



14 November 2006

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

RE: Comments on Proposed Amendments to AB 2588 – Air Toxics “Hot Spots” Program

Dear Clerk of the Board:

The Air Issues and Regulations (AIR) Committee is a coalition of San Francisco Bay Area Publicly Owned Treatment Works (POTWs) working cooperatively to address air quality issues. Many of our member agencies also manage potable water treatment and distribution systems. The AIR Committee has 18 member agencies, including large metropolitan facilities such as East Bay Municipal Utility District, the City and County of San Francisco, Central Contra Costa Sanitary District, and the City of San Jose. Together, AIR Committee member agencies treat over ninety percent of the municipal wastewater in the Bay Area.

We understand that the goals of the proposed amendments to AB 2588 are to 1) incorporate diesel PM as a toxic air contaminant to be included in toxic substance inventories and health risk assessments (HRAs), and 2) assess the risk of all operations considered routine and predictable, and 3) align the Hot Spots program with the Stationary ATCM. These proposed changes may potentially have a large impact on our member organizations. Therefore, we have reviewed the proposed amendments to AB2588, and have summarized our major concerns in this comment letter. In general, we are concerned that the proposed amendments give too much discretion to local air districts, which may result in inconsistencies in the development of toxic inventories and health risk assessments (HRAs) across the State.

- 1) As currently written, the proposed amendments give local districts the discretion to determine what facility operations are “routine and predictable”. Such operations will be required to be included in toxic inventories and HRAs. We believe that ARB should provide clearer guidance as to what should be considered “routine and predictable”, in order to avoid several different interpretations across the State. As discussed in the staff report, construction activities and capital improvement projects lasting *less* than a “few months” do

not qualify as “routine and predictable”. However, this language implies that a district may determine that a project lasting *more* than a “few months” is “routine and predictable” and thus require the project to be included in the program. There is no clear guidance on what is defined as a “few months”. Furthermore, we are concerned that the inclusion of construction activities and capital improvement projects into the program may conflict with the existing CEQA process, which already includes a method to address the risk from such activities.

In order to provide more consistent guidance, we recommend that the definition of routine and predictable be changed to read: “Routine and Predictable” means all regular *stationary, and core* operations at the facility, *except as specified in Section XI (C)(2)(c)*. Emergency or catastrophic releases, *as well as construction projects*, are not “routine and predictable” and are not included in a facility’s emission inventory.

- 2) As currently written, the proposed changes give local air districts the discretion to determine if an engine is stationary “for the purposes of ‘Hot Spots’ reporting”. However, this is inconsistent with other ARB rules (i.e., Airborne Toxic Control Measure for Stationary Compression Ignition Engines), which already clearly define what is “stationary.” According to the proposed definition, districts would be given the power to determine that an engine currently permitted as portable now be considered stationary and therefore included in the Hot Spots program. Districts would not be required to provide good cause for such a determination. However, provisions to allow a district to include a portable engine in the program are already included in Section XI (C)(2)(c). As written, this section allows a district to determine if there is “good cause to expect that the portable engines at the facility have the potential to pose a significant risk”.

In order to make the proposed amendments consistent with other ARB rules, and consistent with Section XI (C)(2)(c), we recommend that the definition for “Stationary Diesel Engine” or “Stationary CI Engine” either be removed completely, or modified by **deleting** “... or if not so attached, has been determined by the district to be stationary for the purposes of “Hot Spots” reporting”.

- 3) As currently written, the proposed amendments do not explicitly allow for facilities to conduct proactive HRAs. Incorporating diesel PM as a toxic air contaminant with such a high cancer potency factor has the potential to significantly elevate risk at some facilities. Facilities that previously have been categorized as “low priority” may now be required to conduct health risk assessments (HRAs). Facilities may choose to proactively conduct HRAs prior to receiving a request from the local air district to demonstrate that they are operating below the threshold.

We understand that some local districts do not have sufficient resources to review detailed HRAs and as a result prefer simple screening risk assessments. We believe that ARB should explicitly state in the proposed amendments that a facility can prepare a detailed HRA prior to district requests.

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We urge you to consider our recommended changes to the proposed amendments. The recommendations presented in this letter are also supported by the Southern California Alliance of POTWs (SCAP) and Tri-TAC, a technical advisory committee on State and Federal regulatory issues affecting POTWs. We believe that ARB should ensure that the proposed amendments to AB 2588 provide consistent guidance throughout the State of California for preparing toxic emission inventories and HRAs. Consistency in preparation of inventories and HRAs will ensure that the assessed health risk and reduction requirements for facilities are comparable, consistent, and fair State-wide.

Please contact Stephanie Cheng at (510) 587-7768 with any questions or comments. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Randy Schmidt".

Randy Schmidt
Chair, Air Issues and Regulations Committee