



August 12, 2020

Mr. Greg Harris, Branch Chief
Greenhouse Gas and Toxics Emissions Inventory Branch
Air Quality Planning and Science Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Transmitted via email to: ab2588ei@arb.ca.gov

Re: California Association of Sanitation Agencies Comments on the Informal Review Draft of the Air Toxics “Hot Spots” Program Emission Inventory Criteria and Guidelines

Dear Mr. Harris:

The California Association of Sanitation Agencies (CASA) appreciates this opportunity to comment on the Informal Review Draft of the Emission Inventory Criteria and Guidelines (EICG) for the Air Toxics “Hot Spots” Program posted by the California Air Resources Board (CARB). The comments we provide are specific to the Internal Review Draft of the EICG, but also draw linkages to the adopted and proposed amendments for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Regulation (CTR), in support of harmonizing efforts.

First, some background on CASA – CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, as well as the generation and use of renewable energy, biosolids, and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians. Our members are focused on helping the State achieve its 2030 mandates and goals for greenhouse gas emissions reductions, which include:

- Reducing short-lived climate pollutant (SLCP) emissions
- Effectively diverting organic waste from landfills
- Providing 50 percent of the State’s energy needs from renewable sources
- Reducing carbon intensity of transportation fuel used in the State
- Increasing soil carbon and carbon sequestration under the Healthy Soils Initiative, Forest Carbon Plan, and Natural and Working Lands Climate Change Implementation Plan

As fellow dedicated environmental stewards, CASA members provide reliable wastewater treatment to protect public health and the environment, as well as strive to exceed air district requirements. We recognize and support the need to manage criteria air pollutants and toxic air contaminants while accomplishing greenhouse gas emissions reduction targets. Our specific comments on the EICG (and the associated amendments to the CTR, which need to be efficiently harmonized together) comprise the remainder of the letter.

What, When, and How Can the Wastewater Sector Report Appendix A-1 Compounds?

The proposed amendments to the EICG rely upon and refer to the proposed amendments to the CTR. While the definition of toxic air contaminant (TAC) is not clearly defined in the EICG, it is our understanding that the CTR definition is applicable to this important topic. The proposed amended CTR defines a “Toxic Air Contaminant” as a substance identified in Appendix A-1 of the EICG for the Air Toxics “Hot Spots” Program as issued by CARB (version effective September 26, 2007). The CTR requires that

Appendix A-1 compounds be reported using "best available data and methods"¹ for compounds that are actually emitted by a facility. While the wastewater sector does not report most of the 500-plus compounds that currently comprise Appendix A-1, our members are required to report a list of toxic air contaminants to local air districts on a quadrennial basis. Due to the unique nature of waste facilities and the nebulous definition of "best available data and methods," our sector has worked with our local air districts on a list of TACs that adequately represent compounds that are likely emitted from our facilities. Our historical inventory is also supported, in many cases, by health risk assessments that determine the TACs emitted that are of most concern to the local communities.

However, in light of this long-standing process CASA is concerned about the implications of Section II, H "Updates to the List of Substances and Phase-In Provisions" of the EICG. Specifically:

Paragraph (H)(1) states "...substances added to Appendix A, which have no delayed phase-in provisions denoted in the 'Effective Phase' column of Appendix A, or which are denoted as "e" existing substances, the operator of any facility which...releases any such substance added to the list of substances, or which meets one of the chemical functional group definitions, on or before April 1 of the year the regulation is effective, shall include such substance in any emission inventory plan required under this regulation..."

Paragraph (H)(4) states... "If no emission quantification method exists to quantify emissions of a substance at the time of its "Effective Phase", the facility operator only needs to report the presence, use, or production of the substance and the amounts present, used, or produced within the facility, using the Appendix B "Supplemental Use and Production Quantity Reporting Form (S-UP-Q)" or the equivalent information in a format required by the air district."

In our May 21st comment letter (attached), we described how waste facilities are unable to comply with such requirements. The EICG Informal Review Draft contains additional references to phase-in schedules, thresholds and reporting of TACs as outlined in the proposed amendments to the CTR. As we discussed July 29th, **CASA respectfully requests that any existing or proposed Appendix A-1 compounds not already reported by a wastewater facility not be required to be reported until completion of a CARB/CAPCOA-approved pooled emission estimation program (PEEP) study (e.g., the two-step process proposed by CARB).** This ask is specifically for wastewater facilities, however, this request should apply to any waste facility because of their shared unique nature. During the July 29th meeting we discussed the deadline for the completion of such a study would be 2026, with provisions for potential extensions due to unforeseen study complications. In other words, until the completion of the PEEP study, we request that the wastewater sector's reporting requirements under the CTR and EICG remain consistent with what has been reported to local air districts over the last four years, which captures those compounds that have already been included in the quadrennial reporting process.

Estimating Prioritization Scores and Health Risks Before Final Toxicity Data is Published

We discussed during our July 29th meeting that toxicity data are not available for the majority of the existing or proposed Appendix A-1 compounds. CASA agrees with CARB staff that it is not appropriate for air districts or others to calculate facility prioritization scores or estimate health risks for such compounds until OEHHA publishes final, *not* interim, toxicity data. We are also concerned about the proposed reinstatement provisions pertaining to compounds that will be provided interim toxicity values as described during OEHHA's July 9th Scientific Review Panel meeting. With interim toxicity values likely being

¹Best Available Data and Methods' means technically justifiable and documented quantification methods and emission factors used in conjunction with technically justifiable and documented activity level data, for estimating criteria air pollutant and toxic air contaminant emissions. Best available data and methods include: material balances, engineering estimates, and emission factors published in literature.

conservative and emission measurement methods evolving, CASA recommends this provision be modified to minimize the potential for low risk facilities that would otherwise be exempt from being inadvertently captured by this provision. Specifically, we are concerned that reinstatement could inadvertently be triggered by the adoption of OEHHA new or modified health values, changes in emission measurements, new emission quantification methodology, or changes to the OEHHA health risk assessment methodology. As drafted, each of these items could be triggered by either OEHHA's issuance of interim toxicity data or our efforts to perform the proposed PEEP study.

While we are open to reporting emissions for Appendix A-1 compounds actually emitted after completing the sector-wide PEEP study, **CASA requests that the EICG provide clear guidance avoiding the potential use of interim toxicity data for prioritization scoring, health risk assessments or reinstatement.** We again request that Appendix A-1 compounds be sorted and ranked to help OEHHA identify which compounds have the greatest potential toxicity, so final toxicity data can be published for these compounds as soon as possible.

EICG Emission Inventory Reporting Thresholds

CASA is concerned that the proposal for any facility emitting less than 10 tons per year (tpy) of criteria pollutants for facilities in a Class listed in Appendix E is too broad. Many of these facilities are small and should not be required to remit inventories unless they are greater than 4 tpy of actual criteria pollutant emissions. A quick check of the SWRCB California Integrated Water Quality System Database shows over 200 facilities with NPDES permits and hundreds more with WDR permits. Many of these are small, remote facilities that could be subject to the same expanded reporting requirements as larger facilities despite their greatly diminished potential for off-site risk. This contrasts with an estimated 28 facilities that would be subject to Phase 1 either because of greenhouse gas mandatory reporting or air toxics prioritization. In addition, the proposed De Minimis Thresholds for Specified Classes of Facilities should be reconsidered. Until OEHHA establishes a final toxicity value for any Appendix A-1 compound, the thresholds contained in Appendix E should only be used to determine whether these compounds should be reported pursuant to the CTR.

Harmonization of EICG & CTR Reporting

Harmonizing the proposed amendments to the CTR and EICG, as well as risk assessment guidelines and local district regulations implementing these and risk management requirements is critical. The interaction of these programs will be so complex that **CASA requests that CARB work with CAPCOA on comprehensive implementation guidance.** Items that need to be addressed and clarified include, but are not limited to:

- How specifically will the CTR and EICG work together?
- What process will the local districts use to develop a prioritization process taking into account the continuing flux of Appendix A-1 compounds, lack of final toxicity factors, lack of test methods and proposed new elements of the EICG, such as "population-wide" assessments, inclusion of less than 10 tpy facilities, inclusion of smaller diesel engines, etc.?
- Will local districts have adequate "man-power" to adequately and fairly implement these programs, and where will the funding come from, especially in light of the burdens local districts face in implementing CTR?
- Do concepts, such as "population-wide" assessments, signal a change in risk assessment methodology that will have to require changes in OEHHA methodology?
- How will the local districts move forward with changes to existing regulations, such as SCAQMD Rules 1401 and 1402?

- The comprehensive new programs established in the CTR and corresponding updates to AB 2588's Air Toxics Program and other programs signal a new paradigm in dealing with TACs. How will these translate into risk management programs?

CASA believes that the EICG cannot be completed without a full understanding of how these programs will work together. Duplicative and conflicting requirements of the various programs will create confusion to the regulated industries and impacted communities. Essential public services, such as wastewater treatment facilities, have unique characteristics that must be considered in any inventory and impact program. These facilities have the unique challenge of operating in compliance with all regulations, especially those that specifically address community health and welfare issues, while providing essential services. A comprehensive guidance document is essential to navigate these complex regulations.

While we continue to have many questions and concerns about issues, such as the proposed two-step process and the utility of this information without final toxicity data, we want to thank CARB for engaging in discussions on the EICG, the CTR, as well as on research needed to identify a wastewater sector-specific list of Appendix A-1 compounds. We look forward to working collaboratively with CARB and CAPCOA to establish a formal approach that can quantify actual emissions from our member facilities. We also look forward to reviewing more detail in the regulation as it develops and to memorialize the concepts we have mutually agreed upon.

We appreciate the opportunity to comment on the draft materials posted for the proposed amendments to the EICG and further appreciate your willingness to consider our recommendations. Please contact David Rothbart at drothbart@lacs.org or me at sdeslauriers@carollo.com if you have any questions.

Sincerely,



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