

June 6, 2019

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814  
Electronic Submittal

SUBJECT: Comments on Proposed 25-Day Modifications to the Regulation for Reporting of Criteria Air Pollutants and Toxic Air Contaminants (ctr2018)

To Whom It May Concern,

The Monterey Bay Air Resources District (MBARD) is writing to provide comments on the Proposed 25-day Modifications to the Regulation for Reporting of Criteria Air Pollutants and Toxic Air Contaminants (proposed modifications). MBARD was concerned to see the applicability language under Section 93401(a)(4) change so dramatically from the December 13, 2018 Board approved version of the regulation. The inclusion of “Additional Applicability Facilities” or permitted sources with actual emissions greater than 4 tons per year or identified in Table A-3 results in a significant increase in reporting for our air district from about 30 sources to nearly 1,000 sources. In particular, the greatest change will be the requirement to annually report toxic air contaminants. Our air district staff and our facilities are not accustomed to this frequency for reporting toxic air contaminants.

We request the California Air Resources Board (CARB) to refocus the regulatory applicability back to the language and definitions in AB617 which was intended 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” rather than nearly all stationary sources permitted in the state as required by the proposed modifications.

The following comments summarize our concerns with the proposed modifications:

1. The applicability defined in Section 93401 (a)(4) is inconsistent with the language in AB617 as codified in Health and Safety Code Section 39607.1. The bill specifically includes the following language which clearly identifies that the annual reporting applies to “stationary sources” including providing a definition for this term based solely on three applicability criteria:
  - *This bill would require the state board 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 bill would require those stationary sources to report their annual emissions of criteria air pollutants and toxic air contaminants, as specified.*

- Section 39607.1 is added to the Health and Safety Code, to read:  
39607.1.  
(a) For purposes of this section, the following definitions apply:  
(1) “Nonattainment pollutant” means a criteria pollutant for which a district is classified as a nonattainment area pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).  
(2) “Stationary source” means any of the following:  
(A) A facility that is required to report to the state board the facility’s greenhouse gas emissions pursuant to Section 38530.  
(B) A facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors.  
(C) A facility that receives an elevated prioritization score based on cancer or noncancer health impacts pursuant to Section 44360.  
(b) (1) The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.  
(2) The state board shall require a stationary source to report to the state board its annual emissions of criteria pollutants and toxic air contaminants using the uniform statewide system of annual reporting developed pursuant to paragraph (1).  
(c) With the report required pursuant to paragraph (2) of subdivision (b), the state board may require, as appropriate, a stationary source to provide relevant facility-level emissions data.  
(d) The state board may require, as appropriate, a stationary source to verify or certify the accuracy of its annual emissions reports by a third-party verifier or certifier that is accredited by the state board.

As shown above, the language in AB617 provides the definition of a “stationary source” which does not include any of the applicability language that has been added as Section 93401 (a)(4). Only stationary sources as defined in AB617 should be required to report emissions. The added reporting applicability places a large burden on small businesses and small sources of air pollution to report emissions when they do not meet the clear definition of a “stationary source” in Health and Safety Code Section 39607.1(a)(2).

2. In several places in the “Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information”, CARB uses language such as “equity statewide” or “same benefits” or “create an inequality with other regions of the state”. However, there is very little about air quality that is the same or equitable across the state, some regions and communities benefit from attainment of ambient air quality standards and others struggle to achieve attainment. The processes associated with demonstrating and achieving attainment of federal or state ambient air quality standards were not established to be equitable. The system was established to be more stringent in regions not attaining the standards. This is the primary reason for wide variations across air districts regarding local

rules and regulations. Therefore, it is reasonable that facilities located in “selected communities” would be subject to different regulatory requirements than facilities not located in a selected community. We respectfully request at a minimum the applicability language in 93401(a)(4) be changed back to the version as proposed to your Board on December 13, 2018 such that reporting only applies to facilities located in selected communities.

3. CARB should allow Abbreviated Reporting for all additional applicability facilities subject to the regulation per Section 93401(a)(4). CARB provides no data to support the reason for allowing less burdensome reporting for some small sources and not others. Allowing Abbreviated Reporting for all additional applicability facilities would be consistent with United States Environmental Protection Agency’s (EPA) Air Emissions Reporting Requirements ([40 CFR Part 51 Subpart A](#)) which only requires detailed reporting for the largest sources. In this regulation, a “point” source is defined as a facility that is a major source under 40 CFR Part 70 (for example emissions greater than 100 tons NOx per year). In EPA’s regulation, states must only report detailed information as codified in [40 CFR Part 51 Subpart A Table 2a](#) for these large “point” sources. Smaller sources, which EPA are categorizes as “nonpoint” sources, must only report emissions and basic information very similar to Abbreviated Reporting ([40 CFR Part 51 Subpart A Table 2b](#)). Please consider allowing Abbreviated Reporting for all additional applicability facilities subject to the regulation per Section 93401(a)(4).
4. Based on communications with our sources, this additional rule-making process has had little to no outreach to the sources added to the regulation since the version approved by the Board in December 2018. According to Appendix C Outreach and Notifications, 1,000 facility operators, 30 industry groups and 12,394 individuals are included on CARB notification lists. Based on Appendix D Preliminary Revised Economic Impacts Summary, approximately 50,000 individual facilities would be affected by the proposed modifications. This means that less than a third of the affected facilities were made aware of the proposed modifications. Due to the additional reporting burden the proposed modifications place on small businesses and small facilities, CARB should conduct a more robust outreach process to these sources and provide a longer timeline for submitting comments. Only providing 25 days to review 52 pages of proposed regulation language, plus 44 pages of supporting documentation for people not accustomed to reviewing these types of documents, is inadequate.

Should CARB move forward with the proposed modifications, MBARD will require additional resources to implement the new Regulation in the form of both new staff and funds to support emission inventory database software. The new requirement to annually report toxics, especially for the Additional Applicability Facilities, goes well beyond MBARD’s current level of emission inventory work. It is estimated that MBARD will need to hire at least one additional staff engineer at a fully loaded cost to MBARD of approximately \$165,000 per year plus annual maintenance costs for an emission inventory database of approximately \$30,000.

We again urge CARB to refocus the regulatory applicability back to the language and definitions in AB617 which clearly defines the types of stationary sources required to annually report criteria pollutant and toxic air contaminant emissions.

Best regards,



Richard A. Stedman  
Air Pollution Control Officer