



**Tim Carmichael**  
Agency Relations Manager  
925 L St, Suite 650  
Sacramento, CA 95814-3773

Tel: 916.492.4248  
Email: TCarmichael@semprautilities.com

March 29, 2019

David Edwards  
Assistant Division Chief, Air Quality Planning and Science  
California Air Resources Board  
1001 I Street – P.O. Box 2815  
Sacramento, CA 95812

via email: [ctr-report@arb.ca.gov](mailto:ctr-report@arb.ca.gov)

Re: Comments on Informal Public Review Draft, dated March 4, 2019: Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants
--

On behalf of the Southern California Gas Company (SoCalGas) and San Diego Gas & Electric (SDG&E; SDG&E and SoCalGas are collectively referred to herein as the “Utilities”) and our over twenty million customers, we respectfully submit the following comments regarding the California Air Resources Board (ARB) Informal Public Review Draft for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants dated March 4, 2019 (Review Draft CTR). The Utilities greatly appreciate the time staff has taken to discuss and work with stakeholders on the Review Draft CTR; however, we continue to have concerns with the proposed regulation text that have yet to be resolved.

## **I. APPLICABILITY – SECTION 93401**

### **A. General Applicability, §93401(a)**

The Utilities provide service to over twenty million customers, including many small businesses, neighborhood restaurants, and “mom-and-pop” establishments. We are primarily concerned how burdensome reporting requirements will be on these small businesses that would be required to report emissions to ARB for the first time. Section 93401(a)(4), for example, now imposes this reporting obligation on all permitted facilities with emissions of four or more tons per year of most criteria air pollutants or special activity level reporting thresholds for certain industrial and manufacturing processes (some of which include an emissions threshold of zero).

The Utilities are also troubled by the fact that the proposed amendments, which would impact an enormous number of additional sources throughout the state did not undergo an adequate and broad public hearing process. Indeed, we attended workshops where there was a noticeable lack of small business participation and representation. Consequently, potentially impacted businesses did not have the opportunity to comment on how this regulation may affect them or suggest changes to make the program more effective and less burdensome. Furthermore, it is not clear the proposed amendments are “sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action” [Govt. Code Sec. 11346.8(c)].

The changes being proposed to the ARB Board approved regulation would not only broaden the scope of sources required to report emissions but also lowered the threshold levels of toxic contaminants that require reporting. As a result, almost four times more businesses and their owners will be economically impacted by these new reporting requirements. The Board’s affirmative adoption vote was based on an economic impact assessment<sup>1</sup> that estimated costs for 13,980 business entities expected to be affected by the new regulation. The original economic analysis estimated total cost impact to all affected entities, including private businesses and local and state government entities, to be \$10.5 million over a four-year period. However, staff recently shared<sup>2</sup> that there are approximately 80,000 permitted facilities in California and how the Review Draft CTR would apply to 55,000 or more of these permitted facilities—almost four times the original estimate. The cost impact for all affected entities, including private businesses and local and state government entities would also be almost four times the original estimate or approximately \$42 million over a four-year period.

This serious underestimation of economic impacts, coupled with the lack of small business participation in the workshops, means that small business owners and operators were deprived of the benefit of a comprehensive and accurate economic analysis of the potential effect the Review Draft CTR would have on their businesses. The mere necessity of extending the reporting requirements cannot be sufficient to justify imposing substantial burdens on business entities that are marginally resourced to begin with. As Eric White, President of the California Pollution Control Officers Association during the March 5, 2019 workshop, “Simply looking at the absolute emissions from a facility does not provide the context of what those emissions mean to a community.” Not only do small businesses lack the resources and training necessary to comply with these new requirements, but these requirements are also likely to be confusing and burdensome for them without an immediate environmental benefit to their communities.

Additionally, applicability will be uneven for small facilities due to differences in permit requirements among local air districts. For example, some air districts require permits for water

---

<sup>1</sup>The original Board resolution approving the new reporting regulation referenced an Initial Statement of Reasons (ISOR) that was circulated and made available for public comment 45 days before the Board adoption hearing. The ISOR contained the required economic impact assessment [Gov. Code Sec. 11346.2(b)(2) and 11346.3(b)] including the estimated costs to businesses and public agencies to comply with the proposed regulatory language that was also made available 45 days before the adoption hearing.

<sup>2</sup>ARB Workshop March 14, 2019, Fresno, CA.

heaters/boilers with hourly heat input ratings as low as one million British thermal unit (Btu) per hour while other air districts exempt the same devices with heat input up to 50 million Btu per hour. Not only would it be unfair to require reporting by one facility in one air district and not a second facility in another district that has the same equipment, but the State would not even be getting an accurate and complete inventory of statewide emissions. Because air districts already calculate air pollution emission inventories for area-wide sources<sup>3</sup>, we request ARB work with air districts to prepare the necessary criteria and toxic emission inventories rather than require individual businesses with low emissions to report. We believe it's not necessary to further saddle small businesses owners with additional regulatory requirements.

## **II. DEFINITIONS - §93402**

### **A. Lead**

The Utilities believe clarification of the definition of lead is needed as it includes chemical compounds containing lead but does not specify at what percent or amount. Would any chemical compound that might contain trace amounts of lead qualify as lead under this definition? We further discuss lead in our comments on §93404 Emission Report Contents.

### **B. Natural Gas Distribution**

While the definition of “natural gas distribution” in §93402, excludes “major leaks,” there is no definition of “major leak”. Furthermore, the Utilities already report leaks from our pipeline systems pursuant to the California Public Utilities Commission (CPUC) Gas Leak Abatement Rulemaking (R.15-01-008), also known as the Senate Bill (SB) 1371 program<sup>4</sup>. CPUC staff (Ed Charkowicz) gave a presentation at a SB 1371 Gas Leak Abatement Workshop on January 17, 2019 regarding the classification of “Unusual Large Leaks,” and we suggest the ARB staff be directed to coordinate with CPUC staff to resolve unnecessary duplicative reporting.

### **C. Primary Emissions Release Location**

This definition states that a “primary emissions release location” is the location (or locations) from which 80 percent of the total cumulative facility airborne emissions emanate. Please see our comments regarding this definition below in the comments on §93404, Emission Report Contents.

## **III. EMISSION REPORTING REQUIREMENTS AND CONTENTS - §93403 AND §93404**

### **A. Submittal of Emission Reports to Air Districts and to CARB, §93403**

A new section for abbreviated reporting was added to §93403, but some of the citations that follow the additional section were not changed accordingly. For example, the citation 93403(b) in renumbered §93403(d)(1)(A) on page A-21 was not changed to 93404(c) after the addition of the

---

<sup>3</sup> <https://www.arb.ca.gov/ei/areasrc/areameth.htm>

<sup>4</sup> <http://www.cpuc.ca.gov/General.aspx?id=8829>

new language in (b) for abbreviated reporting. There is similar instance of this in §93403(d)(2), where an old citation was not changed.

The Utilities remain concerned regarding the language in §93403(d)(1) that air districts “may” submit emissions data on behalf of facilities. If an air district chooses not to supply facilities’ data to ARB in a timely manner, §93403(c)(1)(A) requires a facility to provide emissions and activity data to both ARB and the air district within 30-days. This would be duplicative if a facility has already provided data to the air district. We respectfully request that ARB change the word “may” to “shall,” so it will be clear that air districts will submit data to ARB for facilities that have submitted required data to the air district.

#### **B. General Contents, §93404(b)**

With no specific discussion or explanation provided for the new definition of “primary emissions release location” [the release location (or locations) from which 80 percent or more of the total cumulative facility airborne emissions enter the atmosphere], The Utilities are concerned how this will affect fugitive emissions reporting from our facilities, especially those facilities that cover a large area. It would be helpful if ARB provides an explanation of how 80 percent was chosen and an example to show how much work will be required to separate fugitive emissions that may now only be estimated on a facility-wide basis.

#### **C. Emissions, §93404(d)**

Section 93404(d)(1) specifies the criteria air pollutants that must be reported, which includes ammonia, but ammonia is also identified as an air toxic contaminant that is required to be reported by §93404(d)(2). To avoid duplicative reporting, we request that ARB clarify under which section [(d)(1) or (2)] ammonia should be reported.

The air districts to which we provide annual criteria-pollution emission reports have not required reporting of lead and it is not a listed compound in the Air Toxics Hot Spots Reporting Program, Appendix A-1, September 26, 2007, although lead chromate is listed in Appendix A-1. We understand the historical importance of lead as a criteria pollutant, and recognize the progress made in reducing ambient levels of lead through stringent regulation; e.g., removal of tetra-ethyl lead from almost all motor vehicle fuel, and significant reductions in direct exposure resulting from Environmental Protection Agency (EPA) regulations under Title IV of the Toxic Substances Control Act. Except for lead chromate and certain stationary sources identified by EPA such as smelting and battery manufacturing/recycling, we request that ARB not require reporting of lead and lead compounds until Article 2 of the CTR regulation is fully developed. At such time, when the sources of lead and lead compounds are clearer and appropriate emission factors and calculation methodologies have been identified, will we be better equipped to estimate lead emissions.

Section 93404(d)(4) specifies when emissions from permitted portable equipment must be reported. The language in (d)(4)(A) should be clarified with respect to how and when “ARB or the local air district” will determine when “there is good cause to expect that the routine and predictable emissions from the portable diesel engines used at the facility have the potential to pose a significant risk” and emissions from portable equipment registered under the Statewide Portable Equipment Registration Program (PERP) Regulation must be reported. Since PERP units are

portable and can be moved at any time, ARB should provide clarification regarding how this process will take place and how facilities will be notified.

#### **IV. APPENDIX A, THRESHOLDS AND LOOK-UP TABLES**

##### **A. Table A-3, page A-36**

Table A-3 on page A-36 lists the process, *Combustion of crude, residual, distillate, or diesel oil, except for the agricultural and medical-related industry sectors as defined in the Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) columns*. The activity level reporting threshold for this process is listed as, “Tier 4 Diesel Engines: Over 100 gallons of fuel combusted per year, or over 5 hours per year of operation. Non-Tier 4 Engines: Over 30 gallons of fuel combusted per year.” This extremely low threshold is a concern. The National Fire Protection Association (NFPA) has a standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25) that requires diesel firewater pump engines to run weekly for 30 minutes (26 hours per year), allowing the engine to establish a running speed and confirm that no problems exist such as overheating. Diesel emergency generators also must be run periodically to assure proper operation in an emergency. ARB should reevaluate the activity threshold for this process and chose a level that is above the minimum safety testing level. Otherwise, an undue burden will be imposed on owners/operators of emergency and back-up equipment that are only run in accordance with standards and to demonstrate the equipment will be available during an emergency.

##### **B. Table A-3, page A-39**

In Table A-3 on page A-39, the process, *Long term asbestos removal* is listed. We were unable to find a definition for what constitutes “long term” as related to asbestos removal activities. We also note that there are no four-digits SIC codes for any type of asbestos removal activity, only for mining of asbestos and manufacturing of various asbestos containing products (insulation, firefighting suits, etc.). We identified one six-digit NAICS code for asbestos remediation and abatement services and asbestos removal contractors. ARB needs to be much more specific for this process especially considering there is a zero-activity level reporting threshold. We understand the concern with asbestos exposure, which is why EPA has a National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61, Subpart M) for asbestos that is intended to minimize the release of asbestos fibers during activities involving its handling. It is our experience in observing asbestos removal contractors that there should be no air emissions of asbestos during remediation activities; therefore, we suggest ARB consider not require reporting of asbestos from removal activities until Article 2 is developed at which time there may be appropriate emission factors and calculation methodologies identified to estimate such emissions.

#### **V. CONCLUSION**

In summary, we believe ARB staff should continue working with stakeholders on the development of the CTR Regulation and should take the last proposed version to your Board for needed public comment, especially from the tens of thousands of affected small businesses. The Utilities greatly appreciate staff addressing many of our previous comments, e.g. needed clarification in §93401(b)(1)(C), and the time staff has taken to discuss and work with stakeholders

on the Review Draft CTR Regulation. We believe continued dialog, revised language and stakeholder comment is needed for smooth rollout and implementation across the state. Thank you and we look forward to engaging with ARB staff as the process proceeds. Please contact Colby Morrow at (559) 999-3450 if you have any questions or concerns about these comments.

Sincerely,

*/s/ Tim Carmichael*

Tim Carmichael  
State Agency Relations Manager  
SoCalGas and San Diego Gas & Electric