



## California Construction and Industrial Materials Association

March 29, 2019

Patrick Gaffney  
California Air Resources Board  
PO Box 2815  
Sacramento, CA 95812

RE – OPPOSITION: Criteria Pollutant and Toxics Emissions Reporting – Informal 15-Day  
Comments  
Recommends: Returning to December Version.

Dear Mr. Gaffney:

The California Construction and Industrial Materials Association (CALCIMA) opposes the expansion of statewide reporting by the California Air Resources Board from the “major sources” identified specifically by the legislature in AB 617 to include practically all stationary sources within California. We do not believe such a program has benefits nor fits the structure of AB 617’s effort to target resources on impacted communities. We would recommend that CARB return to the specific version before the Board in December of 2018 which fit the mandate and goals of AB 617.

CALCIMA is the state trade association for aggregate, industrial mineral, and ready mix concrete producers in California. CALCIMA members provide the essential materials needed to build the state’s public highways, roads, rail, and water infrastructure; to build homes, schools and hospitals; to grow crops and feed livestock; and to manufacture wallboard, roofing shingles, paint, glass, low-energy light bulbs, and battery technology for electric cars and windmills. While we have some sources that are major sources the majority of our member facilities are non-major stationary sources.

The 15 day draft version of the regulation would impose significant costs to materials producers and air districts. The lack of consistent emission factors and methodologies statewide between air districts in calculating emissions for stationary source would create a database that is imprecise, inconsistent and will present inequivalent information as equivalent for similar types of facilities. As a result it will misinform the public should they attempt to compare data across incompatible air district systems. The Legislatively approved definition of stationary sources for this reporting system was targeting only major stationary sources and high risk facilities for which consistency can be created.

### **Approach Exceeds Explicit Legislative Authority in AB 617:**

The legislature provided an explicit definition of stationary source for this regulatory endeavor in Health and Safety Code 39607.1. Further, in Legislative analysis, the legislature specifically noted it covered

reporting by “major sources.” AB 617 was a carefully constructed, phased-in, targeted approach to reducing emissions exposure in our most impacted communities instead of a broad statewide approach.

Health and Safety Code 39607.1 is CARB’s authorization for a statewide reporting system on stationary sources as defined. It has a three part definition of Stationary source for the purposes of the section. Not a four part definition.

“39607.1.

(a) For purposes of this section, the following definitions apply:

(1) “Nonattainment pollutant” means a criteria pollutant for which a district is classified as a nonattainment area pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(2) “Stationary source” means any of the following:

(A) A facility that is required to report to the state board the facility’s greenhouse gas emissions pursuant to Section 38530.

(B) A facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors.

(C) A facility that receives an elevated prioritization score based on cancer or non-cancer health impacts pursuant to Section 44360.

(b) (1) The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.

(2) The state board shall require a stationary source to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using the uniform statewide system of annual reporting developed pursuant to paragraph (1).

(c) With the report required pursuant to paragraph (2) of subdivision (b), the state board may require, as appropriate, a stationary source to provide relevant facility-level emissions data.

(d) The 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.”

The section reads clearly enough. It creates a three part definition of stationary source that captures major and high risk sources within the state and authorizes in consultation with districts the creation of an annual reporting system for those stationary sources explicitly defined for use within the section.

There is further evidence that the legislature considered this annual reporting system being limited to “major stationary sources.” In the July 14, 2017 Assembly Analysis on Concurrence with Senate Amendments the analysis notes:

“1) Provides for regular and consolidated reporting of emissions from major stationary sources by requiring ARB to establish a uniform statewide system of annual reporting of criteria

pollutants and toxic air contaminants (TACs), including reporting by sources of facility-level emissions data and third-party verification.”

The legislature got it right as those are the stationary sources best situated to report annually. Air Districts and non-major stationary sources are not ready nor suitable for this annual reporting system at this time.

### **Significant Cost Burdens on Non-Major Emitters and Air Districts:**

As there are areas of the state where annual reporting occurs by our members, we have actual costs for complying with annual reporting obligations for non-major sources. The general operator cost to submit data to South Coast Air Quality Management District is between \$2,500 to \$5,000 per year in direct consultant cost without including time and labor costs. In meetings with CARB staff, we have learned this reporting system is expected to include up to 60,000 facilities annually up from less than 20,000 annually in the version before the Board in December. The annual compliance cost for 60,000 facilities at just \$2000 dollars a facility would be 120 million annually. This is a significant cost without an overall benefit to AB 617's implementation.

The added burdens on local air districts are also a significant concern to the materials industry. Added burdens on their staff resources directly impact their ability to undertake critical activities such as permit modifications, variances and other necessary activities that keep our operations running. The equipment specificity of stationary source permitting systems and need to update permits due to replacement is a very real need and delays in such actions have real impacts on material producer's ability to operate.

### **Permit Requirements and Emission Factors are not Consistent Statewide**

Local air districts have developed and implemented stationary permitting systems which fit the needs and sources within their districts. This is fundamental to the design intent of the local district system and it's recognition that South Coast is not Yolo-Solano. As a result, which emissions factors are utilized and what sources are encompassed within permits varies by district. These are not large major emitter combustion sources with CEMS systems such as the facilities identified in 617's statutory authority but a broader more diverse array of businesses. Incorporating all of that mixed data into a statewide system doesn't create clarity but confusion as sources from one district are apples and similar sources in other districts are oranges and the resulting numbers are therefore not directly comparable as to what is achievable.

AB 617 effectively accommodates this by enabling fence line monitoring of stationary sources once 617 communities are identified. Consistent comparable data on emissions leaving the sites in the direct area of concern was authorized. You don't need to bring every non-major facility into a statewide reporting system. AB 617 relies on monitored exposure assessments not emissions assessments. Target the impacted community and do extra work within that community not statewide. Again the legislature had the wisdom to create a scalpel that focused costs and burdens where change was most needed. It did not create a system to act everywhere instead the concept was to target the resource expenditures of

districts businesses and the state on the communities most in need of reductions now. Understanding that the lessons learned there may be expandable to other places later. This reporting system as constructed is the opposite of that policy structure.

### **The Statewide Reporting System Creates an Illusion of Emissions Data Sufficiency**

This emissions reporting system seems designed to create the appearance of comprehensive emissions reporting. Not only does it create apples to oranges data defects in comparing data between districts, a statewide stationary source inventory ignores many of the most significant sources which are mobile sources. Prioritizing off the system would likely harm 617 communities with dominant mobile source impacts.

### **The Changes are at a Minimum a 45 Day Regulatory Process**

When AB 617 was adopted, we as an association stayed neutral on the bill as our members large enough to be specifically listed as major source categories within the bill agreed to the reporting provisions while by the language of statute our non-major sources were protected from the costs and burdens of implementing the program. Throughout last year CARB appears to be on track to implement the reporting regulation as authorized within statute with the regulatory impacts falling where communities were in need of additional actions while not pulling every entity into a regulatory process. With this significant expansion of focus, should CARB decide to go forward with a regulatory process, that process needs to be a full regulatory process with 45 day comments, full scoping and analysis.

We believe it would be best to build the explicit reporting structure clearly within statute and finalize that regulation, then perhaps address how one adds other source data into the program in a way the information is meaningful.

We greatly appreciate the goals of AB 617 and it's targeted approach to reducing pollution in our most impacted communities. We also appreciate the time CARB staff has spent with us to discuss and understand this ongoing approach. We believe how CARB is attempting to implement this statewide reporting system on non-major stationary sources falls outside that design structure due to the issues identified. We strongly recommend CARB go back to the December Draft and implement that regulation for the time being.

Respectfully,



Adam Harper  
Director of Policy Analysis