



March 5, 2020

Dave Edwards, Ph.D., Chief
Greenhouse Gas and Toxics Emissions Inventory Branch
Air Quality Planning and Science Division
California Air Resources Board
1011 I Street
Sacramento CA 95814
Transmitted via email to ctr-report@arb.gov

**Re: Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants
and Toxic Air Contaminants**

Dear Dr. Edwards:

The Southern California Alliance of Publicly Owned Treatment Works (SCAP) appreciates this opportunity to provide comments on the proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR). SCAP represents 83 public agencies that provide essential water supply and wastewater treatment to nearly 19 million people in Los Angeles, Orange, San Diego, Santa Barbara, Riverside, San Bernardino and Ventura counties. SCAP's wastewater members provide environmentally sound, cost-effective management of more than two billion gallons of wastewater each day and, in the process, convert wastes into resources such as recycled water and biogas. Our members provide an essential public service by operating wastewater treatment plants for the sole purpose of safely and reliably managing society's sewage.

Assembly Bill 617, as originally drafted, directs the California Air Resources Board (CARB) to develop a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for use by certain categories of stationary sources. The specified categories include facilities that: (1) already report their greenhouse gas emissions, (2) emit 250 or more tons per year of any nonattainment pollutant or its precursors or (3) receives an elevated prioritization score pursuant to California Health and Safety Code Section 44360.

The additional applicability in the proposed amended CTR under Section 93401(a)(4)), drastically expands the number of reporting facilities by: (1) lowering the criteria pollutant threshold from 250 to 4 tons per year and (2) including activity levels that would capture numerous small or deminimis emission sources. Also included now are portable engine emissions for which a facility does not own or have control over.



Along with this increasing number of sources that must be part of the state-wide reporting system, as described below, the proposed amended CTR will also drastically increase the number of toxic compounds that must be addressed by a facility. It is not clear, based upon conversations with staff and draft CTR language if a wastewater treatment plant, for instance, must now report hundreds of new compounds.

As will be more fully discussed below, we respectfully request the following:

- The inclusion of Section 93401(a)(4) be delayed or removed until the program has fully and successfully implemented uniform state-wide reporting for the original three categories specified in AB 617.
- Delay any new list of toxic air contaminants until facilities have a sufficient amount of time to (1) understand if they are emitted, (2) establish adequate quantification methods to determine this, and (3) ensure toxicity factors for the new list of compounds are scientifically developed.
- Eliminate Section 96404(b)(2)(C) because facility owners cannot be held responsible for enforcing emission reporting for portable diesel equipment they do not have control over.

Unintended Consequences of the Proposed Amended CTR

Unintended consequences may be caused by the combination of the proposed amended CTR and recommended revisions to AB 2588 Emission Inventory Criteria and Guidelines Appendix A-1 Chemical List. As proposed, most facilities in California could be required to report hundreds of new toxic compounds, many of which without known default emission factors, test methods, or toxicity factors. Taken to the extreme, the required use of these new compounds would exaggerate emissions data reported to the public rather than providing meaningful emissions data to the public as intended by AB 617. Also, the proposed amended CTR in conjunction with the recommended AB 2588 Chemicals List will greatly exaggerate prioritization scores using unmeasured estimates of compounds that don't even have approved source test methods. While AB 617 directed CARB to develop a uniform statewide system of annual reporting, with the intent to fulfill the public's right to know, the legislation never contemplated that approximated toxic emissions would be reported to the public.

Unlike the manufacturing sector that could potentially estimate emissions based upon throughput and raw material Material Safety Data Sheets (MSDS), the waste sector (wastewater treatment plants, landfills, recycling and waste transfer facilities, and compost facilities) cannot use this methodology. The waste sector is unique and provides essential public services by managing society's sewage, trash and recyclables. These waste products sent to our facilities are not accompanied by MSDS sheets. As a result, the proposed amended CTR would require the waste sector to annually report hundreds of new AB 2588 toxic substances without an ability to accurately estimate these emissions.

Based upon the realization that the waste sector cannot estimate our emissions as contemplated in the proposed Amended CTR, we discussed our concerns with CARB, SCAQMD, SDAPCD and CAPCOA. As responsible environmental stewards, we have requested to mutually determine how to quantify toxics that are actually emitted from our sector, and perform a pooled emission factor study. In response to



the enactment of AB 2588, the wastewater sector worked cooperatively with the regulatory community to perform such a study in 1989 at a cost of \$2.4 million, which took five-years to complete. Considering our history of identifying mutual solutions to environmental issues, we find it troubling that CARB has been unable to identify a path forward that would provide accurate reporting to the public.

Stakeholder Concerns

Overall, stakeholders from various industry sectors understand that the proposed Amended CTR will not require testing of the expanded list of AB 2588 compounds but reporting these new compounds will be required. Most new compounds lack of representative default emission factors, toxicity data or approved source test methods. Stakeholders strongly disagree with CARB's chemical similarity proposal to conservatively estimate emissions or toxicity. This approach would, at minimum, mislead the public and may cause anxiety for many communities. Air districts would also be burdened by the proposed Amended CTR, where significant staff time would be required in response to the reporting of greatly exaggerated toxic emissions.

Reporting of Emissions from any Diesel-Powered Portable Engines Operated at the Facility

This newly proposed section of the proposed Amended CTR will require that emissions from any diesel-powered portable engines operated at a facility, regardless of equipment ownership, be reported. We strongly object to this section because it places the compliance and enforcement burden on facility operators for any contractors or construction-related activity. While our contracts typically require compliance with all air quality rules and regulations, we cannot reliably keep track of all contractor, sub-contractor, etc., portable engines and equipment that are used for a construction or maintenance project. Even requiring the contractor to report this information to us could be difficult given the complexities of many construction projects; and how would we verify it? Given the enforcement provisions of the proposed CTR, a facility owner cannot be held responsible for equipment for which they do not have full control over. We strongly request that CARB consider whether this information is needed given the amount of emissions that come from a short-term construction project vs. the mobile equipment from that activity, or the mobile equipment that is typical for the community in question. Portable engine emissions are likely very minor in comparison. Therefore, if CARB's intent is to fully characterize the emissions in a community, more focus should be on mobile emissions. Finally, if CARB believes that the emissions from portable equipment is necessary, amending the PERP to enhance reporting to include facility locations, may be the better approach as it deals more directly with the equipment owners.

Recommendations

In conclusion, we request that:

- The inclusion of Section 93401(a)(4) be delayed or removed until the program has fully and successfully implemented uniform state-wide reporting for the original three categories specified in AB 617. The goal of uniform reporting throughout the state will be extremely challenging. Adding a significant number of smaller sources early on will only complicate this difficult task.

SCAP

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- Delay any new list of toxic air contaminants until facilities have a sufficient amount of time to understand if they are emitted, establish adequate quantification methods to determine this, and ensure toxicity factors for the new list of compounds are scientifically developed. Jumping ahead prematurely on this will not serve to provide the public with accurate data from facilities. For the wastewater sector, more time is needed to fully test for and analyze the emission potential for a new list of toxics. We also request that CARB establish a methodology to identify sector-specific lists of potential toxic pollutants, which would facilitate pooled emission factor studies. Any sector-specific pollutant list should include an assessment of all compounds that might need to be reported. Without such an assurance, the feasibility and cost-effectiveness of any pooled emission factor study would be undermined by the potential for a never-ending industry study. Last, but not least, we request a public process be implemented to review any interim default emission or toxicity factors with adequate time to ensure that representative emissions and prioritization scoring can be provided to the public.
- We request that Section 96404(b)(2)(C) be eliminated from the proposed amended CTR. Facility owners cannot be held responsible for enforcing emission reporting for equipment they do not have control over.

Thank you again for the opportunity to comment on proposed Amended CTR. Please do not hesitate to contact Mr. David Rothbart of the Los Angeles County Sanitation Districts, SCAP Air Quality Committee Chair, should you have any questions regarding this transmittal at (562) 908-4288, extension 2412.

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Sincerely,

Steve Jepsen, Executive Director

cc: Mr. Greg Kester, California Association of Sanitation Agencies
Mr. Ray Arthur, Central Valley Clean Water Association
Mr. Randy Schmidt, Bay Area Clean Water Agencies