

AIR TOXICS "HOT SPOTS" (AB 2588) PUBLIC NOTIFICATION PROCEDURES

Introduction

The Air Toxics "Hot Spots" Information and Assessment Act of 1987 (AB 2588) was adopted by the California Legislature in response to increasing public concern about emissions of toxic chemicals to the air. Little information was available to assess the types or quantities or health impacts of toxic chemicals routinely released to the air in California. AB 2588 addresses only routine or predictable emissions, rather than emissions due to unpredictable or catastrophic conditions.

Under AB 2588, facility owners must produce a comprehensive inventory of routine releases of hundreds of toxic compounds to the air. Based on the results of the inventories, some facility owners have been required to perform health risk assessments to evaluate the impact of routine emissions of toxics from their facilities. If the health risk assessment shows a significant risk, the facility operator will be required to notify the public of the results of the risk assessment.

The Air Toxics "Hot Spots" Program was originally adopted as a public right to know law. It did not originally require emission or risk reduction. However, locally and statewide, we have seen voluntary emission reductions as a result of the program. Moreover, recent legislation (SB 1731, Calderon), effective January 1, 1993, will require emission reductions from facilities that pose a significant risk. The legislation did not define "significant risk" for risk reduction purposes.

Health Risk Assessment

The term health risk assessment as used in the Air Toxics "Hot Spots" Program is an estimate of the probability that an adverse health effect could occur. The facility's emissions, stack information, local weather conditions, chemical dose-response data, etc. are fed into a computer model to produce an estimate of the health risk to people nearby from the facility's emission. Risk assessments, as used here, do not involve studies where information about actual illness in the local population is gathered.

Notification requirements

The goal of notification under the Air Toxics "Hot Spots" Program is to inform the public of their exposure to toxic substances routinely released into the air from facilities and the potential health risks associated with those exposures. It can also provide a chance for the facility to communicate past, present, and future activities to reduce the public's exposure and risk due to their emissions.

On the subject of notification, AB 2588 states:

Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributed to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district.

The level of risk that is considered "significant" for notification purposes is not defined in AB 2588, but is left to the discretion of each district. In Ventura County, a lifetime excess cancer risk of 10 in a million has been set as the significant risk level for the purpose of public notification under AB 2588. For acute or chronic noncancer risks, a total hazard index of 1 is considered significant.

Notification Procedure

The purpose of this document is to specify the procedures to be used for significant risk notification under AB 2588.

Individual letters and community meetings will be used for notification. Letters and notices of community meetings will be sent to all people in the area where the calculated health risk exceeds the District's significance threshold. A facility operator may choose to expand the area that notices are sent to in order to avoid artificially splitting neighborhoods or other geographic regions. This can avoid confusion in situations where, for example, people on one side of a street receive notices and people on the other side do not.

The letter to be used has a standard format and would be written by the District on District letterhead. The letter would be mailed in District envelopes by the facility along with additional material prepared by the facility. These procedures present the District letter and guidance for facilities on preparing additional notification materials. These procedures also present guidance on community meetings.

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The primary steps in the notification procedure are:

1. The District determines that the estimated risks in the approved health risk assessment exceed the District's notification threshold for carcinogenic and/or noncarcinogenic health effects.
2. The facility operator identifies letter recipients and determines whether languages other than English should be used in the notification.
3. The facility operator prepares a response postcard and a notification letter in their own words and submits it to the District for review.
4. The District reviews materials submitted by the facility and prepares the notification letter.
5. The facility operator mails out the notification package.
6. Based on public interest, the District determines if the facility should hold a community meeting.

The District Notification Letter

The goal of the District notification letter is to inform the public of the possible health risks associated with a particular facility's emissions. The District letter provides basic information concerning the Air Toxics "Hot Spots" Program and the risk assessment process, the emissions and potential health risks from the facility, and includes information to put the risks from the facility into perspective. A postcard enclosed with the letter allows people to request further information if they are interested.

The facility operator should determine if many of the letter recipients will be non-English speaking. If this is the case, the facility operator should notify the District so that a District letter in the appropriate language can be drafted. Notices in an alternative language will be required if five percent of the letter recipients speak an individual language other than English. Information necessary to determine if many of the notice recipients are likely to be non-English speaking can be obtained from the Department of Finance, Demographics Research Unit, State Census, at 916/322-4651.

Attachment A is a sample District notification letter.

Most of the bracketed items in the example letter are self-explanatory. However, a few require explanation as follows:

[emitted substance(s)] - A list of the substances emitted by the facility. It might not include all of the toxic substances emitted from the facility, but only those that make up 90% of the risk to the maximum exposed individual. Compounds that make only a minor (aggregate < 10%) contribution to the total risk, and those for which quantitative risk assessment was not required, would not be listed. Noncarcinogenic compounds would not be listed if notice is required only for cancer risks and vice versa.

[to produce product] - A brief description of the primary product or function of the facility, mutually agreed upon by the District and the facility.

[number] chances in a million - The lifetime excess cancer risk to the maximum exposed individual.

[number] feet of - The distance from the facility to the location of the maximum exposed individual.

[year] - The calendar year for which emission estimates used in the risk assessment were made.

The Facility Letter

The "facility letter" referred to here is a letter that would accompany the District letter in the notification package. Outside the required notification package, facility operators are free to convey any material they choose to the public.

The minimum requirement for the facility letter is a cover letter to accompany the District letter that provides a contact name and phone number for the facility and refers to the District letter.

If the facility operator chooses to include additional information in the letter, the following items are recommended:

1. The purpose for emitting the toxic substances should be stated in the facility letter. More detail can be used here as to why the substances are emitted than in the District letter. The emissions can be put into perspective relative to other sources such as automobiles or consumer products. It is very important, when using comparisons to put risks into perspective, to avoid the use of inappropriate comparisons. Comparisons should be limited to involuntary risks from man-made sources. Comparisons between involuntary exposure to toxic emissions and everyday voluntary risks are likely to invoke outrage because they do not acknowledge the outrage that people are feeling and they show a lack of concern. Comparisons that trivialize the risk, rather than putting it into perspective, tend to make people suspicious. Use of inappropriate comparisons may alienate the public and affect the credibility of the presenter.

2. Any steps taken to reduce emissions should be included in the facility letter. This might include both required and voluntary efforts. The public should be informed of any reductions that have taken place over the past several years, especially since the year for which the risk assessment was prepared.
3. The facility operator should discuss any future plans to further reduce emissions of toxic substances. The percent reduction and target date could be specified. The facility letter should include only those future emission reductions that are enforceable.
4. If the facility operator decides to hold a community meeting without first soliciting public interest, the meeting notice could be included with the facility letter.
5. The risk assessment results can be discussed in the facility letter. The facility may also discuss the uncertainties with risk assessment as well as results from an uncertainty analysis. Such a discussion should be brief and not undermine the notification process. A detailed discussion of these issues might better be presented in a community meeting.

Community Meetings and Additional Information

Community meetings are required if recipients of the notices express an interest in attending. A postcard is enclosed with the notification soliciting, among other things, interest in a community meeting. If it has been determined that notification in a language other than English will be required, the postcard should also include that language. If a community meeting is required, it is the facility operator's responsibility to prepare and mail out the meeting notice and make arrangements for the community meeting. A facility operator may hold a community meeting without assessing public interest if desired.

The purpose of the community meeting is to provide the notification letter recipients with more information about the facility's risk assessment results and to answer their questions.

The meeting should be held within 60 days after the District notifies the facility that a community meeting will be required (or 60 days after notification letters are sent if public interest is not solicited prior to scheduling the meeting). The meeting should be held at a time and place that is likely to enable the public to attend. Legal, religious, and cultural holiday seasons should be avoided. The meeting notice should be sent out two to four weeks before the scheduled date of the meeting and should state the purpose of the meeting, why people should attend, and the date, time, and location of the meeting. Notices of community meetings should be sent to everyone who received the risk notification package. A notice should also be sent to the Air Toxicology and Epidemiology Section of the Office of Environmental Health Hazard Assessment, 2151 Berkeley Way, Annex 11, Berkeley, CA, 94704. The notice should be in language(s) spoken by the recipients. Translators may be required if there is a significant non-English speaking audience expected at the meeting.

The facility operator should coordinate with the District on plans for the public meeting. The District would like to review meeting notices before they are sent. If the District's community meeting guidelines are adhered to, the District can have staff present to participate in the meeting if requested.

It is recommended that an impartial moderator be used to conduct the meeting. The choice of moderator will depend on the community in which the meeting is held.

Schedule for Notification

The District will notify facility operators in writing if notification will be required. The facility operator will have 60 days from receipt of the District notice to submit the facility letter and the mailing list of notice recipients to the District for review. Notices should be mailed within 15 days after the facility operator is notified in writing that District review of the notification materials is complete.

Notification will be required every two years in conjunction with the update schedule under the Air Toxics "Hot Spots" Program. Inventories are required to be updated every two years under AB 2588. The District will be requiring updated risk assessments based on the updated inventories as appropriate. Notification of the results of the updated risk assessments will be required, if the risk is still found to be significant. In cases where no changes have taken place at a facility that warrant preparation of a new risk assessment, a repeat of the previous notification will be required on a biennial basis. If a biennial update shows that a facility no longer poses a significant risk, notification will not be required by the District, but the District would be pleased to cooperate with facility operators in voluntary notification efforts.

Proposition 65 Warning Requirements

Notification in accordance with these procedures may not necessarily satisfy the warning requirements of Proposition 65. The warning requirements under Proposition 65 differ in several respects from the notification requirements under the Air Toxics "Hot Spots" Program. For example, the notice distribution frequency specified in these procedures does not comply with Proposition 65 requirements. A facility operator should not assume that compliance with Air Toxics "Hot Spots" Program notification requirements satisfies Proposition 65 warning requirements.

If facility operators want to ensure that Proposition 65 warning requirements are being complied with, they should contact the OEHHA at 916/445-6900.

Attachment A

SAMPLE NOTIFICATION LETTER

(date)

Dear Neighbors:

[Facility] has prepared a health risk assessment that shows that you may be exposed to toxic air contaminants at levels considered significant by the Ventura County Air Pollution Control Board.

Why are you telling me this?

State law requires [facility] to notify you of this exposure. Approximately [number] homes and businesses are receiving this notice.

Who is [facility] and what do they do?

[Facility] [produces product]. It is located at [address]. [A map is enclosed showing the location of [facility].] They emit [emitted compounds] into the air to [produce product].

What are the health effects of the emissions to the air?

State law required [facility] to answer this question, so they have written a report called a *health risk assessment* that describes the possible health effects. The emitted compounds are toxic and exposure to them may increase your risk of getting cancer.

The *health risk assessment* uses a computer model to predict what the increase in the risk of getting cancer is due to emissions from [facility]. The *health risk assessment* has been reviewed by state health experts and the APCD.

What are my chances of getting cancer from [facility's] toxic emissions?

The *health risk assessment* predicts that emissions from [facility] may increase your risk of getting cancer by as much as 10 to [number] chances in a million. The state and the APCD require that some cautious assumptions be used in the computer model to make sure that risks aren't underestimated. For example, the model assumes that you will be exposed to the emissions for 70 years. To calculate the high end of the risk range, the model also assumes that you live within [number] feet of the facility. If these assumptions don't apply to you, your risk is probably lower.

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The estimate produced by the health risk assessment only considers exposures to emissions from [facility] based on emission levels during [year]. It does not include past exposures or exposure to other toxic air pollutants besides those released from [facility].

Is this a high risk?

That's a matter of opinion. It's for you to decide. We can give some information about how the risk from [facility] compares to overall current air pollution in Ventura County to help you put this risk in perspective. The cars we drive, factories, and many products we use in our homes contribute toxic compounds to our air. The APCD measures the levels of toxic compounds in the air at our Simi Valley monitoring station. Using the same health risk assessment model that was used by [facility], we calculated that the potential risk of getting cancer from breathing the air in Ventura County is 223 in a million.

What are [facility] and the APCD doing about this?

There is a letter enclosed with this notice from [facility] that explains what they are doing to reduce the risk from their facility. (if applicable)

The state and the APCD have already adopted some rules that reduce emissions of toxic compounds into the air and we will be adopting more in the future.

How do I find out more?

There are several ways you can get more information.

If you have questions about anything in this notice or want to find out more about the APCD's air toxics program, call Terri Thomas at 805/645-1405.

There is a contact person and phone number for someone at [facility] in their enclosed letter.

If you would like to attend a community meeting to discuss the health risk assessment, you can call Terri Thomas or you can return the enclosed postcard. The postcard also lists other information you can send for.

Note: If this notice is received by a business, it should be distributed to employees or posted where employees will be likely to see it.

**Sample Postcard Assessing
Interest in a Community Meeting**

Side 1

Request for more information or involvement
(Non-English language translation here, if required)

Yes, I/we am/are interested in finding out more about my/our risk from toxic air pollutants emitted by [facility].

Check as many as apply:

Please send me/us more information from the Air Pollution Control District.

Please tell [facility] to send me/us more information.

I/we have things I/we want to say to [facility]. Please ask them to get in touch with me/us.

I/we would like to attend a community meeting on this issue. Please make sure I/we am/are informed when one is scheduled.

Name(s): _____

Address: _____

Telephone _____

There are approximately ___ people here who might be interested in attending a community meeting.

Side 2

Please place
stamp here

Request for More Information or Involvement
Ventura County Air Pollution Control District
669 County Square Drive, Second Floor
Ventura, CA 93003