

March 6, 2020

Dr. David Edwards, Branch Chief  
Air Quality Planning and Science Division  
California Air Resources Board

RE: Formal Comments on Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants

Dear Dr. Edwards:

The Sacramento Metropolitan Air Quality Management District is providing formal comments on the *Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants*. We are submitting general and regulatory language-specific comments on the currently proposed regulatory amendments for your consideration. Please see the following attachments:

- Attachment A – General Comments on the *Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants*
- Attachment B – Specific Comments on the *Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants*

We appreciate the opportunity to provide input in this process. If you would like any clarification about our comments, please contact me directly at (916) 874-6354 or [aroberts@airquality.org](mailto:aroberts@airquality.org).

Sincerely,



Amy Roberts  
Division Manager  
Stationary Source Division

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## ATTACHMENT A

### General Comments on the *Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants*

**Regulation Timing:** The CTR regulation is most likely to be adopted in the latter half of 2020 and not approved by OAL until sometime in 2021, which would be after the start of the Sector Phase 1 data year. The District recommends CARB adjust the fourth criteria sector phase-in dates under Table A-1 accordingly to account for possible delays in the regulatory process. This will allow districts and affected facilities to prepare for data collection and submission with adequate notice.

**Economic Impacts:** While CARB has taken steps to mitigate some of the reporting burden on sources and local air districts, there will still be significant costs associated with compliance and implementation of this regulation. These costs will be borne by air districts in the form of additional compliance assistance for regulated sources, development of systems to collect and track the large inflow of new emissions data and personnel costs to enact the regulation. These additional costs for our District may exceed one million dollars annually. When passed on to permitted facilities, could mean an estimated additional fee of \$200 to \$400 per permit, representing an approximate 15-25% increase. The District calls for CARB to take these concerns into serious consideration and not adopt the amendments until an appropriate funding mechanism has been identified.

**Applicability & Thresholds:** The District highly recommends CARB look at streamlining the regulation to improve the applicability determination process. The regulation as written, especially with the introduction of the fourth criteria under § 93401(a)(4) and Appendix A, introduces a high level of complexity to determine applicability and reporting requirements for the thousands of permitted facilities in our District. The proposed threshold levels will, in effect, require the District to collect emissions data from all facilities. Otherwise, assessing facility applicability on an annual basis to compare to Appendix A threshold levels will be too onerous and difficult.

Because the proposed reporting thresholds will require all our permitted facilities to report, representing a significant impact to businesses and air district resources, the District requests that CARB clearly explain the basis for the proposed thresholds for complete transparency about the need for reporting at these low threshold levels.

**Implementation:** To facilitate district implementation of the regulation, CARB should add language to the regulation that clearly gives air districts the authority to incorporate the regulation requirements into their permits without the need for local rule development. Otherwise, there is an additional administrative burden placed upon districts to implement the regulation if a local rule must be adopted.

**Streamlining Emission Reporting Programs:** CARB should continue to look for ways to streamline emission inventory efforts between the Air Toxics “Hot Spots” Information and Assessment Act of 1987, GHG emissions reporting, criteria pollutant emission data submitted through CEIDARS, and the CTR regulation, such as the development of an online reporting tool that will be used for all emission reporting requirements.

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Having a CARB-developed online reporting tool will avoid the duplication of effort that will result if local air districts need to develop their own reporting tools. A state reporting tool will also foster consistent reporting requirements for the regulated community and increase efficiency, especially for companies that operate in multiple air districts. We recommend that CARB develop the online tool as a prerequisite for CTR Regulation implementation.

**Business Outreach:** CARB should perform robust and regular outreach to businesses that will be affected by the CTR regulation to ensure they understand the economic impacts the regulation will have related to permit fee increases and other internal business costs to comply. It is especially important to give affected facilities an opportunity to provide input during the rule development phase and also to prepare for regulatory impacts.

**Abbreviated Reporting:** In general, we support an expansion of abbreviated reporting beyond what is currently allowed to enhance reporting efficiency and compliance with this regulation.

Specifically, abbreviated reporting should be allowed at the permit level, not just at the facility level. The reporting burden is increased by not allowing facilities to use abbreviated reporting for some equipment just because they have other equipment that requires reporting. Again, the benefits of abbreviated reporting will be nullified for many facilities that have a mix of equipment types.

Furthermore, abbreviated reporting should extend to *all* additional applicability facilities under § 93401(a)(4) or district discretion should be allowed to add additional facility types without the need for approval by CARB under section § 93421(b). We suggest additional applicability facilities be allowed to provide abbreviated reporting when deemed appropriate by districts, especially when districts calculate emissions on behalf of the facility.

**Annual Emission Reports:** Annual emission reports are referred to as both annual emission reports and annual emission data reports. To avoid confusion, we suggest using one consistent term. Additionally, the description of the emission report contents (§ 93404) does not clearly align with the subsections. It is unnecessarily confusing to determine what needs to be submitted in the annual report for the different facilities. We suggest simplifying the reporting requirements or creating two different types of reports (standard & abbreviated) that clearly delineate what is required for each report and include these as separate appendices.

**Enforcement of CTR Regulation:** CARB and local air districts will share in the responsibilities of implementing and enforcing the CTR Regulation. CARB should consider the best mechanism for these shared duties, such as an MOU or MOA. Such agreements have been used for local district enforcement of other CARB regulations, such as the Landfill Methane, Oil and Gas and Refrigerant Management regulations. They help delineate and clarify responsibilities and are advisable for the implementation of the CTR regulation as well.

In addition, the regulation does not require verification of emission data accuracy. While the facility must sign an attestation, there is no requirement for data verification by districts, something that could be accomplished, for example, during compliance inspections. The District suggests this step be considered as a best practice.

**Flexibility of Reporting Deadlines:** The District recommends CARB consider different reporting deadlines that will allow districts to implement the CTR regulation as part of their annual permit reporting and inspection process. For example, allowing districts to report 2021

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emissions data to CARB in March of 2023 would allow districts time to collect and do on-the-ground verification of reported data and report the most accurate emission data to CARB.

**Website & Future Emission Data Access:** The District highly recommends that CARB begin planning how online emission data can be made relevant and understandable for the public, e.g., requiring viewing of informational training videos prior to allowing public access. This step and others can help reduce confusion and misinterpretation and help explain the limitations and caveats inherent in the collected emission data.

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## ATTACHMENT B

### Specific Comments on the *Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants*

**§ 93401(a)(3):** *Elevated Prioritization Toxics Applicability (Elevated Toxics Facility). A facility that is categorized by the air district as high priority for toxic air contaminant emissions at the beginning of the data year, based on cancer or noncancer health impacts pursuant to H&SC section 44360.*

Comment: Language should be included to allow for the exclusion of facilities re-designated to a lower prioritization score during a data year. Furthermore, those facilities should not have to go through the official cessation notification requirements per § 93401(c).

**§ 93401(c)(2):** *The notification must be submitted no later than May 1, or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which the emissions data report was due.*

Comment: It is not clear if this is a one-time notification or an annual notification. For example, if a facility that reported NO<sub>x</sub> emissions greater than 4 tpy in prior years has NO<sub>x</sub> emissions of 3.5 tpy in the current reporting year, must they prepare an inventory to show they are exempt from reporting for the current data year? What happens the following year? Must a facility submit a new inventory each year to show they are exempt from reporting? If so, the exemption from reporting is not useful.

**§ 93402(a):** *“Facility” means any physical property, plant, building, structure, or stationary equipment, having one or more sources, located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control.*

Comment: The definition of “Facility” should specify that it is classified under a single SIC code. Districts may have separate facilities that are contiguous or under common control but are categorized by EPA and a district as different facilities. CARB should align this definition or include a statement “or categorized by the district as a separate facility” so districts do not have to combine existing facilities for the purpose of reporting. That would be difficult to implement within district permit databases.

**§ 93402(a):** *“Permit” or “Air District Permit” means a document, issued by a district, which authorizes a facility to construct or operate a device, process, or facility that emits substances into the air, including, but not limited to, criteria air pollutants and toxic air contaminants. Permits may establish numeric limits on activity levels for devices or processes, or the amount of emissions a facility is legally authorized to emit over a specified period of time.*

Comment: The definition of “Permit” should be reviewed to clarify that this regulation applies only to facilities with permits to operate, not authorities to construct.

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**§ 93403(f)(3):** *Previous owners or operators are required to provide data and records to new owners or operators that are necessary and required for preparing annual emissions data reports required by this article.*

Comment: The overall requirement is that the new owner must report accurate emissions data for the whole year by adding emissions that took place while they operated the facility to the emissions that took place under the previous owner. Though this section puts the requirement on the previous owners to provide said data, it is unrealistic to believe that this will happen. The result is that the new owner will most likely find themselves out of compliance due to the previous owner's failure to transfer the necessary records.

**§ 93404(b)(1)(A)(3):** *US EPA Unit Type Code*

Comment: The Unit Type Code is not easily found for the average business. We suggest attaching this as an appendix or providing a direct link.

**§ 93404(c)(2)(C):** *Except as provided in sections 93401(b)(2) and (4), emissions of PM, ROG and NOx from any diesel-powered portable engines or devices operated at a facility, regardless of equipment ownership or permit status, if the engine or device is operated on site at any time during three different calendar months of the data year. The data of 93404(b)(1) does not need to be provided for permitted portable engines or devices. The use of best available data and methods, including the use of engineering estimates, may be used to quantify emissions from portable engines, and the emissions data from multiple engines may be aggregated by engine tier. Alternatively, the activity data necessary to estimate the emissions from such portable diesel-powered engines shall be reported to the district, and the district may quantify the emissions on behalf of the facility.*

Comment: This section is not practical to implement and will be unenforceable. Specifically, the language regarding operation during three different calendar months will be functionally impossible for facilities or portable equipment operators to track. There also needs to be a threshold for engines, such as greater than 50 hp, or require that a portable engine/equipment that is under permit with the District or with CARB PERP program report.

**§ 93410(a)(1).** *The requirements of this article are provisions of state law and may be enforced by either CARB or the local air districts where facilities covered by this article are located. Local air districts may incorporate the terms of this article into local air district rules. Any penalties secured by a local air district as the result of an enforcement action that it undertakes to enforce the provisions of this article may be retained by the local air district.*

Comment: This language implies that the local district needs to adopt a rule to implement and enforce the regulation. Adopting rules is time consuming and costly. Our preferred mechanism to implement this regulation is through existing permits. We

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suggest adding “Local air districts may incorporate the terms of this article into local air district rules and/or permits.”

**Table A-3. Sector 8** (Combustion of crude, residual, distillate, or diesel oil, except for the agricultural operations and medical related industry sectors as defined in the SIC and NAICS columns)

- The reporting threshold of 100 gallons or 5 hours requires diesel-fired emergency backup generators to report emissions. It is inconsistent to require this sector to report emissions and not require registered portable equipment that, when operated, will emit at higher levels than most emergency stand-by generators.
- Add clarifying language to the “Activity Level Reporting Threshold”:

*Tier 4 Diesel Engines: 100 gallons of fuel combusted per year, or **alternatively, 5 hours per year of operation.***

*Non-Tier 4 Engines: 30 gallons of fuel combusted per year, or **alternatively, 5 hours per year of operation.***

This change clarifies that the threshold level expressed in either unit can be used to determine who must report, not that there are two thresholds to which the activity levels must be compared.

**Table A-3. Sector 27** (Medical services, hospitals, and related facilities which use formaldehyde (or formalin), glutaraldehyde, ethylene oxide, or diesel engines)

- Add additional language to the “Activity Level Reporting Threshold”:

*110 pounds of formaldehyde emitted per year, or 110 pounds of glutaraldehyde emitted per year, or 4 pounds of ethylene oxide used per year, or 30 gallons of diesel fuel burned per year, **or alternatively, 5 hours per year of engine operation.***