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Vice President

December 10, 2018

Clerk of the Board
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 AB 617 Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants

Dear Sir or Madam,

The Western States Petroleum Association (WSPA) appreciates this opportunity to provide feedback to the California Air Resources Board (CARB) on its AB 617 proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants. Previous written comments related to this rulemaking effort were submitted by WSPA on June 29, 2018 and August 23, 2018. 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 continues to support the implementation of AB 617 and recognizes that the Criteria and Toxics Reporting Regulation is critical to the success of AB 617 across the state. Additionally, we greatly appreciate the collaborative manner in which CARB has gone about this rulemaking effort. WSPA respectfully submits these written comments in response to CARB's Notice of Public Hearing dated October 9, 2018, and related Proposed Regulation Order, as posted on CARB's website on October 23, 2018.

Specific Comments

§ 93402. Definitions

1. Best available data and methods

The revised definition of "*Best available data and methods*" now stipulates that methods and emission factors should be air district-approved or CARB-approved, and strikes previous reference to technically justifiable facility methods, facility emission factors and other data, and other industry standard methods.

These changes to the definition appear to limit an owner or operator's ability to apply best available data and methods without prior approval by the air district or CARB. As there is no current list or resource containing district- and CARB- approved methods, facilities have no way of knowing whether the method they are using is in compliance with this definition. Furthermore, WSPA is concerned that the compressed timing of implementation does not allow enough time prior to reporting for facilities to apply and be granted approval for alternative

methods and emission factors which are more accurate but may be unfamiliar to the air district or CARB. WSPA recommends that references to the facility determined emission factors and methods be retained in the definition so that operators have the flexibility to use the most accurate methods.

WSPA supports the move to reporting of actual emissions from potential emissions. However; WSPA is still concerned that calculations associated with some existing in-house air district emission reporting programs may remain based on maximum potential emissions for smaller/de-minimis sources, and therefore not meet this definition. It would be inefficient to direct significant resources into determining the actual emissions of a relatively small or de-minimis source for no substantive change in overall emissions. WSPA requests that CARB allow reporting of potential emissions for small and de-minimis sources.

2. Particulate Matter

The definition section for PM includes condensable PM. It is our understanding that this will require reporting of condensable PM for all sources that have PM emissions. Condensable PM is not necessarily applicable to every source. WSPA recommends that reporting of condensable PM be limited to those sources for which condensable PM has been identified and already reported to air districts.

§ 93403. Emission Reporting Requirements

§ 93403(b)(1) states:

“Facility owners or operators shall provide annual emissions or activity data to the air district by May 1 (or by the local air district’s reporting deadline if earlier than May 1) of the year immediately following the calendar year in which the emissions occurred. District rules may specify an earlier submittal date, which supersedes the May 1 due date.”

As previously recommended by WSPA in our comment letters dated June 29, 2018 and August 23, 2018, WSPA strongly recommends that CARB consider a first year reporting deadline of July 1 (rather than May 1).

Similarly, individual air districts with preceding deadlines should extend their respective normal reporting deadlines by two (2) months for the first reporting year. This comment was previously made but not addressed in the CARB Staff Report (ISOR) for this regulation.

§ 93404. Emissions Report Contents

1. Overall report contents

It is very likely that the existing district-required formats for criteria and toxic emissions reporting may not be in full alignment with this rule, especially in the first year (with only 5 months to the reporting deadline). This might put facilities that would be reporting using the district-required formats out of compliance with the current regulation. WSPA suggests that facilities already reporting criteria and toxic emissions annually be considered “in compliance” with CARB’s rule as long as they submit information to the districts in the district-required formats.

2. Fugitive leaks

Facilities are required to report typical or average coordinates/locations, release heights, and other data for fugitive leaks (§ 93404(a)(8)(B)). Several of these data elements are not currently collected for every fugitive leak. Requiring this type of data for each fugitive leak is unreasonable and will not add any value. WSPA recommends that the definition of primary release location be altered to exclude fugitive leaks. WSPA also recommends that the reporting requirements for fugitive leaks be separated from, and less exhaustive than, the reporting requirements for stack emissions.

3. Unpermitted sources

§ 93404(b) includes the added statement:

“Emissions from unpermitted sources, including fugitive emissions, that are currently reported to or quantified by the air district, shall also be quantified and reported, but are not included in the applicability determination for criteria pollutant emissions. Emissions from permitted portable equipment operated at a facility shall also be reported, except for portable equipment registered and reported under the Statewide Portable Equipment Registration Program Regulation (CCR, title 13, section 2450 et. seq.)”

By both inference and mention earlier in § 93404(b), this statement implies that emissions for unpermitted sources should not be reported unless currently reported to the air district. Please confirm our understanding.

Also, this requirement does not specify if the permitted portable equipment includes those that are operated by contractors and rental companies. WSPA recommends that the regulation clarify whether or not the term “permitted” also applies to contractors and rental companies that operate their own equipment at an applicable facility.

4. Air Toxics

§ 93404(b)(2) includes new statements specifying that emissions reporting based on the full list of Air Toxics “Hot Spots” Program Appendix A-1 substances shall begin with the 2020 data year, and that any current air district practice to report a subset of these toxic air contaminants can continue in the short term.

WSPA recommends that the regulation allow owners and operators to apply facility-specific process knowledge to determine the potential list of Appendix A-1 substances expected from the processes occurring at the facility.

5. Report attestation

§ 93404(d) states with regard to attestation that:

“the designated representative for a facility subject to this article must provide an attestation to the local air district or to CARB that he or she is authorized by the owner or operator of the facility to submit the emissions data report, and that to the best of his or her knowledge, all information submitted pursuant to this article is true, complete and correct.”

Given the uncertainty as to how air districts will treat, reformat, and/or possibly change data reported by facilities, WSPA is concerned that facility owners and operators will be uncomfortable with attesting that “*all information submitted pursuant to this article is true, complete, and correct*”. Instead, CARB should alter the attestation such that facilities owners and operators are only attesting to the accuracy of information that the facility itself submits as opposed to information a district submits to CARB for the facility.

§ 93406. Confidentiality

§ 93406(a) states:

“Emissions data submitted to CARB under this article are public information and shall not be designated as confidential.”

WSPA member companies consider certain activity data (e.g., throughputs) to be sensitive and proprietary to the business. There is currently no mechanism defined at the data level for how, per § 93406(b), an owner or operator may claim such information as “confidential” by clearly identifying such information as “confidential.”

Given that air districts will be the end-point reporters of emissions data to the state, WSPA recommends that CARB incorporate specific means for owners and operators to claim certain information as “confidential”. WSPA requests that the method include either a check box at the end of the submission and/or the ability to add a narrative of confidential business information. This comment was previously made but not addressed in the CARB Staff Report (ISOR) for this regulation.

§ 93407. Enforcement

WSPA is concerned that by giving air districts the responsibility for transmitting data to CARB (i.e., end-point reporters), there is a risk of certain data and documentation being submitted inaccurately or perhaps not at all for the reporting years 2018 and 2019.

Because of this risk, WSPA recommends that enforcement provisions not apply to owners and operators for any emissions and related data authored by the air district per its option under § 93404(b). WSPA also suggests that CARB include a process for facilities to revise/update emission reports without being considered out of compliance with this regulation. This comment was previously made but not addressed in the CARB Staff Report (ISOR) for this regulation.

WSPA appreciates this opportunity to provide comments on the proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants. I welcome a response to this letter and can be reached at (805) 701-9142 or via e-mail at tom@wspa.org.

Sincerely,



cc: Mr. John Swanson, Manager, CARB
Dr. David Edwards, Branch Chief, CARB