a)(3))

Sections Affected: Proposed amendment to California Code of Regulations, title 17, section 93300.5.

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):

The following document would be incorporated in the regulation by reference as specified by section:

- AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report (including all appendices), [date to be determined upon adoption], section 93300.5.

The following documents would be incorporated by reference in the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Report:

- San Joaquin Valley Air Pollution Control District: San Joaquin Valley Unified Air Pollution Control District Rule 2201 "New and Modified Stationary Source Review Rule," section 3.0 "Definitions," as amended February 18, 2016 (section 3.39 definition of facility "Stationary Source"). Incorporated in Section X(14)(b).
- American Society for Testing and Materials (ASTM): ASTM Methods: "D 6721-01 (Reapproved 2015)" dated 2015, and "D 4239-18e1" dated 2018, to determine chlorine content and sulfur content of coal and coke samples, respectively. Incorporated in Section IX(A)(2)(b). "E 776-16" dated 2016, and "E 775-15" dated 2015, to determine chlorine content and sulfur content, respectively, in wood, refuse-derived, and other solid fuel, waste, or material samples. Incorporated in Section IX(A)(2)(c). D 808-16 dated 2016, and D 129-18 dated 2018, to determine chlorine content and sulfur content in other fuel or material samples. Incorporated in Section IX(A)(2)(d).
- U.S. Environmental Protection Agency (EPA) Methods: 7196A, dated July 1992, for chromium (hexavalent); 7471B, dated February 2007, for mercury; 7010, dated February 2007, for selenium; 6010D, dated July 2018, for all other trace elements. These test methods are set forth in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA publication SW-846, Third Edition, Final Updates: I (1993), II (1995), IIA (1994), IIB (1995), III (1996), IIIA (1999), IIIB (2005), IV (2008), V (2015), VI (2018), located at <https://www.epa.gov/hw-sw846>. Incorporated in Section IX(A)(2)(a).
- California Air Pollution Control Officers' Association (CAPCOA): "Air Toxics 'Hot Spots' Program Facility Prioritization Guidelines, August 2016", located at: <http://www.capcoa.org/wp-content/uploads/2016/08/CAPCOA%20Prioritization%20Guidelines%20-%20August%202016%20FINAL.pdf>. Incorporated in Sections IV(A)(1)(a) and X(24).
- Office of Environmental Health Hazard Assessment (OEHHA) and CARB: "Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values," September 2019. Located at: <https://www.arb.ca.gov/sites/default/files/classic/toxics/healthval/contable.pdf>. Incorporated in Appendix F(E)(7).
- OEHHA: "Air Toxics 'Hot Spots' Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments," February 2015, located at: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>. Incorporated in Sections IV(A)(1)(b), IV(A)(1)(d)(i), IV(B)(1)(c)(i), X(18), and Appendix F(E)(7).

- OEHHA: "Acute, 8-hour and Chronic Reference Exposure Level (REL) Summary", November 2019, located at: <https://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary>. Incorporated in Appendix F(E)(7).
- OEHHA: "Technical Support Document for Cancer Potency Factors 2009" June 1, 2009. Available at: <https://oehha.ca.gov/air/cnr/technical-support-document-cancer-potency-factors-2009>; and "Appendix A: Hot Spots Unit Risk and Cancer Potency Values" May 2019, located at: <https://oehha.ca.gov/media/CPFs042909.pdf>. Incorporated in Appendix F(E)(7).
- OEHHA: "p-Chloro- α,α,α -trifluorotoluene (p-Chlorobenzotrifluoride, PCBTF) Cancer Inhalation Unit Risk Factor Technical Support Document" August 2020, located at: <https://oehha.ca.gov/media/downloads/cnr/pcbtfur080720.pdf>. Incorporated in Appendix F(E)(7).
- OEHHA: "Notice of Adoption of Cancer Inhalation Unit Risk Factor for p-Chloro- α,α,α -trifluorotoluene" August 2020, located at: <https://oehha.ca.gov/air/cnr/notice-adoption-cancer-inhalation-unit-risk-factor-p-chloro-aaa-trifluorotoluene>. Incorporated in Appendix F(E)(7).
- CARB: HotSpots Analysis and Reporting Program (HARP), located at: <https://www.arb.ca.gov/our-work/programs/hot-spots-analysis-reporting-program>; which includes the Air Dispersion Modeling and Risk Tool (ADRM), version 19121 - May 1 2019, located at: <https://www.arb.ca.gov/sites/default/files/classic/toxics/harp/software2/harp2admrt19121.zip>, and Emission Inventory Module (EIM) v2.1.4, August 7, 2020, located at: <https://www.arb.ca.gov/toxics/harp/software2/harp2eim20200807.zip>. Both incorporated in Appendix F(E)(7).
- U.S. EPA: AERMOD (19191) modeling system, August 2019, located at: <https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models#aermom>; specifically the AERSCREEN (16216) model, December 2016, located at: <https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models#aerscreen>; BPIPPRM (19191) model, November 2019, located at: <https://www.epa.gov/scram/air-quality-dispersion-modeling-related-model-support-programs#bpipprm>. Incorporated in Appendix F(D).

- U.S. EPA: Health effects values for non-cancer risk assessment from the United States Environmental Protection Agency, Integrated Risk Information System (IRIS), last updated January 15, 2020, located at: https://cfpub.epa.gov/ncea/iris_drafts/atoz.cfm?list_type=alpha.
- CARB: California Emission Inventory Data and Reporting System (CEIDARS – version 2.5, September, 2005), available at: <https://www.arb.ca.gov/app/emsinv/dist/doc/datadict.pdf>. Incorporated in Appendix G.
- CARB: Appendix C to the “Staff Report: Initial Statement of Reasons: Public Hearing to Consider the Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants,” published by CARB on October 23, 2018. Located at: <https://ww3.arb.ca.gov/regact/2018/ctr2018/ctrappc.pdf>. Incorporated in Section X(28).

Background and Summary of Proposed Amendments:

Sound science and the data that supports it drives effective public health policy. To address air pollution related health impacts, toxics and other emissions inventory data collected to support regulatory actions is a key to success. For this reason, CARB has collected emissions data from a wide variety of sources over its 50-year plus history.

California’s existing air quality programs are responsible for significant public health improvements and progress through statewide and regional air quality planning requirements, advancement of technology-based solutions, and toxics risk reduction efforts near industrial facilities. To help sustain and track that progress, the Air Toxics “Hot Spots” Program has been a key element for identifying and reducing toxic emissions released by facilities within California.

The EICG was developed pursuant to Assembly Bill 2588 (AB 2588), the Air Toxics “Hot Spots” Information and Assessment Act of 1987¹ (Act), and its subsequent amendments. Under this program, stationary sources are required to report the types and quantities of certain toxic substances their facilities routinely release into the air. More broadly, the Hot Spots program protects public health by collecting emission data, identifying facilities having the potential for localized impacts, ascertaining the health risks, and requiring that owners of significant-risk facilities reduce their risks below the level of significance.

The primary purpose of the proposed EICG amendments is to provide CARB and air districts with a better understanding of stationary source toxic emissions, enhance the

¹ California Health and Safety Code sections 44300-44394.

public access to information on toxic pollutant emissions, and further reduce their impacts on public health by ensuring that many new and emerging chemicals of concern are reported.

The proposed amendments would also expand the applicability requirements to bring new facilities into the inventory program that have the potential for important public health impacts. The inclusion of additional chemicals and additional types of facilities is based on consideration of the latest science showing significantly more childhood and lifetime vulnerability to risks, such as cancer, due to early life exposures. The proposed amendments incorporate the latest risk assessment guidance from OEHHA, as well as OEHHA's latest health values (for cancer potency and non-cancer reference exposure levels).

Further, the importance of evaluating the air toxics emissions and risk from stationary sources will continue to increase as other sources like cars and truck continue to get proportionally cleaner, and as there is a growing focus on looking at the combined impacts of all nearby sources in a community. A more comprehensive understanding of stationary source emissions from all pollutant types, particularly air toxics, will be needed to identify and evaluate appropriate mitigation strategies to reduce public exposures to harmful pollutants.

In addition, the proposed amendments would support CARB's on-going environmental justice priorities, as well as provide significant additional data for public right-to-know purposes.

The proposed EICG amendments are a cornerstone of the foundation needed to support CARB and air district health protection programs, both at the statewide and community level. The EICG is unique in that it requires toxics emissions data collection and reporting to support the prioritization of facilities based on their toxic emissions, health risk assessments for the highest rated facilities, community notification of facility-based risks, and the requirement to prepare and implement plans to reduce those risks. The proposed amendments are both necessary for ensuring ongoing reductions in potential cancer risk and other health-related impacts due to toxic air contaminant emissions.

Proposed Regulatory Action:

Emission inventory data is critical to understanding the sources of emissions that may contribute to adverse health risks or other impacts. Exposure to polluted air is linked to a number of health effects such as worsened asthma, hospitalizations, and even premature death related to heart and lung disease. Toxic air pollutants emitted from cars, trucks and industrial sources can also cause other adverse health effects such as cancer.

In the years since the last EICG update in 2007, there have been significant advances in our understanding of the toxic health risk posed by many chemicals and their impacts on public health at different stages in life. Most notably, the latest scientific evidence shows that early-life exposures to air toxics contribute to an increased lifetime risk of developing cancer, or other adverse health effects, compared to exposures that occur in adulthood. Overall, these studies concluded that lifetime inhalation cancer risk could be increased by a factor of three times higher than previously estimated. In response, OEHHA updated their Guidance Manual for Health Risk Assessments in 2015, and the EICG must now be updated to reflect this latest guidance.

Additionally, the Act requires CARB to compile a list of substances of concern identified by other agencies and scientific bodies. Substances that must be considered include CARB's own Toxic Air Contaminants, U.S. EPA's Hazardous Air Pollutants, substances from the International Agency for Research on Cancer, the California Proposition 65 list, the National Toxicology Program, and the Hazard Evaluation System and Information Service list. In addition, CARB can also include other substances that may present a chronic or acute threat to the public but have not been formally listed in the six sources above. Since the last EICG update in 2007, many substances have been added to the six source lists that CARB must consider for inclusion, and CARB staff identified over 1,000 new substances that meet the criteria for reporting under the Hot Spots Act.

The primary purpose of the proposed EICG amendments is to align the Hot Spots Program with the latest OEHHA Health Risk Assessment Guidelines and to update the list of chemical substances that have been recognized as having the potential for adverse health effects.

The proposed EICG amendments have been developed to support multiple CARB and air district program needs, supporting a framework for a comprehensive and uniform statewide system for reporting toxic air contaminants and are necessary to:

- Reflect significant advances in our understanding of the health risks of toxic air pollutants;
- Enhance the comprehensiveness, consistency, and transparency of the air toxics emissions data collected from a large number of facilities in California;
- Align the Hot Spots program with other regulations and requirements already in place to ensure consistency and minimize duplication of effort;

- Support public right-to-know requirements under Assembly Bill 197² (AB 197); community air protection components under Assembly Bill 617³ (AB 617); air toxics emission reporting under National Emission Inventory requirements; development of Air Toxic Control Measures, air monitoring studies and CalEnviroScreen inputs; and other Board activities;
- Further refine the current requirements in the regulation for completeness and clarity.

A comprehensive description of the proposed amendments, as well as additional background regarding the Hot Spots program, are provided in the CARB document: "Staff Report: Initial Statement of Reasons – Public Hearing to Consider Amendments to the Emission Inventory Criteria and Guidelines Report For the Air Toxics "Hot Spots" Program" referred to as the Initial Statement of Reasons (ISOR)⁴.

CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, during the course of this rulemaking process.

Benefits of the Proposed Amendments:

Many areas of California continue to be disproportionately burdened by air pollution. CARB has an obligation to collect and communicate emissions data at the regional and local levels, evaluate the risks from airborne emissions, and reduce exposure to air pollution in these communities. The proposed amendments to EICG are critical to supporting these objectives. Multiple federal and state statutes authorize and require CARB to collect, evaluate, and make publicly available facility emissions that are needed to implement the statutes. These include the National Emissions Inventory, AB 2588, AB 617, AB 197, and others. Using data collected under the proposed EICG requirements, the toxic emissions sources and trends for California's most significant facility toxic emission will be more fully understood.

The Air Toxics "Hot Spots" Information and Assessment Act requires affected facility operators to report the types and quantities of toxic substances their facilities release into the air. Facility operators prepare and update emission inventory plans and reports, and submit the data to the districts for review and approval. The goals of the program are to collect emission information and make it available to the public, to identify facilities having localized impacts, to assess health risks, to notify nearby residents of significant risks, and to reduce risks below the level of significance within specified timeframes.

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 Nonvehicular Air Pollution: Criteria Air Pollutants and Toxic Air Contaminants (AB 617) (Statutes of 2017; Chapter 136; Health and Safety Code (H&SC) section 39607.1)

⁴ ISOR is available here: <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>

Both the public and industry have benefited from the Hot Spots Program. The emission inventory compiled under this program provides essential data for the risk assessment and public notification processes. It provides data for public requests for toxics information and provides an essential tool for development of cost-effective risk reduction audits and plans. The emission data collected under this program are used to help prioritize the development of air toxic control measures and has helped identify source of air toxics not previously under evaluation and has provided exposure information needed to prioritize control measures and develop regulatory actions. The reported data also serve as a baseline for quantifying progress toward reducing toxic emissions. Over the last three decades, facilities that pose a potential significant health risk to the public have been required to reduce their risks, thereby reducing the near-source exposure of Californians to toxic air pollutants.

Despite significant progress in reducing overall risk from facilities statewide, newer studies suggest an increase in lifetime cancer risk from exposures to air toxics in the early life stages. In addition, the number of chemical substances identified as posing chronic or acute health threats when present in the air has increased significantly. The proposed amendments will enhance the public access to information about releases of toxics into the air from a large number of facilities; provide more comprehensive toxics data for evaluating the health risks to nearby residents; and harmonize the reporting requirements with other reporting programs to create consistency and avoid duplication.

Also, as California continues to transition toward zero-emission vehicles, the relative contribution of emissions from stationary sources will continue to increase, and more comprehensive stationary source inventories will be needed to identify and evaluate appropriate mitigation strategies to reduce public exposures to harmful pollutants.

A key benefit of the proposed amendments will be to provide the public, community groups, scientists, air districts, CARB, and others with updated information about facilities that represent a potential health risk to nearby residents. The proposed amendments will not only expand the number of harmful substances that must be reported, but also increase access to information about the facilities that emit them. Improving the availability of emissions data at the local level will help to efficiently implement community air protection requirements under AB 617, and may also be used to inform the development of CalEnviroScreen, which is a tool to identify and assess geographic areas within California that are disproportionately impacted by pollution. The improved emission data will also support CARB's environmental justice priorities, and support public right-to-know and data availability priorities such as AB 197.

The proposed EICG amendments are being aligned with proposed amendments to the CARB "Regulation for the Reporting of Criteria Air Pollutants and Toxic Air

Contaminants⁵,” so that the phase-in schedule for implementation, the list of applicable chemical substances to be evaluated, the reporting deadlines, and other aspects of the two programs are synchronized and consistent. This improved data in turn provides benefits to community groups, the public, regulators, scientists, CARB, and others, who have growing needs to access complete, user-friendly, and high-quality emissions data. The proposed amendments would significantly increase access to useful data in user-friendly forms, such as mapping (as provided in the current CARB Pollution Mapping Tool⁶), graphs, and detailed emissions data reports when needed.

In addition to addressing the needs and goals of AB 2588, AB 197 and AB 617, State Implementation Plans, exposure modeling, and more, toxics inventory data collected under EICG helps to determine what is being emitted into the air, by whom, and where. Inventory data helps guide and provide the scientific basis for CARB’s regulatory development process. Inventory data helps identify and address areas of concern, and to track progress in emission reduction efforts from facilities, area sources, and mobile sources. Inventory data is an essential element in the development of cost-effective solutions to reduce air pollution and protect human health. And, although the reporting regulation amendments provide no direct benefits to worker safety, over time, indirect health benefits to workers and residents within California are expected to be realized as actions are taken to reduce emissions based on improved toxics inventory and risk assessment data.

Comparable Federal Regulations:

Various provisions of existing federal regulations require the reporting of toxic air contaminants to U.S. EPA. The proposed CARB amendments to EICG also require reporting of toxic emissions, which does have some overlap with existing federal requirements. Overall, however, the requirements are not duplicative. For example, under the federal Toxics Release Inventory (TRI) requirements, industries that are primarily only in the manufacturing sector are covered, and there are very high usage thresholds before reporting is required. The industry data is self-reported to TRI without any review of the data by the local air districts. Furthermore, unlike California’s Air Toxics “Hot Spots” program, the federal programs do not require that collected data be used to prioritize facilities based on emitted toxics, perform risk assessments, or reduce toxics risk below significance levels. The proposed CARB amendments are specifically designed to address the needs associated with collecting data necessary for evaluating toxic air pollution impacts in disproportionately impacted communities and statewide. These needs cannot be met with data collected under

⁵ <https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting/ctr-regulation>

⁶ CARB Pollution Mapping Tool: https://www.arb.ca.gov/ei/tools/pollution_map/ (CARB, Pollution Mapping Tool, 2017)

existing federal regulations, which makes the proposed amendments necessary.

In addition, elements of the amended EICG requirements are mandated by AB 2588, section California Health and Safety Code sections 44300-44394. Further, the cost of differing reporting regulations is justified by the anticipated benefits to human health, public welfare, and the environment. Community monitoring and emission reduction programs will be developed and implemented using the data collected under the amended regulation as a foundation to establish, evaluate, and quantify community air quality improvements. Additional discussion related to the justification for adoption of regulations different from federal regulations is provided in Section IX of the Staff Report.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded that these amendments to EICG are neither inconsistent nor incompatible with existing State regulations.

Disclosure Regarding the Proposed Regulation

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subs. (a)(5)&(6)):

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below. A more detailed description and analysis is provided in Chapter VII of the ISOR for this regulatory item.

Local Mandate Determination and Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.: 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 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.

Cost or Savings for State Agencies: Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would result in a total marginal cost increase to

approximately 500 state owned or operated facilities, with a total cost of approximately \$1.2 million over the ten year evaluation period. The costs result from additional emissions reporting requirements. State agencies (CARB and OEHHA) will incur \$3.8 million over ten years to implement the proposed amendments. It is anticipated that CARB and OEHHA will cover any additional increase in implementation costs associated with the proposed amendments through the "Hot Spots" Fee Regulation and existing program budgets and resources. The "Hot Spots" Program requires ongoing facility evaluations, and these activities are funded through current budget structures, which are reimbursed through facility fees. The total costs to state government is \$5.0 million over ten years.

Other Non-Discretionary Costs or Savings on Local Agencies: The cost to approximately 2,000 local agencies is estimated to be \$6.3 million over the ten-year evaluation period. Water treatment plants, landfills, power plants, and other facilities owned or operated by local agencies would be subject to the proposed reporting requirements for facilities. Local air districts may incur costs of \$27.8 million over the ten year evaluation period. Air districts may cover any additional increase in implementation costs associated with the proposed amendments through "Hot Spots" fees and existing program budgets and resources. The total costs to local government is \$34.1 million over ten years.

Cost or Savings in Federal Funding to the State: None. Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings in federal funding to the State.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA):

(A) The creation or elimination of jobs within the State of California.

The Executive Officer has determined that the proposed regulatory action would produce a slight change in the creation of jobs within the State of California. If the proposed amendments are adopted, we are expecting a small increase in employment for environmental professionals and technical consultants in the State, who will assist facilities in meeting the regulatory requirements. These professionals and consultants will typically act as technical assistance providers to assist in compiling data, preparing and reviewing emissions reports, submitting required data, preparing risk assessments, and other activities. The employment increase to assist facilities is expected to be minimal, possibly 37 to 64 new jobs statewide.

(B) The creation of new business or the elimination of existing businesses within the State of California.

The Executive Officer has determined that the proposed regulatory action would not produce a noticeable change in business creation or elimination in California. We do not expect any new businesses to be created resulting from the amended regulation, because any needed consultants would most likely be hired from existing firms.

(C) The expansion of businesses currently doing business within the State of California.

The Executive Officer has determined that the proposed regulatory action would not produce a noticeable change in business expansion in California. Most affected facilities are already subject to data collection and reporting programs, so they will be able to comply with the regulation requirements using existing staffing.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

A key benefit of the proposed amendments will be to provide the public, community groups, scientists, air districts, CARB, and others with updated information about facilities that represent a potential health risk to nearby residents. The proposed amendments will not only expand the number of harmful substances that must be reported, but also increase access to information about the facilities that emit them. Improving the availability of emissions data at the local level will help to efficiently implement community air protection requirements under AB 617, and may also be used to inform the

development of CalEnviroScreen, which is a tool to identify and assess geographic areas within California that are disproportionately impacted by pollution. And, although the reporting regulation amendments provide no direct benefits to worker safety, indirect health benefits to workers and residents within California are expected to be realized over time as actions are taken to reduce emissions based on improved toxics inventory and risk assessment data. A more complete discussion of benefits of the proposed updates is provided previously in the “Benefits of the Proposed Amendments” section of this notice.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the amended reporting requirements of the proposed regulatory action that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. The Executive Officer is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action, and has made an initial determination that the proposed regulatory action would not have a significant statewide economic impact directly affecting representative private persons.

CARB staff performed an analysis of the private sector facilities affected by the proposed amended regulation and estimated that 58,400 unique facilities will have economic impacts resulting from the reporting requirements and some from source testing requirements in the proposed regulation over ten years of implementation.

CARB staff estimates that the amended requirements will lead to an overall cost increase of approximately \$54.9 million for affected private sector reporting facilities over a ten year period. Many industrial sectors in the state are affected by the proposed amendments including large facilities such as refineries and power plants, to smaller facilities such as retail gasoline fueling stations and automotive paint shops. For this reason, facility-specific costs will vary widely based on the complexity of the facility, the pre-existing facility reporting requirements, the sophistication of existing data collection and management systems, and other factors. However, on an average basis, a typical business affected by the proposed revisions will have an estimated maximum annual initial cost of \$1,350 to comply with the regulation. Some of these facilities may be required to conduct source testing. If source testing were to occur in the initial year, this may add (on average) \$20,940 to the initial costs for a business

(assuming that only one facility becomes subject to these requirements in any year). Therefore, for a typical business, average total initial set-up costs may be approximately \$22,300 (\$1,350 for emissions inventory + \$20,940 for source testing). Additional economic and fiscal information is included in the Section VII of the ISOR.

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has determined, pursuant to California Code of Regulations, title 1, section 4 that the proposed regulatory action would affect approximately 50,000 small businesses, with an average annual initial cost per facility to comply with the reporting requirements of approximately \$560, depending on the complexity of the facility and the currently established reporting requirements (small businesses are not expected to have source testing costs). The definition of “small businesses” is based on the description of “small business” as established in California Government Code Section 11346.3(b)(4)(B),⁷ which requires that the business is independently owned and operated, not dominant in its field of operation, and has 100 or fewer employees. The cost of this regulation will have a minor financial impact on individual small businesses to collect and report data needed to comply with the regulation. However, the regulation is not expected to have a significant material financial impact, because the required data and reporting will typically include information that is currently being collected (and often reported) by facility operators such as throughputs, fuel use, material use, or sales data.

Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Staff considered several alternatives to the proposed regulation, including not establishing the regulation (taking no action), evaluation of several alternatives related to altering the reporting applicability criteria, and alternatives for small business applicability. The specific alternatives are described in Chapter VIII of the Staff Report. These alternatives were evaluated, but dismissed as not being as effective as or more effective than the proposed regulation in carrying out the purposes of the AB 2588 reporting requirements and other CARB program mandates.

As Chapter VIII of the ISOR describes, these alternatives would be ineffective in meeting the data reporting requirements mandated by AB 2588, as well as supporting

⁷ California Government Code, Section 11346.3, approved by Governor September 14, 2016.

other mandated CARB program needs such as AB 617 and AB 197, the Air Toxics “Hot Spots” program, Airborne Toxic Control Measures, and others. Therefore, the alternatives would not produce cost-savings in effectively meeting CARB goals and requirements. In conclusion, no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as, or less burdensome, to affected private persons than the proposed regulation.

Environmental Analysis

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed regulatory action and concluded that it is exempt pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that the proposed action may have a significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter V of the ISOR.

Special Accommodation Request

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerks’ Office at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than ten business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Gabe Ruiz, Manager, at Gabe.Ruiz@arb.ca.gov, or (designated back-up contact) Anne Klein, Air Pollution Specialist, at Anne.Klein@arb.ca.gov, both in the Toxics Inventory and Special Projects Section.

Availability of Documents

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is titled, "Staff Report: Initial Statement of Reasons – Public Meeting to Consider Amendments to the Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, California Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on September 29, 2020. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Chris Hopkins, Regulations Coordinator, at chris.hopkins@arb.ca.gov or (916) 445-9564 if you need physical copies of the documents.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Chris Hopkins, Regulations Coordinator, (916) 445-9564. Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

Hearing Procedures

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be

made available to the public, for written comment, at least 15-days before final adoption.

Final Statement of Reasons Availability

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice or may be accessed on CARB's website listed below.

Internet Access

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <https://ww2.arb.ca.gov/rulemaking/2020/hotspots2020>.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: September 15, 2020

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.ARB.ca.gov) (www.ARB.ca.gov).