



June 6, 2019

Dave Edwards, Branch Chief
Greenhouse Gas and Toxic Emission Inventory Branch
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95814
([Submitted online to CARB](#))

Re: Comments to the May 13, 2019, Revision of the CTR Regulation

Dear Mr. Edwards:

CalEnergy Operating Corporation (CalEnergy) is submitting comments to the “Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants” (or CTR Regulation), which was adopted by the hearing board for the California Air Resources Board (CARB) in December 2018, and which was revised on May 13, 2019. The regulations are being proposed as California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 7.7, Article 1, which is titled “General Requirements for Criteria and Toxics Reporting”. On May 13, 2019, CARB issued a proposed revision of the regulation and allowed a 15 day public comment period for the revisions. In reviewing the May 2019 proposal CalEnergy is offering the following suggestions, which are aimed at improving the quality of data that will be gathered by the reporting program and improving the ability of sources to comply with the regulation.

Link Start of Reporting to Approval of Measurement Methods

CalEnergy’s primary concern with the proposed regulation is the expansion in scope of affected sources and pollutants to include the reporting of emissions for which the measurement methods have not been approved by the local air district or CARB. For example, the proposal expands reporting to include unpermitted fugitive emissions (if the local air district quantifies those emissions), and fugitive emissions for permitted sources at the facility. Since fugitive emission measurement methods have not been approved for facilities in all cases where the local district is conducting county-wide air monitoring of emissions, and measurement methods have not necessarily been specified for fugitive emissions from permitted sources, CARB’s proposal that these sources commence reporting before the issuance of approved methods should be reconsidered. The current proposal reserves Title 17, Division 3, Chapter 1, Subchapter 7.7, Article 2 of the California Code of Regulations for the future issuance of ‘Requirements for Calculating and Reporting Criteria Pollutant and Toxic Air Contaminant Emissions’.

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CalEnergy suggests that the start of reporting of emissions, for which neither the local air district nor CARB have approved measurement methods, should not precede the issuance of the measurement methods that CARB intends to specify in Article 2. If owners or operators are required to use unapproved methods to report emissions, there will be uncertainty regarding the accuracy of the data. Furthermore, in the absence of approved measurement methods it is certain that emissions from some sources will be underestimated, thereby possibly resulting in those sources being incorrectly classified as exempt from the reporting program. Sources with underestimated emissions could thus be deemed non-compliant when CARB publishes approved emission measurement methods (in Article 2 of the regulation) after the initial reporting date for these sources.

In order to avoid possible non-compliance due to use of improper emission measurement methods CalEnergy suggests that for emissions that do not have a measurement method approved by the local air district or CARB, the regulation should state that the initial reports for such sources will commence in the second calendar year following the issuance of approved measurement methods by CARB. This schedule will allow sources to collect data in the year following issuance of the approved emission measurement methods and to report the data in the following calendar year.

Simplify and Decrease Reporting Frequency for Sources with ‘Minimal’ Emissions

In requiring annual reporting for all affected sources CARB is creating an unnecessary burden for owners and operators of sources with minimal emissions, such as the sources identified in Section 93401(a)(4) of the proposed regulation. CalEnergy suggests that CARB adopt a schedule similar to the October 2018 version of the proposed regulation; which proposed reporting every three years for sources subject to Section 93401(a)(4). Section 93403(a)(3)(A) of the October 2018 proposal stated:

“For a facility subject to section 93401(a)(4) only, a facility owner or operator must report annual emissions for five consecutive years. After the first five years, reporting is only required every third year, unless specifically notified by the Executive Officer that an alternate reporting schedule is required.”

The October 2018 reporting schedule for sources subject to Section 93401(a)(4) has been replaced in the current May 2019 proposal, which provides the option for ‘abbreviated reporting’. The May 2019 proposal is however unlikely to be effective for the following reasons:

- a) One of the qualifications for abbreviated reporting, specified in Section 93403(c)(2)(A)2, states that for a source to qualify for abbreviated reporting it is necessary that, “only one or more of the permitted processes listed in Table A-4 of Appendix A occur at the facility”. The intent and application of this criteria is unclear or perhaps misstated; therefore, clarification or revision of this criteria is requested.
- b) Another qualification for abbreviated reporting, specified in Section 93403(c)(2)(A)3, states that a source will not be able to qualify for abbreviated reporting unless the local air district or CARB notifies the facility that the local air district or CARB will prepare the emissions report for the facility. Since owners or operators of sources cannot request that regulatory agencies prepare reports for their operations, this criteria reduces the likelihood that abbreviated reporting will be available to reporters.

Since the abbreviated reporting option in the proposed regulation is unclear and uncertain CalEnergy requests the replacement of this option with a simple three-year reporting frequency for sources subject to Section 93401(a)(4), and for other sources with minimal emissions. This three-year reporting frequency should apply to sources with minimal emissions from the start of the reporting program until the source is no longer subject to the reporting requirement.

It is hoped that time remains to make the improvements that CalEnergy has suggested herein since the rule has not yet been finally approved by the Office of Administrative Law. Should you have questions regarding these comments please do not hesitate to contact me by phone at 760 348 4275 or via e-mail at anetha.lue@calenergy.com. Your review of this submittal is appreciated.

Sincerely,

D. Anetha Lue
Director IPP Environmental Services

Cc: Lenie Sarion