



March 19, 2020

Dr. David Edwards
Assistant Division Chief
California Air Resources Board
1001 I Street
Sacramento, California 95814

sent via email: cotb@arb.ca.gov, ctr-report@arb.ca.gov

Re: WSPA Comments on Proposed Amendments to the AB 617 CTR Regulation

Dear Dr. Edwards,

The Western States Petroleum Association (WSPA) continues to support the CTR as a viable means to establish a state-wide “uniform” emissions reporting program under AB 617, and has been active to provide feedback throughout its rulemaking process over the past few years. The Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) was adopted with modifications on December 14, 2018, and became effective on January 1, 2020.

WSPA is grateful for this opportunity to provide comments to the California Air Resources Board (CARB) on its recently proposed amendments to the CTR. Our comments pertain to proposed regulatory text (dated February 5, 2020) and related CARB material presented at workshops held throughout the state on February 6, 11, 22, 19, and 20, 2020. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

General Comments

- WSPA is concerned that certain challenges identified over the past few years may not be resolved yet, and could hinder the success of the CTR if amended too soon. For example, many air districts have continued to acknowledge a lack of funding and resources to implement the program. And to date, there appears to have been minimal outreach to facilities. While WSPA understands that state legislation required CARB to move ahead with adoption of the CTR regulation, we believe that it is premature to propose amendments at this time to reintroduce the Additional Applicability criteria.
- WSPA is also concerned that substantial changes proposed to CARB’s Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program will add insurmountable burden to air districts and facilities focused on meeting the current CTR requirements and reporting deadlines. For example, CARB is proposing to add 800+ new substances into Appendix A-1 of the “Hot Spots” guidelines. Also, to date, there has been little discussion with industry about other planned changes to the guidelines (e.g., source identity for new substances, related emission quantification methods). WSPA recommends that CARB leave reference to the September 26, 2007 version of these guidelines (including Appendix A, List of Substances) in the CTR definition of “Toxic air contaminant” until all changes to the “Hot Spots” program are adopted and

CARB has successfully processed the first reported year of Full Report Contents under CTR § 93404(b)(1)¹.

- WSPA would like to reemphasize that successful implementation of the CTR regulation requires a strong partnership between CARB, local air districts, and facility owners and operators. There seems to have been limited communication with facilities over the past six months regarding applicability confirmations, what emissions data will be reported by the air districts to CARB, and what new local requirements are coming for future years. Given that 2019 data reported in 2020 reflects *business as usual*, WSPA member companies understand that air districts have had limited time to focus on reporting for subsequent years. Nevertheless, WSPA is compelled to restate its concern that more communication and outreach is needed to successfully implement the current CTR regulation. It is premature to reintroduce the Additional Applicability criteria at this time.

Specific Comments

- **§ 93401(a)(4)(C).** Slide 12 of the recent CARB workshop presentation implies that Additional Applicability thresholds proposed for § 93401(a)(4)(C) facilities in Table A-3 take *near-source impacts* and *facility clustering effects* into consideration. WSPA believes that these impacts and effects will vary significantly by facility location and surrounding land use, and therefore the frequent threshold reference in Table A-3 to “Any activity level” may be too stringent. To better manage resources and reduce the anticipated number of reporting entities, WSPA recommends that an additional receptor distance criteria be added to Table A-3. In the absence of nearby sensitive communities or other facility emission sources within a prescribed distance, there should arguably be no reporting obligation under the current CTR regulation.
- **§ 93401(d).** WSPA supports the addition of § 93401(d) and its intent for CARB to work with air districts and facilities to confirm CTR nonapplicability. Given the uncertainty of 1) what constitutes “reasonable potential”, 2) when information might be requested from a facility, and 3) background and capability of facility personnel, WSPA recommends that language similar to § 93405(d) be added to grant additional time to facilities to respond when warranted (e.g., “unless a longer schedule is agreed to by CARB, to provide additional time necessary to collect and prepare complete and accurate data”).
- **§ 93403(a)(1)(A).** From a compliance standpoint, WSPA remains very concerned about CTR requirements related to Attestation [§ 93404(d)] and Enforceability [§ 93407]. In particular, WSPA is concerned that air districts may not be ready to facilitate reporting of all Annual Emissions Reporting content in § 93404 after data year 2019 (i.e., the phase-in or *business as usual* period). Therefore, WSPA recommends that the phase-in period defined in § 93403(a)(1)(A) for GHG and Criteria Facilities be extended by one year or until District Group A air districts can confirm their readiness to meet all § 93404 reporting requirements.

¹ WSPA understands that a CTR amendment to the definition of “Toxic air contaminant” in § 93402 would be required before facilities and air districts become subject to any revised “Hot Spots” program guidelines.

- **§ 93404(b)(2)(C)**. As previously commented, WSPA member companies rely on many different contractors and subcontractors to lead maintenance and turnaround activities, and often have limited means to accurately track usage, activity, or emissions data for portable engines. Proposed amendments to the CTR include reintroducing reporting requirements for diesel-powered portable engines and devices (“portable devices”), regardless of equipment ownership or permit status. For the following reasons, WSPA recommends that CARB withdraw § 93404(b)(2)(C) from the proposed amendments, and instead pursue separate rulemaking to the existing Portable Equipment Registration Program (PERP) to meet state-wide emissions reporting objectives for portable devices:

Compliance: Many facilities subject to the current CTR do not own or directly operate portable devices (e.g., equipment associated with 3rd-party contractor operations, rented diesel engines). Furthermore, many facilities have limited authority over contractors to ensure that any imposed recordkeeping is complete and accurate. In the absence of such 3rd-parties having direct CTR applicability and responsibility for reporting, we believe that achieving compliance will be difficult and applicable facilities will be unfairly vulnerable to enforcement. As presently proposed, 3rd-party owners and operators of portable devices have no accountability in the CTR and are not subject to enforcement.

Representation: Proposed § 93404(b)(2)(C) requires emissions data reporting for certain portable devices that may not otherwise trigger applicability if operated in other locations, e.g., within facilities not subject to § 93401(a)(1)-(4). With a CTR premise being to inform and protect the public, § 93404(b)(2)(C) is misleading and infers that diesel engine exhaust emitted from larger facilities poses more health risk than that which is emitted from smaller facilities and other locations where portable devices have routine or extended use. On the contrary, portable devices are regularly operated outside of large facilities and often much closer to sensitive communities (e.g., schools, residences). Potential for misrepresenting portable devices through this amendment (i.e., under-representation) is underscored by CARB’s intention to visualize CTR emissions data through its online AQview portal. A more comprehensive approach to identify and report emissions from portable devices would be through changes to the existing PERP program. Current reporting provisions for permitted, stationary diesel engines owned and operated by a facility subject to § 93401(a)(1)-(3) or § 93401(a)(4)(Table A-3, Sector 8) should remain in the CTR.

- **§ 93421(a)**. WSPA supports the addition of emergency diesel engines and retail service stations to the list of activities qualifying for Abbreviated Reporting in § 93421(a) of Article 2. We also support CARB’s intention to leverage other available statewide information for retail service stations (Slide 16 of the workshop presentation). WSPA recommends that a provision be added stating that such information could be cited by CARB in lieu of reporting total annual gasoline dispensed per § 93421(a)(4)(A).

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- **§ 93421(b)**. WSPA agrees with the proposed text in § 93421(b) which defines a process for facility owners and operators to petition CARB to qualify other activities for abbreviated reporting.

WSPA appreciates this opportunity to provide comments on proposed amendments to the CTR regulation. We look forward to more dialogue on this important element of AB 617. Please feel free to reach me at troberts@wspa.org.

Sincerely,

A handwritten signature in blue ink that reads "Tiffany Roberts". The signature is fluid and cursive, with the first name "Tiffany" and last name "Roberts" clearly legible.

Tiffany Roberts
Director, Legislative and Regulatory Policy
Western States Petroleum Association

cc: Mr. John Swanson, Section Manager
Mr. Daniel Sloat, Lead Staff