



March 22, 2016

Mr. Alan Abbs
Executive Director
California Air Pollution Control Officers Association
1107 Ninth Street, Suite 1005
Sacramento, CA 95814

**SUBJECT: BUSINESS COALITION COMMENTS ON UPDATES TO CAPCOA'S
1992 AIR TOXICS HOT SPOTS PUBLIC NOTIFICATION GUIDELINES**

Dear Mr. Abbs:

The undersigned organizations applaud the California Air Pollution Control Officers Association's (CAPCOA) decision to update its 1992 Air Toxics Hot Spots Public Notification Guidelines (Notification Guidelines). This action is a critical element of the comprehensive state and local air toxics program updates necessitated by the revised air toxics health risk assessment (HRA) guidelines issued last year by the Office of Environmental Health Hazard Assessment (OEHHA). The new HRA guidelines represent a paradigm shift in a mature program which in turn presents significant new risk communication challenges for the air districts and regulated facilities. We appreciate the opportunity to work with CAPCOA to address these challenges and to offer recommendations for updating the Notification Guidelines in advance of CAPCOA's issuance of a draft document.

As CAPCOA is aware, the vast majority of industrial and commercial facilities in California have worked diligently to reduce their emissions over the past few decades such that current risk to surrounding receptors is lower than historical risk, regardless of how risk is measured. As CAPCOA has acknowledged, application of the HRA guidelines to many existing stationary sources will increase risk estimates up to three times or more and public notifications will be more widespread in the near future. In the vast majority of cases, these increased risk estimates will be due exclusively to changes in the risk assessment methodology, not to actual increases in facility air toxics emissions. Moreover, OEHHA's HRA methodology is complex and detached from local air toxics regulatory programs. It is not well understood by the public. Comparisons between existing estimates, developed under the prior risk assessment methodology, and new estimates are improper but inevitable.

Given this backdrop, a business-as-usual approach to risk communication (using existing messaging and templates) will convey the misperception that the public is at greater risk from stationary sources of air toxics emissions. Absent additional information, a reasonable person would assume that something has changed at the facility level to increase air toxics risk. A

worst-case scenario is the perception that communities have been exposed for decades to a higher risk than was previously disclosed and the air district and the facility failed to take action to mitigate that risk.

ARB and local air district board members have expressed concern about the impact of OEHHA's HRA guideline changes on businesses and the importance of exercising care in how risk is communicated to avoid unnecessary and counter-productive public alarm. We share this concern. Accordingly, we propose that CAPCOA develop a new template for facility and industrywide notification letters that captures important messages already identified by ARB, CAPCOA and some local air districts. The approach we propose will help notice recipients understand why facility risk estimates have increased despite significant state and local progress on reduction of air toxics emissions and what the new estimates mean in real world terms.

Since many individuals will be receiving notices for the first time, CAPCOA should employ a user-friendly question and answer format with additional background information describing what health risk is and what it is not (e.g., a predictor of actual harm), how the approach to estimating health risk has changed under the updated OEHHA HRA guidelines (i.e., identify new assumptions, associated uncertainties and what effect they have on the risk estimate) and what a facility risk estimate means to the average individual (e.g., how does the facility risk estimate compare to other commonly understood risks). In addition, individual facilities that can document a reduction in air toxics emissions over time should have the option to disclose that information in a notification letter, along with the impact of those reductions on air toxics risk. Such comparisons should include the baseline risk estimate and the current risk estimate using the same risk assessment methodology. Comparisons between risk estimates developed under the prior methodology and risk estimates developed under the new methodology will mask actual reductions in facility air toxics risk.

To address the above concerns, we recommend that the updated Notification Guidelines include the attached draft template letter, based on current air district notification letters. In addition to the Q&A format of the letter, which we believe is an improvement over the templates provided in the 1992 Public Notification Guidelines, we have added the following recommendations to capture the concepts discussed above and during the December 10, 2015 CAPCOA industry stakeholders meeting.

- A new section entitled "*Why am I receiving this notice?*" with language adapted from the template letter for cancer risk in the 1992 CAPCOA Public Notification Guidelines. This language provides important context for the notice, especially for individuals who may be receiving one for the first time.
- Language from the ARB/CAPCOA Risk Management Guidelines (issued July, 2015) describing progress to date on statewide reductions of toxic air pollutant emissions despite population growth.

- Language clarifying that the percent contribution of various toxic air pollutants identified in the notice is to the facility risk estimate, not the facility's contribution to background risk in the neighboring area.
- As suggested by air district representatives during the December 10, 2015 CAPCOA industry stakeholders meeting, include language indicating that health effects estimates (i.e., cancer potency factors and non-cancer reference exposure levels) used in the risk assessment include default assumptions that tend to increase facility risk estimates relative to real world conditions.
- Language identifying new exposure assumptions in the OEHHA HRA guidelines that tend to increase facility risk estimates relative to real world conditions.
- A new section entitled "*Does this notice mean that my health risk from this facility has increased?*" which includes basic information explaining why the new facility risk estimate has increased relative to the prior estimate (e.g., changes in the HRA guidelines, actual increases in facility emissions, etc.). As noted above, this section is necessary to prevent the misperception that individuals receiving the notice are at greater risk as a result of changes at the facility.
- Language indicating that the air district has requirements in place to reduce exposure to toxic air pollution, including that most new or modified sources of toxic air pollutants must implement emission controls in order to obtain permits.

We share the sensitivity of air district representatives to the length and content of the notification letter. To ensure effective risk communication, the letter should be as brief as possible and should seek to simplify complex subject matter in a manner that is relevant to the target audience. Accordingly the template letter, including our proposed changes, is limited to just over two pages in length and avoids use of technical terminology. The additional length relative to prior templates and notification letters currently in use is necessary to provide a frame of reference for understanding changes in facility risk estimates.

Additionally, we understand that the Risk Notification Guidelines are advisory and that some District's may elect to use different methods for notification. In that regard, we look forward to working with CAPCOA on developing alternative methods of notification.

Finally, we are aware that some stakeholders have suggested use of an intermediary group to be the public interface on Hot Spots notification based on the assertion that communities around Hot Spots facilities "don't trust the facilities or the air districts." We note that such delegation of authority may not be permissible under the Hot Spots statute. Moreover, we urge CAPCOA to reject this approach, especially where the proposed "intermediaries" are advocacy groups and not objective third parties, because it has the potential to bias risk communication messaging in ways that undermine public confidence in the air districts and favor the outcomes sought by those advocacy groups.

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The Coalition appreciates your consideration of our recommendations and looks forward to working with CAPCOA on developing the updated Public Notification Guidelines. We would be happy to schedule a subsequent meeting to discuss these recommendations at your convenience.

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
California Attractions and Parks Association
California Cement Manufacturers Environmental Coalition
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 Paint Council
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
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
League of California Cities
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Malibu Chamber of Commerce
Manufacturers Council of the Central Valley
Metal Finishers Association of Northern California
Metal Finishers Association of Southern California
Milk Producers Council
NAIOP – Southern California
National Federation of Independent Business
National Tank Truck Carriers, Inc.
Nisei Farms League
North Orange County Chamber of Commerce
Norwalk Chamber of Commerce
Ontario Chamber of Commerce
Orange County Business Council
Pasadena Chamber of Commerce

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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
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 Material Association
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association
Western States Petroleum Association
Western United Dairymen
Western Wood Preservers Institute
Wilmington Chamber of Commerce

Attachment 1
Sample Hot Spots Public Notification Letter
(Cancer Risk)

Why am I receiving this notice?

State law requires that *[facility name]* notify you of possible health risks resulting from routine emissions of substances identified by the state as toxic air pollutants from their facility. Approximately *[number]* of homes or businesses are receiving this notice.¹

What are toxic air pollutants?

Chemicals that cause cancer, birth defects or other health effects are known as toxic substances. When these toxic substances are released in the air, they are called toxic air pollutants.

Where do toxic air pollutants come from?

Toxic air pollutants come from a variety of sources. These sources include chemical plants and large manufacturers as well as cars and trucks and smaller businesses. Many products used at home, such as cleaners and paint thinners also contain toxic air pollutants.

The *[district name]* and the state are taking many steps to reduce emissions of toxic air pollutants. Over the last 25 years, California has reduced statewide emissions and related health impacts from exposures to toxic air pollutants by about 75 percent, while the number of residents and vehicles grew by about 30 percent each.

What toxic air pollutant(s) does *[facility name]* emit?

Under normal operation, this facility emits the toxic air pollutant(s) listed below. The possible health effects of exposure to those pollutants and their percent contribution to the overall facility risk estimate are listed below:

Pollutant	Possible Health Effects	Percent Contribution to Facility Risk Estimate
Benzene	Cancer	

Cancer and non-cancer health effects estimates are frequently based on studies in animals exposed to much higher levels of toxic air pollutants than the levels emitted by this facility.

¹ Businesses receiving this notice should post it in an area(s) where it is most likely to be viewed by employees.

What is the cancer risk from this facility?

For chemicals that may cause cancer, a calculation called a “health risk assessment” was done. This is the best method officials currently have for estimating the chance that breathing small amounts of a chemical over a long period of time will cause cancer. Because the odds are generally small, they are written as a “number of chances in one million” of getting cancer.

The health risk estimate conservatively assumes that a person is continually exposed for 30 years at a single location to the *[substance(s)]* emissions that came from *[facility name]* in *[year]*. Most people do not stay in one location for that amount of time, so their actual risk is likely to be lower.

Based on the risk assessment, people who live in the area shown on the Facility Risk Map would have their chance of getting cancer increased by up to about *[number]* of chances in one million because of *[substance(s)]* emissions from this facility, and people who work in the area shown would have their chance of getting cancer increased by up to about *[number]* of chances in one million. The attached Facility Risk Map shows the risks at various locations.

How was the health risk from this facility determined?

The health risk assessment relied on data collected for *[year]* and submitted to *[district name]*. Guidance from the state Office of Environmental Health Hazard Assessment was used to determine how the levels of air pollution from this facility may impact people's health. This guidance was updated in March 2015 to include new assumptions that increase risk estimates. For example, the updated guidance increases estimated exposures by requiring the use of higher breathing rates, which in turn results in higher estimated health risks among exposed populations.

Does this notice mean that my health risk from this facility has increased (if applicable)?

Option A (facility emissions have decreased or are unchanged): The emissions of toxic air pollutants from *[facility name]* have *[decreased by XX%/are unchanged]* over the past *[number]* of years. This means that your actual exposure to toxic air pollutants from *[facility name]* is *[lower/ unchanged]*. The increased health risk estimate for *[facility name]* is due to the new assumptions in the updated state guidance.

Option B (facility emissions have increased): The emissions of toxic air pollutants from *[facility name]* have *[increased by XX%]* over the past *[number]* of years due to *[reason]*. The *[emissions increase is/new assumptions in the updated state guidance are]* the largest contributor to the increased health risk estimate for *[facility name]*.

How does the risk from this facility compare to other risks?

The cancer risk from this facility is relatively small compared to the average overall risk for people living in the United States. Currently, according to the American Cancer Society, about four out of ten people will get cancer sometime during their lifetime. In other words, the odds of getting cancer at some time in your life are about 400,000 chances in one million.²

What is the cancer risk from toxic air pollution in general?

The average cancer risk in [*California/district name*³] from all pollutants emitted from all sources (cars, trucks, factories, power plants, home products, etc.) is about [*number*] of chances per million.

What is being done to reduce the health risks from this facility?

The state law requiring issuance of this public notice is one step in getting facilities throughout the state to reduce toxic emissions resulting from their operations. The [*district name*] and other agencies have also developed other programs designed to prevent pollution and reduce exposure to toxic air pollution. For example, the [*district name*] requires most new or modified sources of toxic air pollutants to implement emission controls in order to obtain permits.

How can I get more information?

A copy of the [*facility name*] health risk assessment report is available for your review at ...

² Air districts may choose to include different information on how risks from the facility compare to other voluntary and involuntary risks.

³ If district-specific data is available.