



June 26, 2015

Mr. Gregory Harris  
California Air Resources Board  
1001 I Street  
Sacramento, California 95812



**Subject: Air Resources Board and California Air Pollution Control Officers Association (CAPCOA) Discussion Draft, "Risk Management Guidance for Stationary Sources of Air Toxics" (May 27, 2015).**

Dear Mr. Harris:

The undersigned groups represent hundreds of California facilities currently subject to state and local air toxics regulations. We also represent thousands of additional facilities that may become subject to these programs following implementation of the revised Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments, issued by the Office of Environmental Health Hazard Assessment on March 6, 2015. As ARB and CAPCOA are aware, the OEHTA document includes changes to air toxics risk assessment methodology that will have the effect of increasing facility risk estimates by 1.5-3-fold or more relative to the prior methodology, absent any increases in actual facility emissions.

We appreciate ARB and CAPCOA's efforts to address a broad range of risk management issues and forecast an agenda for future air toxics program updates in a single comprehensive document. The Discussion Draft offers important context for the expected changes in facility risk estimates including language in Section I describing California's dramatic progress on reduction of air toxics emissions and risk in the face of significant population growth and economic expansion, and new language in Section III describing what risk estimates mean to a given individual. Unfortunately, in some respects this document is a step backward relative to existing guidelines in terms of its utility to local air districts and regulated entities.





The following comments address our concerns with the Discussion Draft and our recommendations for further changes in content and process before this document is presented to the Air Resources Board.



### **Risk Assessment Assumptions and Their Effect on Risk Estimates Should be Fully Disclosed**



Section II of the Discussion Draft attempts to explain the rationale behind OEHHA's changes to state air toxics risk assessment methodology and the implications of those changes for facility risk estimates and existing regulatory programs. The document appropriately discloses assumptions embedded in certain exposure parameters, such as for fraction of time spent at home, but presents the primary risk driver – OEHHA's new age sensitivity factors (ASFs) - as absolute scientific fact. As GSI Environmental stated in technical comments submitted to OEHHA by this Coalition on August 18, 2014, not all toxic air contaminants (TACs) present greater health risks during early life exposures. Thus, OEHHA's default application of ASFs to all TACs will tend to artificially inflate risk estimates. Failure to disclose core assumptions that bias risk estimates upward undermines an important function of this risk management guidance: to help stakeholders understand what changing risk estimates mean in a real world context.



We recommend that ARB and CAPCOA expand this section to clearly identify all of the embedded assumptions and the nature of their impact on risk estimates.



### **Stakeholders Should be Included in the Facility Prioritization Guideline Update Process**



The Discussion Draft acknowledges that existing AB 2588-regulated facilities may be subject to new requirements as a result of OEHHA's updated risk assessment guidelines, but offers almost no information on how currently unregulated facilities will be evaluated for purposes of determining future compliance obligations. Appendix C outlines in general terms actions CAPCOA is taking to update its existing Hot Spots Facility Prioritization Guidelines (July, 1990). However, it lacks any detail on CAPCOA's development of new "prioritization normalization factors," how these factors will be used to determine which facilities will be required to conduct health risk assessments, what actions local districts are contemplating with respect to adjustment of their current prioritization thresholds and the time frame for updating the 1990 Facility Prioritization Guidelines. Perhaps most importantly, the Discussion Draft is silent on opportunities for stakeholder input into this process.



We recommend that additional information be included in Appendix C detailing actions CAPCOA is taking to update the 1990 Facility Prioritization Guidelines and identifying opportunities for stakeholder input.



### **Permitting and Hot Spots Guidance Should be Expanded**



While we appreciate the statutory imperative to maintain local air district discretion, Sections IV and V offer very little in the way of meaningful guidance on source permitting and Hot Spots compliance. For example, Section IV allows for source specific permit approval or denial at risk levels "less than or greater than permit approval levels based on source specific considerations." Appendix B touches superficially on a few circumstances that might merit special consideration, but unlike the 1993 Risk Management Guidelines, this document lacks recommendations on how districts can approach source-specific decisions and the parameters they should consider. Similarly, Section V defers entirely to local air districts on setting notification action levels, and the notification guidance in Appendix C only considers alternative notification mechanisms (e.g., direct letter, social media, newspaper, etc.). It is silent on the more pressing issue of how air districts should communicate expected increases in facility risk estimates to the public. These deficiencies will be especially problematic for small districts that have limited staff resources and limited experience implementing air toxics program requirements, placing a greater compliance burden on regulated entities in those jurisdictions.





Since this document is intended to supplant the 1993 Risk Management Guidelines, we recommend that ARB and CAPCOA incorporate the "Specific Findings" provisions from the 1993 document into Appendix B and work with stakeholders on updating existing public notification guidelines as described below.

### **Work Plans Should Include an Update of CAPCOA's 1992 Public Notification Guidelines**

The Discussion Draft offers only cursory information on risk communication in Section III and neither the anticipated near-term actions in Section VII, nor the proposed risk management work plan actions in Appendix E, address the need to update the existing CAPCOA Air Toxics "Hot Spots" Program Public Notification Guidelines, which date back to October of 1992. Based on public comments during a June 5 South Coast AQMD Board hearing, there appears to be emerging consensus among stakeholders that the public should be informed that future changes in facility risk estimates will be due almost exclusively to changes in risk assessment methodology, not actual increases in facility air toxics emissions. Using preexisting notification methods and templates will promote the false perception that facility operations have changed in ways that increase health risks to individuals living nearby. The consequence will be unnecessary public alarm and anger directed at both the air districts and the affected facilities.

To avoid this outcome, ARB and CAPCOA should work with stakeholders to update the 1992 public notification guidelines and develop new, user friendly risk communication materials that more clearly explain the reason for new notices and increases in risk from existing facilities, and what these developments mean for the majority of individuals in the exposed population. Much of this information could be adapted from the various sections and appendices of this Discussion Draft and the updated OEHHA risk assessment guidelines, but it must be presented in a more condensed and cohesive manner that is relevant to the concerns of individuals receiving notices from regulated facilities.

Thank you for the opportunity to comment on the proposed Discussion Draft. We look forward to your responses and working with you to implement our recommendations.

Sincerely,

Anthony Samson  
Policy Advocate  
California Chamber of Commerce

### **On Behalf of the Following Organizations:**

African-American Farmers of California  
Agricultural Council of California  
Almond Hullers and Processors Association  
American Chemistry Council  
Associated General Contractors- California  
Associated General Contractors- San Diego  
Bay Area Council  
Bay Planning Coalition  
Big Bear Chamber of Commerce  
Building Industry Association of Fresno and Madera Counties  
California Association of Sanitation Agencies



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California Attractions and Parks Association  
California Building Industry Association  
California Business Properties Association  
California Cement Manufacturers Environmental Coalition  
California Citrus Mutual  
California Construction and Industrial Materials Association  
California Cotton Ginners Association  
California Cotton Growers Association  
California Farm Bureau Federation  
California Fresh Fruit Association  
California Hospital Association  
California League of Food Processors  
California Manufacturers and Technology Association  
California Metals Coalition  
California Refuse Recycling Council  
California Small Business Alliance  
California Society for Healthcare Engineering, Inc.  
California Trucking Association  
Can Manufacturers Institute  
Cathedral City Chamber of Commerce  
Cerritos Chamber of Commerce  
Chambers of Commerce Alliance of Ventura and Santa Barbara Counties  
Chemical Industry Council of California  
Coastal Energy Alliance  
Construction Industry Air Quality Coalition  
Culver City Chamber of Commerce  
Dairy Cares  
Delano Chamber of Commerce  
Dinuba Chamber of Commerce  
Elk Grove Chamber of Commerce  
El Monte/South El Monte Chamber of Commerce  
Folsom Chamber of Commerce  
Fullerton Chamber of Commerce  
Gateway Chambers Alliance  
Greater Bakersfield Chamber of Commerce  
Greater Riverside Chamber of Commerce  
Hayward Chamber of Commerce  
Indio Chamber of Commerce  
Industrial Association of Contra Costa County  
Industrial Environmental Association  
Industry Manufacturers Council  
Inland Empire Economic Partnership  
Irvine Chamber of Commerce  
Kern County Farm Bureau  
Kern County Taxpayers Association  
Laguna Beach Chamber of Commerce  
Lodi Chamber of Commerce  
Los Angeles Area Chamber of Commerce  
Los Angeles County Business Federation  
Malibu Chamber of Commerce  
Manufacturers Council of the Central Valley  
Metal Finishing Association of Northern California  
Metal Finishing Association of Southern California  
Milk Producers Council  
NAIOP- Southern California  
National Federation of Independent Business



National Tank Truck Carriers, Inc.  
Nisei Farmers League  
Norwalk Chamber of Commerce  
Ontario Chamber of Commerce  
Orange County Business Council  
Pasadena Chamber of Commerce  
Rancho Cordova Chamber of Commerce  
Richmond Chamber of Commerce  
Rural County Representatives of California  
Sacramento Metropolitan Chamber of Commerce  
San Bernardino County Solid Waste Management Division  
San Diego Regional Chamber of Commerce  
San Francisco Chamber of Commerce  
San Gabriel Valley Legislative Coalition of Chambers  
San Gabriel Valley Economic Partnership  
San Jose Silicon Valley Chamber of Commerce  
San Rafael Chamber of Commerce  
San Ramon Chamber of Commerce  
Seawright Custom Precast  
Solid Waste Association of North America  
Southwest California Legislative Council  
Southwest Riverside County Association of Realtors  
Styrene Information & Research Center  
Torrance Area Chamber of Commerce  
Tulare Chamber of Commerce  
Tulare Kings Hispanic Chamber of Commerce  
Valley Industry and Commerce Association  
West Coast Lumber & Building Materials Association  
Western Agricultural Processors Association  
Western Growers  
Western Plant Health Association  
Western States Petroleum Association  
Western United Dairywomen  
Western Wood Preservers Institute  
Wilmington Chamber of Commerce

cc: Matthew Rodriguez, Secretary, California Environmental Protection Agency  
Richard Corey, Executive Officer, California Air Resources Board  
Richard Stedman, President, California Air Pollution Control Officers Association  
Alan Abbs, Executive Director, California Air Pollution Control Officers Association