



150 Matheson Street, Healdsburg, CA 95448 • PH: (707) 433-5911 • FX: (707) 433-4823

March 29, 2019

David Edwards, Branch Chief, Greenhouse Gas and Toxic Emission Inventory Branch  
California Air Resources Board  
Air Quality Planning and Science Division  
P.O. Box 2815  
Sacramento, CA 95812

***RE: NSCAPCD Formal Comments on Proposed CTR Rule (AB 617)***

Dear Mr. Edwards,

The Northern Sonoma County Air Pollution Control District (NSCAPCD or District) received the draft amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) with a request to provide comments directly to CARB on the revisions. The NSCAPCD formally submits the following comments.

1. **Procedural Concerns.** A primary concern is regarding the use of the 15-day rule modification process under which the CTR Regulation is being adopted and the modifications that have been proposed.
  - a. **State Procedural Requirement.** The proposed modifications significantly alter the applicability of the Regulation by increasing the number of affected sources by more than 90%. This is a drastic deviation from the original language and therefore cannot qualify as “non-substantial”; nor to be “sufficiently related to the original text”, which are part of the criteria specified for 15-day changes under Government Code §11346.8(c).
  - b. **Overreach in Scope.** As promulgated, §93400 provides that the purpose is to “...establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for specified facilities.” §93401(a) defines applicability to a specific subset of state facilities that are: (1) GHG reporters; (2) large emitters in non-attainment areas; (3) categorized as a high priority site for toxic emissions, and (4) permitted sources located within a designated community. Herein, the Legislature clearly recognizes and distinguishes between reporting and applicability, giving each its own section and provisions under the rule. In the 15-day modification, CARB proposes to revise applicability in §93401(a)(4) to expand reporting from sources within a community to statewide reporting and references its authority to do so under Board resolutions associated with rulemaking under AB 617. However, Resolutions #18-33 and #18-37 do not direct CARB staff to change applicability of sources; only to establish a system of reporting.

*The proposed applicability changes must follow the regular process for rule adoption, including a full hearing before the CARB Board takes action. The Board should make itself accessible and transparent to the newly-affected sources, and it should have an opportunity to hear directly from industry, the public, and the air districts affected in this matter.*

2. Industry Notification. A majority of the newly-applicable reporters are “minor” sources (primarily small businesses) that have not had a previous CARB or district requirement to report, given the newly proposed CTR threshold criterion. This means that the count and identification of the affected sources is unknown to CARB for the purpose of identification and then notification of the proposed 15-day modification. CARB does estimate that 45-55,000 new sources, primarily small businesses, may now need to report CARB. Many of these businesses have not been notified and will be required to bear new expenses to report annually, to certify, to manage new compliance liabilities, and to comply with revised district permits, district rules, and the CTR rule.

*CARB should consider taking more time to reach out to small businesses. If CARB is unable to notify the majority of the newly affected parties and to provide an adequate period time for preparation and training to comply on the effective date, it will create tension that will likely lead to poor program participation and data collection, and undesirable enforcement scenarios. Presumably it is more desirable to achieve a successful implementation of the proposed CTR rule than to meet a self-imposed timeline.*

3. Data Collection. When reviewing the proposed reporting thresholds, it is clear to NSCAPCD that the challenge isn't simply a matter of negotiating how many sources must report, but rather acquiring and managing new data that we currently don't possess.
  - a. §93404(b) requires approximately 50 data fields per emission unit (with a stack), in addition to, the emissions data for applicable criteria and toxic pollutants; unpermitted sources; unpermitted fugitives; portable equipment that isn't PERP; and meta-data (calculation methods, emission factors, etc.).
  - b. These 50+ data fields per minor source emission unit are not data that the districts have on hand; it will have to be requested and created on a case-by-case basis. And then the data will have to be managed in a support database system, which the NSCAPCD does not currently have.
  - c. Reporting NAICS, SCC, stack parameters, and location coordinates at an emission unit level is quite a bit of work, and many small businesses will not have any idea how to provide this information, and it will fall to the districts to pick up.
  - d. Our District is one of the smaller (~915 minor sources), yet we would have an estimated 200+ new facilities to capture under the proposed CTR.
  - e. ~200 new facilities x ~ 50 data points = 10,000 pieces of new data.

*The proposed CTR rule requires ongoing, locked-in state funding so that districts can purchase effective database systems and fund necessary staff support resources. If districts are expected to raise fees to cover these costs, the District would appreciate elaboration on such process and compliance with state law regarding fee increases by districts. At the time of this comment, a current, well-known off-the-shelf product for the purpose of AB617 and emissions reporting management costs \$84,000 per year and our staff FTE would be estimated at ½ FTE (~\$64,000) for the first two years and ¼ FTE (~\$32,000) thereafter. It should also be noted that we can't hire an additional ½ or ¼ FTE and we would have to re-direct the resources from other core program elements: potentially grants, compliance, or monitoring activities would be reduced.*

4. New District Paradigm. The proposed CTR rule ushers in a new regime with substantial implications to just about every aspect of our current program requiring changes to our District's work flow, business model, and potentially District regulations. For example, the proposed new regime would require modification of our applications and application process to request the new data; revision of our permits' monitoring, record keeping and reporting requirements; revision of our technical reviews to parse emissions data and review new data items such as SCC codes; substantial public outreach as many rural sources won't be able to provide the new data fields; we would need a data management system to maintain and manage all the data points; we would have additional enforcement for non-reporting companies; we would have to allocate new staff resources in perpetuity for the collection and reporting

of the data, and so on. Some of these revisions could require formal District rule amendments and SIP updates

*As outlined above, the proposed CTR rule isn't simply a matter of reporting a few more information points (that we don't have), but rather it is a substantive paradigm shift in staff resources, day-to-day cost of business, and the overall way we do business. The NSCAPCD requires adequate time and resources for proper implementation, such as: adding another year for rural districts to phase-in to reporting schedule; a reduction of reporting frequency for rural districts and/or districts in attainment (e.g.: every other year, or every third year); and ongoing state funding will be required in an ongoing non-grant format, such as subvention.*

*NSCAPCD requests that CARB provide an option where districts may use their own in-house database systems throughout the year and then annually upload to the CARB system. In this manner the districts will not have to manage two systems; and the districts can manage and make adjustments to in-house systems much more rapidly and efficiently. This would prevent redundant efforts, which would save the districts and CARB time and employee resources.*

5. CARB Training and Enforcement Plans. CARB Resolutions #18-33 & 37 direct CARB staff to work on statewide implementation.

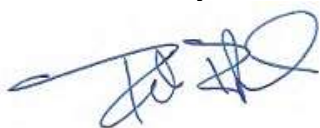
*Please elaborate on CARB's plans to train industry; to train the districts; and CARB's view of compliance and enforcement procedures for non-reporters/non-compliance. Industry will look to the districts to educate and assist them, and without proper training by CARB, this will be extremely resource intensive to the districts and frustrating to industry, and this could sour industry relationships with the districts and CARB.*

### Conclusion

The NSCAPCD stands at the ready to support the success of California's air quality endeavors; however, the NSCAPCD is concerned that utilizing this 15-day modification procedure and the regulation as proposed will place an untenable amount of new work on our District and our permitted facilities. Additional public notice to affected facilities, resources, and training are crucial to the successful implementation of AB 617. These will require an expanded timeline for successful implementation. The CARB should consider the damage it may cause to its own effort by shoe-horning a 15-day modification for substantive rule changes, solely to meet a self-imposed timetable. Please consider taking more time, performing a formal rule-making, and success will come more readily to everyone involved.

Finally, please note that air districts' current methods and thresholds for emission reporting evolved over many years based on their local air quality status and available resources. Working with their regulated industry, the public, and stakeholders, the districts' spent years earning the regulated industry and community trust and developing their local rules which have also been approved by EPA and included in the state's SIP. In the spirit of cooperative federalism, we respectfully reiterate our request that CARB take a measured and sensitive approach to the implementation and timelines of state rules that impact core District program elements.

Sincerely,



Robert Bamford  
Executive Officer / APCO  
Northern Sonoma County Air Pollution Control District