



April 14, 2021

VIA ELECTRONIC MAIL

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on the 15-Day Proposal

To the California Air Resources Board:

We respectfully submit this comment on behalf of Communities for a Better Environment and Environmental Health Coalition to describe our concerns and comments related to the proposed amendments to the Criteria and Toxics Reporting Rule and the guidance for the “Hot Spots” program. We represent grassroots community-based organizations and members working to advance environmental justice in state policy. Our members live and work across California in low-income communities of color that are disproportionately burdened by air pollution and suffer from the severe negative health impacts that has been connected to this pollution. Many recent studies have also shown that communities like ours bear a higher morbidity risk from COVID-19 because we breathe the highest levels of dangerous air pollution in the country.¹ Transparency and information are critical for communities like ours to receive the necessary help to reduce this burden.

While we are pleased that the proposed rule continues to require increased reporting from a number of facilities, we are also concerned about several aspects of the proposed amendments.

First, we are very concerned about the removal of the mandatory language related to cumulative impacts from the Hot Spots program guidance. **The only way to understand the true risk our communities face is to evaluate cumulative impacts.** Each breath of air contains a mixture of a variety of particles and gases, and these particles and gases can and do interact to magnify health risks. Importantly, the Board Resolution recognized that “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.”² The

¹ See, e.g., Harvard School of Public Health, Air pollution linked with higher COVID-19 death rates, <https://www.hsph.harvard.edu/news/hsph-in-the-news/air-pollution-linked-with-higher-covid-19-death-rates/>.

² Board Resolution 20-31, p. 3.

Board Resolution further recognized the importance of considering cumulative impacts by requiring the development of methodologies “for assessing the impacts of emissions at the community-scale, including an evaluation of population exposure and cumulative impacts from multiple sources.”³

The new proposed draft, however, removes the critical provisions requiring an evaluation of cumulative impacts by wrongly stating that consideration of cumulative impacts is inconsistent with AB 2588. A closer look at the language of AB 2588, however, shows that CARB retains broad authority to consider community risks related to cumulative pollution in the most overburdened communities. In fact, as the statutory language provides, the general purpose of AB 2588 is “to assess the health risks [of] those that are exposed” to hazardous releases.⁴ The only way to truly assess the health risk, consistent with the statutory language, is to examine and assess the cumulative impacts. Furthermore, when assessing risk, AB 2588 provides that districts shall consider neighborhood and local characteristics such as “the proximity of the facility to potential receptors” and “any other factors that the district finds and determines may indicate that the facility may pose a significant risk to receptors.”⁵ These examples show that AB 2588 is not limited to considering individual facilities, but rather requires community considerations and thus should include cumulative impacts, which can and do significantly impact risk. Therefore, we request that CARB retain the original language, which required consideration of the combined impact of toxic facilities.

Second, we are concerned that a number of the provisions appear to be voluntary for air districts and do not require clear enforcement from CARB. We continue to have concerns that some air districts are not reporting all of their toxics and criteria pollutant-emitting sources. We are further concerned that there may be delay at some air districts, which would result in slowing the availability of transparent information. As CARB’s response to the California Environmental Justice Alliance described, there are significant differences between air districts and how many facilities are reporting.⁶ Indeed, the Sacramento air district is reporting emissions from only 64 facilities while other similarly sized districts are reporting over 600 facilities. The amendments to the rules do not appear to lessen our concern as they still contain considerable air district discretion without assurance of CARB oversight. For example, the new amendments leave it almost entirely to an individual air district’s discretion whether unpermitted sources are included. Similarly, we are also concerned that there continues to be no consideration of verification of emissions, even though AB 617 states that “[t]he state board may require, as appropriate, a stationary source to verify or certify the accuracy of its annual emissions reports by a third-party verifier or certifier that is accredited by the state board.”⁷ We request that CARB take steps to ensure that certain communities are not left behind by air districts that do not consider unpermitted sources, and that CARB take affirmative steps to oversee reporting and require verification of sources to ensure that the data is as accurate as possible.

³ Board Resolution 20-31, p. 11.

⁴ Health & Safety Code Section 44301(h).

⁵ Health & Safety Code Section 44360.

⁶ See Nov. 16, 2002 Letter from David C. Edwards, Assistant Division Chief, CARB, to Neena Mohan, CEJA.

⁷ Health & Safety Code Section 39607.1.

Third, we are concerned about the extended deadlines for facilities, which even extend out to 2029 in some cases. It is not acceptable that communities will need to wait that many years to have a clearer understanding of the emissions impacting their community. The information is needed now to start reducing these emissions. It is also not acceptable to not require reporting of all PFAS, when even the Notice of Availability admits that “there is evidence that exposure to PFAS can lead to adverse health impacts.”

We urge CARB to make the above changes to the proposed amendments to ensure that these programs meet the requirements of providing high quality data on the risks that our communities face from toxics and criteria air pollution.

Thank you for consideration of this comment.

Sincerely,

Julia May
Communities for a Better Environment

Joy Williams
Environmental Health Coalition

Cc: Chanell Fletcher, Deputy Executive Officer on Environmental Justice