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November 16, 2020

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Electronic submittal: https://www.arb.ca.gov/lispub/comm/bclist.php

Subject: WSPA Comments on CARB's Proposed Amendments to the AB 2588 Emissions Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program, dated October 2, 2020.

To Whom it May Concern:

The Western States Petroleum Association (WSPA) appreciates this opportunity to comment on the California Air Resources Board's (CARB) proposed amendments to the AB 2588 Emission Inventory Criteria and Guidelines Regulation (EICGR). WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

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

However, we remain concerned that the proposed phase-in schedule, even with the above-noted adjustments, is insufficient to moderate the enormous new workload burdens facing air quality management districts and the tens of thousands of facilities that will be subject to the expanded EICGR. We are further concerned, based on our review of the Initial Statement of Reasons (ISOR), that CARB has not fully or properly elucidated the potential economic impacts that would likely result from the proposed regulations, nor considered a reasonable range of alternatives to the current proposal. These and other issues discussed below merit further analysis before the staff proposal is adopted by the Board.

ISOR Section VII. Economic Impacts Assessment

The analysis of potential economic impacts from implementation of the proposed regulation is internally inconsistent and includes several unsupported assumptions. The ISOR estimates that the average cost per facility to comply with the proposed requirements, which staff describes as determination of applicability, data gathering and recordkeeping activities, preparation of emissions inventory plans and reports, quality assurance/quality control, and submitting reports to the local air district, would initially range from approximately $560 to $22,300 per year, declining to $300 to $720 in out years. These estimates seem improbably low, regardless of the number of listed substances a given facility is required to report, and especially for smaller facilities or first-time reporters that will need to retain consulting services. The ISOR also acknowledges that costs for first time reporters may be higher than staff estimates[1], and staff has acknowledged in workshops and stakeholder discussions that first time reporters represent a large percentage of the total number of affected facilities.

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

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

The analysis assumes that new costs imposed on smaller facilities will be borne largely by local air districts.[2] Given the scope of smaller facilities subject to the proposed regulations - CARB estimates that 50,000 small businesses will be covered under the proposed amendments[3] - it is highly unlikely that air districts will be able to absorb these costs within existing resources. Rather, it is much more likely that air districts will seek cost recovery from these facilities through administrative fee authority. For these reasons, the full costs of implementation on a per-facility basis should be reflected in the staff analysis.

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

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

[3] ISOR, page 18

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

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

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

ISOR Section VIII. Evaluation of Regulatory Alternatives

1. Staff only evaluated one alternative for phasing in reporting requirements for newly listed chemicals – starting with 191 substances in phase 1 (Chem set 1), and expanding to the full list of nearly 1000 substances in phase 2, four years later. This approach is heavily back loaded, with implementation of reporting requirements for 753 new substances occurring at one time. While it does allow more lead time for phase 2, this four-fold increase in the number of covered substances suffers from the same deficiencies CARB identified with the "all in" alternative.[4] CARB should evaluate a more refined approach that would separate the substances scheduled for phase 2 into smaller bins phased in over manageable time periods. This approach would help reduce the potential for "unsustainably heavy workloads for large facilities and air district staff" that would frustrate the goals of the regulation.

[4] "The all-in approach would concentrate the work needed to develop and review the emission inventory plans into a very short timeframe, potentially resulting in unsustainably heavy workloads for large facilities and air district staff, which could lead to delays. Delays would counteract the purpose of adopting the all-in approach, so this option was rejected in preference of the phased-in approach that would allow facilities and air districts to distribute the workload over a longer, more manageable timeframe." ISOR, page 24.

2. We support CARB's rationale for limiting emissions reporting for newly listed substances only to those substances for which emissions quantification methods are available (ISOR, pages 24-25). For the same reasons, CARB should also limit the list of substances in Appendix A-1 (substances for which emissions must be quantified) to those for which quantification methods are available, and include references to the applicable methods for each substance.

ISOR Section IX. Justification for Adoption of Regulations Different from Federal Regulations

CARB's discussion of potential overlap between the proposed requirements and federal TRI reporting (ISOR, pages 26-28) fails to acknowledge that the air emissions data reported under TRI for larger facilities could satisfy the purposes of AB 2588 reporting requirements. We noted in pre-rulemaking comments dated June 3, 2020, that TRI data will be available next fall for 170 separate PFAS – more than a year ahead of initial reporting deadlines under the proposed EICGR amendments. There is no reason this data cannot be supplied to the air districts for review and approval in lieu of separate quantification and reporting of PFAS under the EICGR. To avoid unnecessary and wasteful duplication of effort, the proposed regulation should allow flexibility for air districts to utilize relevant data reported under other regulatory programs.

ISOR Section XI. Specific Purpose and Rationale for Each Proposed Amendment

1. Section II.H.(4) establishes a petition process for adding new substances to the Appendix A list, and that this process "is necessary to provide a mechanism for interested stakeholders to bring to CARB's attention additional chemical substances that may warrant inclusion on the Appendix A list of chemicals, particularly for new and emerging chemicals." (ISOR, page 42) A one-way petition process that only allows for the addition of substances disregards the possibility that new data on emissions or chemical usage, or new scientific information on cancer potency or non-cancer health effects may indicate that some substances in Appendix A either are not present in ambient air, or are only present in concentrations that do not pose an acute or chronic health threat. The proposed petition process should also allow any interested party to present information to CARB that may support removal of substances from Appendix A.

   In addition, the Executive Officer should be required to issue findings for public review as to the adequacy of any petition to add or remove substances from Appendix A based on the criteria specified at Health and Safety Code section 44321(f).

2. Additional criteria for reinstatement of reporting requirements (or removing facilities whose emissions no longer meet applicability criteria) should be based on changes that can materially impact air toxics emissions and risk from stationary sources. Substances that are persistent but exhibit low toxicity may not contribute to a significant health risk and the presence, use or production of such substances should not be a basis for reinstating reporting requirements. Similarly, exposures to substances by pathways other than inhalation, especially where regulated by other agencies, do not contribute to potential health risks from air toxics emissions and should not be a basis for reinstating reporting requirements. (ISOR, page 42)

3. Including additional parameters in a screening risk assessment that are not attributable to the stationary source, such as "the combined impact of multiple facilities on the surrounding population," is likely to penalize the stationary source for circumstances it cannot control. It also diminishes the utility of screening risk assessments as a tool to determine whether a stationary source qualifies for an exemption from reporting. For example, it would be pointless to conduct a screening risk assessment for any stationary source operating near a large area source such as a freeway, an airport, or a distribution terminal, where the determination would be driven more by the risk from surrounding sources than the subject source. AB 2588 was designed to identify and address health risks from individual sources, not cumulative risks from multiple sources. Only facility-specific parameters should be considered in making applicability determinations (ISOR, page 46).

ISOR Section XI. Diesel Engine Reporting Requirements

The ISOR states that proposed reporting requirements for portable diesel engines greater than 50 horsepower are based on the assumption that these components are "directly under the control of the operator." This may not be the case, particularly where contractors bring their own portable equipment into a facility to perform maintenance work. In these cases, actual operation of portable equipment may be at the discretion of the contractor and beyond the control of the facility operator. In these circumstances the contractor is the owner of the portable equipment and should be responsible for reporting emissions to the air district.

CARB has taken the position that the PERP program is not a suitable mechanism for equipment owners to report emissions from portable diesel engines. If a suitable mechanism does not currently exist, one should be developed by CARB and the air districts. (ISOR, page 57)

ISOR Appendix A. List of Substances

1. Health and Safety Code section 44321(f) authorizes CARB to include additional substances in Appendix A "recognized by the Board as presenting a chronic or acute threat to public health ***when present in the ambient air***." (emphasis added). The statute does not authorize CARB to add substances that ***may*** present a chronic or acute threat if they are present in ambient air. Rather, a reasonable interpretation of the statutory language requires an analysis for each candidate substance demonstrating that listing is warranted because both conditions exist.

   The ISOR indicates that CARB relied on several sources of information to select the 670 substances it is proposing to list pursuant to section 44321(f). 577 of these are attributed to authoritative bodies. The remaining 93 are identified generally as "chemicals brought to CARB staff's attention through research and discussion." The ISOR further states:

   > "All other substances proposed for addition underwent a chemical-by-chemical review process by CARB and OEHHA staff, who considered

> many factors to determine a chemical's potential for public health impacts, including the substance's potential toxicity, how the substance is used, and the potential for the substance to become airborne and travel beyond a facility or business." (ISOR, page 64)

This statement appears to refer to the 93 substances not otherwise identified by an authoritative body. It also indicates that CARB and OEHHA did not conduct a substance-specific analysis for the vast majority of substances proposed for inclusion in Appendix A, relying instead on the work of others, regardless of whether that work is relevant to potential health risk from exposure to airborne contaminants. Without additional information, it is impossible to know whether all 670 substances actually pose acute or chronic health threats when present in ambient air, or if they have been identified based on toxic effects attributed to other exposure pathways. For example, the sources identified in the ISOR include substances on the California Biomonitoring Program "designated chemical" list, which may be based on exposure pathways other than inhalation of chemicals emitted from stationary sources, and nonylphenol ethoxylates added to the TRI list based on aquatic toxicity.

We request that CARB staff disclose any analysis it conducted on individual substances to support the determination that they qualify for listing pursuant to Health and Safety Code section 44321(f). We further request that staff conduct a comparable analysis of the substances identified by authoritative bodies to confirm that they satisfy the subsection (f) criteria. Absent this analysis, CARB should remove these substances from the list of proposed additions to Appendix A.

2. The "source list 7" notation in Appendix A, which refers to substances added pursuant to H&SC section 44321(f) does not provide adequate information as to the basis for the listing, nor does it allow stakeholders to search the actual source information upon which the listing is based. For each substance listed under this authority, CARB should identify the primary source of information that supports the listing criteria defined in subsection (f). (ISOR, page 72)

ISOR Appendix E – Requirements for Classes of Facilities Emitting Less Than 10 Tons Per Year of Criteria Pollutants

The ISOR indicates that the purpose of moving to "any activity level" designations for many sectors is to "provide confidence in the coverage of emissions data required for community right-to-know under AB 197" (e.g., Sector No. 23: Bulk petroleum storage and loading, bulk benzene storage and loading, and related wholesalers; "there is not a specific activity level reporting threshold for the category that would provide the confidence in coverage or completeness of emissions data required for community right-to-know under AB 197"; ISOR, page 122; see also Sector No. 40: Oil and gas extraction or production, ISOR, page 130). While AB 197 does require CARB to "inventory sources of air pollution" within the state and make this

data available on its website[5], there is nothing in the statutory language indicating sources are required to report ***any*** amount of emissions to local air districts or CARB.

More importantly, in this context the purpose of reporting emissions of toxic air contaminants is to communicate the potential risk presented by exposure to those substances, which is a function of both toxicity and exposure potential. The proposed "any activity level" policy is arbitrary and inconsistent with volume-based thresholds used for other sectors to screen out facilities with de minimis risk. It will impose additional cost and workload burdens on facilities to produce data that will not advance the purposes of either AB 2588 or AB 197. We recommend that CARB develop de minimis reporting thresholds using consistent, risk-based criteria for all Appendix A-listed substances.

Additional Comments on Proposed Regulatory Language

Section II. Applicability. In lieu of excluding substances from Appendix A-1 for which quantification methods are not available, the proposed amendments allow facilities to report the amount present, used, or produced at a facility. To alleviate the quantification dilemma, the proposed rule should include two additional changes: first, the requirement to report the amount that is "present" should be removed. The amount "present" can include unintended or unknown trace or de minimis amounts, and if there is no quantification method, a facility cannot report the amount present. Second, the term "produced" and "production" should be limited to intended production (e.g. process intermediate) and specifically exclude unintended by-products which may be present in unknown trace or de mimimis amounts. Absent this clarification, facilities would still be unable to quantify the amounts in question.

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

The ISOR cites two sections of the Health & Safety Code to justify the addition of these new requirements and explains that the Section VIII.G requirements are consistent with a 1989 interpretation letter from CARB to the air districts. The letter, which was not posted with the proposed rule, only reiterates the proposed requirements, but does not explain how the statute is interpreted to require facility operators to report these emissions. The Health & Safety Code sections are discussed below.

Road Dust is Not a Reportable "Hazardous Material" The newly proposed requirement to report "dust emissions" produced from routine and predictable motor vehicle activity at a facility is inappropriate and should be removed from the proposed regulations (EICGR, page 58). The ISOR asserts the reason

[5] Health and Safety Code § 39607.

for this change is the requirement at Health and Safety Code section 44340(c)(2) that emission inventories produce a "comprehensive characterization of the full range of ***hazardous materials*** that are released, or that may be released, to the surrounding air from the ***facility***" (emphasis added). Section 44340(c)(2) states:

> "The [Emissions Inventory] plan is designed to produce, ***from the list compiled and maintained pursuant to Section 44321***, a comprehensive characterization of the full range of ***hazardous materials*** that are released, or that may be released, to the surrounding air from the facility. Air release data shall be collected at, or calculated for, the primary locations of actual and potential release ***for each hazardous material*** (emphasis added)."

Road dust is not a hazardous material as defined by California law, nor is it included in the Appendix A-1 list developed pursuant to Section 44321. CARB argues that some road dust may contain hazardous materials, but merely making that claim does not legally justify requiring reporting of any uncharacterized "dust" as a "hazardous material" pursuant to AB2588. Moreover, emissions of dust and any potential hazardous materials therein originating from mobile sources, like motor vehicles, often are not "routine" or "predictable" emissions at a fixed facility, meaning that they typically would not qualify as an "air release" as defined by AB2588.[6]. Mobile sources like motor vehicles usually have a transitory presence at a facility, making it extremely difficult to ascertain a "routine" or "predictable" level of emissions from those sources at a facility. Additionally, the type of vehicle, type of road, frequency and length of motor vehicle travel, meteorological conditions, moisture content of the ground and chemical make-up of dust are all highly variable, extremely difficult to quantify with precision, and burdensome to track.

Motor Vehicles and Other Mobile Sources Were Not Intended to Comprise an AB2588 "Facility"
Furthermore, we question whether mobile source emissions and activity data, including motor vehicles and non-motor vehicles (e.g. lawn-mowers, leaf blowers, auxiliary generators, welding machines, etc.), should be included in AB 2588 inventories in the first instance. First, Health and Safety Code section 44303 requires the reporting of "routine" and "predictable" air releases. Air releases from mobile sources are excluded from the "facility" definition in AB2588 because they are typically not routine or predictable, and difficult to track or regularly attribute to a fixed "facility". This is because their utility is inherent in their mobility, which is necessary to meet highly variable needs. Mobile sources often are used for a wide variety of applications (e.g. personnel transportation, goods pick-ups and deliveries, power generation, construction, and landscaping), but for each instance of use, the exact technology, make, and model of a mobile source can vary, along with the duration, frequency, and location of use. This variability is compounded further when the mobile source is not owned or operated by the facility (i.e. third-party contractor), which is often the case. In these cases, not only does the contractor have wide discretion for the selection and operation of the equipment, but the contractor often determines how a job is executed, which determines whether a mobile source is needed in the first place.

[6] Health & Safety Code §44303.

Second, AB 2588 only requires the emissions inventory to characterize hazardous materials from the ***facility***. The statute defines "facility" at section 44304 as "every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of a hazardous material." CARB further clarifies in Section X of the proposed EICGR (page 76) that the phrase "every structure, appurtenance, installation" is interpreted to mean "all equipment, buildings, and ***other stationary items*** (emphasis added)." The phrase "other stationary items" cannot be reasonably interpreted to mean mobile sources. By definition, "mobile sources" are not "stationary items", and expanding the definition of "facility" to capture all transient mobile sources would contradict the basic framework of AB 2588 as a statute fundamentally requiring reporting of emissions from "facilities."

Lastly, CARB asserts in the ISOR at page 50 that information on the activity of mobile sources also supports the estimation of toxics from mobile and areawide sources that CARB is required to compile pursuant to Health and Safety Code Section 44345(b). This code section specifies that this data is to be compiled by CARB at the air district level, not the facility level, and separately from the data compiled by facility operators subject to air district permit requirements. We do not dispute CARB's authority to compile emissions from these sources, but Section 44345(B) does not authorize CARB to include these emissions in the "facility" definition for purposes of AB 2588 regulation. Requiring facilities subject to the EICGR to track and report mobile source emissions at a facility level is not the statutorily authorized mechanism; it would add tremendous monitoring, recordkeeping and reporting burdens on top of the facility obligation to report the greatly expanded list of hazardous materials proposed for inclusion in Appendix A-1 and would produce a misleading and inequitable characterization of the "facility's" true stationary source emissions for AB 2588 purposes. We request that CARB identify an alternate mechanism that more adequately and efficiently satisfies the requirements of Health and Safety Code section 44345(b).

Request for Reconsideration or Clarification of Pre-rulemaking Comments

1. **Inclusion of expansive "functional group" categories in Appendix A.** CARB has not established whether functional group designations are appropriate, particularly for per- and polyfluoroalkyl substances (PFAS) which consist of thousands of individual substances with widely varying toxicological properties and exposure potential. It is unclear how the proposed functional groups will be incorporated into air toxics emissions inventory reporting requirements or how facilities will be able to reliably identify and quantify individual substances within a functional group, especially from sources that are not expected to emit those substances.

2. **Alternatives to source testing (EICGR, pages 63-67).** Rather than continuing to require strict adherence to a hierarchy of emissions estimation methods, when a facility is able to demonstrate that a particular method is sufficiently accurate for a substance that is reasonably expected to be emitted by the facility (e.g., the method can quantify the substance to the prescribed reporting degree of accuracy), the facility should be allowed to use that method. The proposed regulation should be amended to include this additional flexibility.

3. **Reporting of emissions from portable diesel engines greater than 50 horsepower.** We appreciate CARB's inclusion of new language giving air districts discretion to require reporting by any facility if it determines that routine and predictable emissions from portable engines "have the potential to pose a significant risk on their own, or in combination with other nearby sources or facilities." (EICGR, page 83). As we discuss further in our comments on diesel engine reporting requirements, we maintain that engine owners should bear the responsibility for emissions quantification and reporting because they are the entities that control engine use and because this approach would produce the most comprehensive and accurate representation of health risk from these sources.

4. **Determination of substances that require reporting.** CARB has taken the position that facilities bear the burden of determining which additional Appendix A substances must be reported, and that this obligation is independent of the guidance provided in Appendix C. We request that CARB confirm our understanding that emissions estimation, whether through source testing or another method, is only required for substances the facility operator reasonably expects to be part of the facility emissions profile based on process knowledge.

5. **Source testing requirements for open sources.** New requirements in Section H for two-step source testing of specified "open sources" cover "Waste water treatment at waste water treatment facilities, including publicly owned treatment works (included in SIC 4952 or NAICS 221320)" (EICGR page 71, subsection (1)(a)). This language should be amended to clarify that the source testing requirements apply only to publicly owned treatment works. As it is currently drafted, this language could be misconstrued to apply to any wastewater treatment plant, including at an industrial facility, regardless of how the system is designed (i.e., enclosed vs. open, recycling process water vs. sewage, etc.) or how thoroughly the influent and effluent streams are characterized.

The Proposed Regulations Will Compromise Public Right to Know Objectives

WSPA encourages CARB to narrow the scope and types of activities it is proposing to include in the EICGR. While we recognize the desire to know the potential health risk associated with exposure to all sources, it is important to remember that AB 2588 was not designed for this purpose. Moreover, providing public access to granular emissions data without communicating what it means in the context of facility risk undermines the public right to know purpose of the statute.

It is well established that toxic air contaminant concentrations in ambient air originate predominantly from non-industrial sources. Both the Bay Area and South Coast Air Quality Management Districts have studied lifetime potential cancer risk associated with ambient air in metropolitan areas, and those risks (250 to 1000-in-a-million or more[7]) are at least an order of magnitude higher than the AB2588 risk-

[7] See, for example, BAAQMD, "Improving Air Quality & Health in Bay Area Communities: Community Air Risk Evaluation Retrospective & Path Forward (2004 – 2013)", April 2014, Figure ES-1 (risks shown in this figure need to be multiplied by 1.7, as identified by footnote 15 on p. 18), and SCAQMD, Final Report, "Multiple Air Toxics Exposure Study in the South Coast Air Basin (MATES-IV)", May 2015, Figure ES-7.

based action levels air districts have identified for individual facilities (10- to 25-in-a-million). We remain concerned that the proposed changes to the EICGR, coupled with the recent changes in OEHHA's Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (2015) - which produce substantially higher risk estimates relative to the prior methodology - will create the impression that health risks from stationary sources are increasing, even if actual emissions from those sources are unchanged or reduced relative to prior estimates.[8]

In addition, some of the features in the proposed regulation add complexity and workload burden without improving public understanding of potential health risks from stationary sources. A notable example is the proposed inclusion of mobile source emissions in stationary source emissions inventories. BAAQMD has developed emissions "trigger levels" based on screening models using current AB 2588 thresholds and methods. For diesel particulate matter the trigger level is 0.26 pounds per year – roughly what a single tractor-trailer can generate after traveling 270 miles,[9] or what a contractor's 500 kW state-of-the-art Tier 4 portable genset would emit in a single day.[10] Health risk assessment modeling is intended to capture routine and predictable emissions. Other types of emissions, such as use of a portable engine for a tank cleaning once every ten or twenty years, will require specialized treatment in a dispersion model and will not contribute significantly to any facility health risk estimate.

WSPA appreciates this opportunity to comment on the proposed amendments to the EICGR. Should the Board choose to adopt the staff proposal, we request that it direct staff to develop additional post hearing changes that will achieve the policy goals of the regulation in a manner that is less burdensome to air districts and regulated entities. If you have any questions, please feel free to reach me at kbuchan@wspa.org.

Sincerely,

[8] As indicated in the CARB/CAPCOA Risk Management Guidance for Stationary Sources of Air Toxics (July 23, 2015), per OEHHA, risk estimates "should not be interpreted as the expected rates of disease…but rather as estimates of potential for disease, based on current knowledge and a number of assumptions", and the "assumptions used…are designed to err on the side of health protection in order to avoid underestimation of risk to the public." (OEHHA, Air Toxics Hot Spots Program Guidance Manual, 2015, pp. 1-5 and 1-6).

[9] Based on EMFAC emission factor of 0.52 g/mile PM_{10} for a MY 2007 "T7 tractor" vehicle category (exhaust emissions, running losses only).

[10] Based on the 40 CFR 1039 Tier 4 genset emissions rate of 0.03 g/kWh.