

August 1, 2019

David Edwards, Ph.D.
Assistant Division Chief,
Air Quality Planning & Science Division
California Air Resources Board
Submitted telephonically to: David.edwards@rb.ca.gov

SUBJECT: Comments Regarding the Second Revision of the Modified Test of the CTR Regulation

Dear Dr. Edwards:

The California Small Business Alliance (Alliance) is a non-profit, non-partisan confederation of California trade associations committed to providing small businesses with a single constructive voice to advocate before all branches of government including air quality management districts and other environmental regulatory agencies. The individual businesses belonging to these trade associations generally reside in commercial and industrial neighborhoods, and many of their employees and their families have also resided there for generations. These small businesses are an integral part of these communities, and oftentimes the only source of good paying jobs with benefits for the residents.

As an early and consistent participant and contributor in the California Air Resources Board's (CARB) regulation development process involving the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) throughout the past year-and-a-half the Alliance appreciates the opportunity to comment on this second revision to the modified text of the regulation.

Modifications to Section 93400 - Purpose and Scope

While we appreciate the staff's efforts to clarify this article, specifically that annual emissions of criteria pollutants and toxic air contaminants must be reported, it is unclear to us what is meant by the term "associated activity level." Moreover, due to the length of this rulemaking process, and the number of comment letters submitted, we've been unable to locate the specific comment suggesting this change in the text.

If this addition is intended to provide a mechanism to capture and report fugitive emissions from reporting facilities, we believe that the regulation should so stipulate. Conversely, if the term "associated activity level" is meant to include indirect emissions from intermittent or indirect sources, such as family-owned trucking businesses and small commercial contractors, etc., it could impose severe additional compliance obligations on these facility owner-operators who may have no control over these intermittent sources. Moreover, these intermittent sources may be regulated by other rules which could result in a double counting of emissions.

While we support CARB's attempt to establish a uniform statewide system of annual reporting of criteria pollutant and toxic air contaminant (TAC) emissions, we strongly urge you to clarify this ambiguity in the section.

Modifications to Section 93401 – Applicability

Alliance members sincerely appreciate CARB's decision to remove the applicability requirements in Section 93401(a)(4) and 93404(a)(4)(A)-(C) from the CTR regulation. It has been our long-standing position that the proposed regulation was overly board and aggressive in terms of the number and categories of sources, as well as the timelines for implementation.

Smaller facilities (small businesses) are unable to reasonably prepare the required reports without procuring costly outside expertise and support. Additionally, Section 93404(a) required a lengthy list of toxics be reported. It has also been our long-standing position that it is not reasonable to require reporting of the full list of TACs for the following reasons:

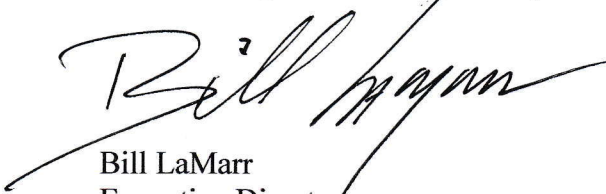
- Most facilities are not required to test for these compounds (i.e., there is no reason to test for compounds unrelated to the facility nor having any expectation of that compound being present).
- Most facilities have a history of reporting a short list of TACs based upon experience and past testing and analysis.
- Additional source testing would be a financial burden on small businesses and facilities that have not had to report previously.
- Without an existing source test, or history of conducting source tests, very conservative default emission factors could be required which would exaggerate community inventories and future health risk calculations. It is appropriate to mention at this juncture that during our discussions with CARB, and some air district staff, that many default emission factors are considerably outdated. South Coast Air Quality Management District (SCAQMD) staff is on record in stating that some of their factors are as much as 30 years old. Also, there are other factors where CARB, and some air districts, have long-standing disagreements about their representative values. It is our position that if CARB and the air districts intend to offer facilities the option of choosing to use default factors in lieu of source testing, that all uncertainty be eliminated to best serve the interests of the environment and the facilities that must rely on their accuracy in order to avoid enforcement action.

As CARB has decided to revisit the CTR Regulation in the foreseeable future, and intends to consider including the Additional Applicability categories and sources in a future rulemaking update, we offer the following recommendations for your consideration:

- Focus on permitted sources of high-risk compounds in AB-617 communities first.

- Our observation of the community steering committee process in the AB-617 Year-1 communities, particularly in the SCAQMD, clearly shows that the residents are more concerned about reducing emissions from mobile sources (particularly heavy duty trucks) than they are from stationary sources, in that they present a greater health risk. We have also observed that these same residents prefer to see *tangible reductions in emissions* more in the near term rather than over a protracted period. Therefore, we believe that this should be CARB's primary focus rather than on small businesses and small emitters.
- Consider adding sources and sectors gradually and based on the health risk presented by the compound(s) and source(s), since not all compounds are equally emitted by all sources and sectors.
- Continue – even expand – the outreach by CARB, and the air districts, to actual and proposed stakeholders throughout the next rulemaking process. Inclusivity and transparency are essential elements of a responsible and equitable rulemaking process.

Alliance members appreciate the superb work that the CARB staff has invested in this rulemaking and supports many of the proposed changes that are now part of the second modified text of the regulation. We hope that our comments have been helpful and will be used to improve the final regulation. We are committed to working constructively with CARB, the air districts, and other stakeholders in these important matters. Should you wish to discuss our comments in more detail, please contact me at billamarr@msn.com or (714) 778-0763.



Bill LaMarr
Executive Director

cc:

John Swanson, Manager
Patrick Gaffney, Lead Staff
Office of the Ombudsman
Alliance Board Members