

State of California  
AIR RESOURCES BOARD

**Second Notice of Public Availability of Modified Text  
and Availability of Additional Documents and/or Information**

**PROPOSED REGULATION FOR THE REPORTING OF CRITERIA AIR  
POLLUTANTS AND TOXIC AIR CONTAMINANTS**

Public Hearing Date: December 14, 2018  
First Public Availability of Modified Text: May 13, 2019

Second Public Availability of Modified Text: July 17, 2019  
Deadline for Second Public Comment Period: August 1, 2019

At its December 14, 2018, public hearing, the California Air Resources Board (CARB or Board) approved for adoption the proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (or CTR Regulation), section 93400 et seq., title 17, California Code of Regulations. The CTR Regulation would require annual reporting of criteria pollutant and toxic air contaminant emissions for sources subject to the regulation, provide consistency in the types of criteria pollutants and toxic air contaminants that need to be reported, establish report contents and how emissions must be reported, and establish reporting deadlines and the process for submitting emissions data reports.

At the hearing, staff presented, and the Board approved for adoption, updates to the regulatory language developed in response to comments received following release of the Staff Report: Initial Statement of Reasons (ISOR) on October 23, 2018. These modifications included revisions to the applicability criteria, updates to the definitions, and changes to clarify the emissions reporting requirements in the regulation.

The Board directed the Executive Officer to make the modified regulatory language, and any additional conforming modifications, available for public comment, with any additional supporting documents and information, for a period of at least 15 days as required by Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days, and present the regulation to the Board for further consideration if warranted, or take final action to adopt the regulation after addressing all appropriate modifications.

Initial modified text was prepared and made available for public comment from May 13, 2019, through June 7, 2019 (referred to as the first 15-day comment period). Please refer to the first 15-day notice for background and descriptions regarding the first

15-day updates to the CTR Regulation. Based on comments received following the first 15-day posting of modified text, staff is incorporating further modifications to the CTR Regulation and making them available for a second 15-day public comment period. Comments are due by the due date listed in the beginning of the Notice.

The initial proposed modifications, the current modified text, the Board Resolution, ISOR, and other regulatory documents for the rulemaking are available at the following CARB webpage:

<https://ww2.arb.ca.gov/rulemaking/2018/proposed-regulation-reporting-criteria-air-pollutants-and-toxic-air-contaminants>

The text of the modified regulatory language is shown in Attachment A. The original text is shown as unformatted. The initial modifications made public with the first 15-day notice on May 13, 2019, are shown in ~~striketrough~~ to indicate deletions and underline to indicate additions. New deletions and additions to the proposed language made public with this second 15-day notice are shown in ~~double-striketrough~~ and double underline format, respectively.

In the Final Statement of Reasons, to be released at a later date, staff will respond to comments received on the record during the respective comment periods such as the 45-day comment period prior to the December 2018 Board hearing, and comments received following distribution of this notice. The Administrative Procedure Act requires that staff respond to comments related to changes that are noticed. Therefore, staff will only address comments filed in this comment period that are responsive to the modifications to the proposed amendments that are described in this notice or identified by the ~~double-striketrough~~ or double underline formatting in Attachment A.

### **Summary of Proposed Modifications**

Attachment A of this notice includes staff's proposed additional modifications to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (or CTR Regulation), California Code of Regulations (CCR), Title 17, sections 93400, 93401, 93402, 93403, 93404, 93405, 93407, and 93410, and proposed deletion of Appendix A of the regulation. All subsequent section references are to Title 17, CCR, unless otherwise noted.

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, consistency in capitalization, or non-substantive revisions made to improve clarity. For a complete account of all modifications in the proposed regulatory amendments, refer to the ~~double-strikeout~~ and double underline sections of the regulation in Attachment A of this notice.

### **A. Modifications to Section 93400. Purpose and Scope.**

Based on a comment received, this section was updated to make it more explicit that either emissions data, or “associated activity level data” may be reportable under the regulation, as was already established within the reporting requirements.

### **B. Modifications to Section 93401. Applicability.**

Section 93401(a) was modified to indicate emissions are reportable from permitted processes “and devices” at facilities. This revision is in response to a comment received clarifying that either devices or processes may be permitted at facilities, and does not change the intent of the regulation.

Section 93401(a)(4) and 93404(a)(4)(A)-(C) were deleted from the regulation based on multiple comments received during the first 15-day comment period related to the scope of the updates, implementation feedback, concerns regarding costs and resources, and the rulemaking process for incorporating the updates. This revision removes the “Additional Applicability” requirements that were added to the minimum applicability criteria established by Assembly Bill (AB) 617. CARB staff intends to consider including these additional applicability categories and sources in a future rulemaking update to the CTR Regulation.

Section 93401(a)(5) was moved to section 93410(a)(4) because it is more logically located in the “Implementation by CARB and by the Local Air Districts” section of the regulation.

Based on a comment received, section 93401(b)(2) was modified to indicate that the exclusion applies to any irrigation pumps at agricultural operations, which was the original intent. The change is also necessary to reflect the deletion of section 93401(a)(4).

Consistent with other CARB regulations, and based on a comment received, section 93401(b)(4) was added to provide an exclusion for tactical support equipment, which is generally tracked through other mechanisms.

References to the deleted section 93401(a)(4) were removed from sections 93401(c) and 93401(c)(4) to reflect the deletion. Section 93401(c)(1) was updated to reflect renumbering in section 93403 resulting from removal of a subsection.

### **C. Modifications to Section 93402. Definitions.**

The definition for “Activity level” was modified to indicate that gases are to be reported only as MMBtu and not as standard cubic feet. This change is based on a stakeholder discussion and the need to provide statewide consistent reporting.

With the removal of the applicability requirements under 93401(a)(4), and the associated Appendix A, the following definitions are no longer needed and have been

deleted from the regulation: “Air District Group,” “Construction aggregate processing,” “Direct Drive Emergency Standby Fire Pump Engines,” “Emergency standby engine,” “Hazardous waste treatment, storage, disposal and recycling facility,” “Sector Phase,” “Wastewater treatment plant.”

The definition for “Direct emissions” was updated based on a comment received, to refer to the definition for “Stack” within the regulation, to provide consistency in the description of terms and examples.

The definition for “Equipment unit” was added because the term is used in the updated definition of “Portable,” which was revised to ensure the consistent use of terms between the CTR regulation and the CARB Portable Equipment Registration Program.

The definition for “National Ambient Air Quality Standards” was updated to refer to the June 14, 2019, version of the Code of Federal Regulations (CFR), and to formally incorporate the document by reference into the CTR regulation.

The “Pollutant code” table was modified to include Particulate Matter (PM), based on comments received, regarding the need in some cases to report PM, instead of PM<sub>10</sub> and/or PM<sub>2.5</sub>. Additional conforming updates were made to section 93404(b)(1)(A) further to address PM reporting.

For the definition of “Portable” the edits shown were to restore originally proposed language, to ensure consistency with the “Portable” definition used in the CARB Portable Equipment Registration Program regulation.

To provide greater consistency across CARB, district, and national programs, and based on comments received, the definition for “Reactive organic gases” was updated to remove the previous definition, and instead refer to the United States Environmental Protection Agency (U.S. EPA) Federal Register definition for “Volatile organic compounds” as specified in CFR title 40, part 51.100(s), which was also incorporated by reference into the CTR regulation.

The definition for “Standard cubic foot” was deleted because it is no longer used following the modifications to the “Activity data” definition and the deletion of Appendix A of the regulation.

A definition for “Tactical Support Equipment (TSE)” was added, because with the addition of the exclusion TSE in section 93401(b)(4), it was necessary to define the specified equipment.

#### **D. Modifications to Section 93403. Emission Reporting Requirements.**

Section 93403(a)(1) was modified based on comments regarding lack of clarity of the requirements. The edits streamline the text, remove redundancy, and more directly describe the planned intent.

In the heading for section 93403(a)(1), "District" was added as a modifier to "Methods" to make it more explicit that this section applies to the application of "Existing District Methods," and not other potential methods.

Sections 93403(a)(1)(A) and (B) were modified to add the phrase, "phase-in period and" simply to make it clearer that the requirements apply to the timing of the reporting, as well as the methods.

Section 93403(a)(2) was updated to emphasize the emission reports not only contain the contents of 93404, but also are prepared "according to the requirements" of Section 93404.

All of section 93403(b) was deleted because it is no longer necessary or relevant with the removal of the 93401(a)(4) "Additional Applicability" requirements.

Section 93403(c) for Abbreviated Reporting was modified to remove the reference to the "Additional Applicability Facilities" which are no longer included in the proposal. For this reason, it was also appropriate to delete the phrase "For qualifying facilities," because the requirements now only apply to agricultural operations. The revision to include, "as defined herein," for agricultural operations, is to guide the reader to the regulatory definition, to help establish the scope of sources that may use the provision. The final edit to the section, to remove "emissions data," is to simplify the language, because the requirement is for "abbreviated reporting," and subsequent sections address the emissions data components.

With the removal of "Additional Applicability Facilities," it is not necessary to provide a complete Abbreviated Reporting mechanism. Therefore, section 93403(c)(1) was modified to remove the notification requirements for Agricultural Operations, and 93403(c)(1)(B) was similarly simplified to remove the reference to district methods. For Agricultural Operations, districts will work with sources to collect data and establish methods needed to comply with the regulation requirements.

All of section 93403(c)(2) was deleted because it applies to Additional Applicability Facilities, which have been removed from the regulation with the deletion of section 93401(a)(4).

Section 93403(c)(3) was updated for grammar, changing "for" to "from." This was changed because the facility operators will provide an "abbreviated report," and then districts will typically compute emissions "from" this facility-provided abbreviated report.

With the removal of the "Additional Applicability Facilities," a comprehensive abbreviated reporting mechanism is no longer necessary, and abbreviated reporting now only applies to "agricultural operations." Therefore, section 93403(c)(4) was deleted, which provided a method approval process. Also, section 93403(c)(5) was deleted because abbreviated reporting is not included as an option for facilities subject to the core AB 617 applicability requirements established under sections



93401(a)(1)-(3), so districts do not need the option to include additional processes for abbreviated reporting.

Section 93403(d) was modified, by removing, “or 93403(b),” to reflect the deletion of the phase-in schedule for the Additional Applicability Facilities, which were removed from the updated proposal. A typographical error was also corrected in the section, and a reference was renumbered to reflect the deletion of 93403(b).

As with other deletions, section 93403(e)(1)(B) pertains to release location data for Additional Applicability Facilities and is no longer relevant following the removal of the section 93401(a)(4) applicability requirements, so the section was deleted.

#### **E. Modifications to Section 93404. Emissions Report Contents.**

To more directly and clearly specify the requirements, section 93404(b)(1) was updated to emphasize that the emissions reporting applies to “permitted processes and devices,” and other sources are reportable at the discretion of the air districts, based on existing practices. Also the phrase “direct and fugitive emissions” was moved from section 93404(b)(2) to section 93404(b)(1), which is more appropriate because it is the section addressing “emissions” data.

Multiple comments were raised regarding the reporting of Reactive Organic Gases (ROG), VOC, total organic gases, and PM. Section 93404(b)(1)(A) was updated to address these comments, providing several options, to reflect the prevailing air district reporting requirements and definitions for these emissions.

Section 93404(b)(1)(B) was updated to address a concern that was raised regarding whether a facility operator would be required to report every single listed toxic substance, even if the emissions are reasonably known to be zero. With the additional text for the section, we specify that only those toxics that are actually known to be emitted by the facility are subject to reporting.

Based on comments received, non-substantive updates were made to sections 93404(b)(2)(A)-(B) to more directly specify the requirements, including removing some of mentions of “emissions,” which are more appropriately included in section 93404(b)(1). We also added “and devices” to reflect that both processes and devices may be emission sources. We added a modifier of “facility-specific” for unpermitted processes, to address a concern raised that the requirements could potentially pertain to sources outside the facility boundary or outside of the facility control. The remaining section edits reflect changes for grammar.

Regarding section 93404(b)(2)(C) for portable equipment, during the first 15-day comment process we received numerous comments regarding the challenges, complexity, and cost of quantifying emissions from portable equipment. After an assessment of these comments, we determined that collecting emissions data from these sources requires further consideration, and should not be included in the current rulemaking. Therefore, section 93404(b)(2)(C) has been deleted from the proposal, and

mechanisms for effectively collecting portable equipment emissions data will be considered in a future rulemaking.

**F. Modifications to Section 93405. Document Retention and Record Keeping Requirements.**

Section 93405(a) was updated to indicate that the five-year retention time is based on when the report is either submitted to CARB or the air district. This edit was made based on a comment received.

Section 93405(c) was also updated based on a comment received, to clarify that if CARB agrees to a different schedule, it would be a “longer” schedule than the default 30 day timing, because CARB would not be allowed to establish more stringent timing without going through a regulatory process.

**G. Modifications to Section 93406. Confidentiality.**

No changes are made to this section

**H. Modifications to Section 93407. Enforcement.**

Based on a comment received, section 93407(a)(2) was modified to indicate that submitting reports late to either “CARB or a district” is a violation of the regulation. Previously, the regulation text was unclear about who the report was being submitted to, regarding triggering a violation, so the revision provides additional clarity.

**I. Modifications to Section 93408. No Preemption of More Stringent Air District or Federal Requirements.**

No changes were made to this section.

**J. Modifications to Section 93409. Severability.**

No changes were made to this section.

**K. Modifications to Section 93410. Implementation by CARB and by the Local Air Districts.**

Multiple comments were raised during the initial 15-day comment period expressing concerns regarding duplicative enforcement by both CARB and the air districts on the same violation of the regulation. We modified section 93410(a)(1) to change the term regarding enforcement from “by both CARB and the local air districts,” to “by either CARB or the local air districts,” to clarify the intent that multi-agency enforcement on the same violation is not expected to occur under normally foreseeable circumstances.

This section was modified to move the previous section 93401(a)(5) to this section under 93410(a)(4) for a more logical placement within the regulation, particularly following removal of the 93401(4) applicability criteria. The phrase, “to meet any district,

state, or federal reporting requirements” was added to the moved text, to provide examples of why additional facilities may report to districts.

#### **L. Addition of Appendix A. Applicability Thresholds and Lookup Tables for Facilities Subject to Reporting Per Section 93401(a)(4).**

The complete text and requirements of Appendix A, including Tables A-1, A-2, A-3, and A-4 have been deleted, to reflect the deletion of the Additional Applicability requirements in section 93401(a)(4). See the description for the update to that section for additional information.

#### **Updated Analysis of Costs of Regulation for Facilities and Air Districts**

With the removal of the Additional Applicability requirements of section 93401(a)(4), significantly fewer facilities are affected by the regulation, which has reduced the overall costs of the proposed regulation. The initial December 2018 proposal was anticipated to affect approximately 14,000 facilities over 4 years at a cost estimate of \$10.5 million, which includes both costs to facilities and air districts to implement the requirements. The revised May 13 proposal was estimated to affect approximately 50,000 facilities over 8 years at a cost of \$80.2 million, which again includes both facility and district costs, with the total costs being roughly evenly split between facility and districts. The current proposal is estimated to affect 1,300 facilities over 5 years at a cost of \$6.0 million. Different time-scales are shown (4 years, 8, years, 5 years) to reflect the roll-out and implementation of the primary regulation requirements under each proposal. Please refer to the Staff Report: ISOR (October 23, 2018), and the first 15-day Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information (May 13, 2019), for additional information regarding background, methodologies, inputs, and assumptions used to compute the estimated costs. Both documents are available here: <https://ww2.arb.ca.gov/rulemaking/2018/proposed-regulation-reporting-criteria-air-pollutants-and-toxic-air-contaminants>.

#### **Additional Document(s) or Incorporated Document(s) Added to the Record**

In the interest of completeness, staff has also added to the rulemaking record and invites comments on the following additional documents:

- United States Environmental Protection Agency, Code of Federal Regulations (CFR), title 40, part 51(s), *Requirements for Preparation, Adoption, And Submittal of Implementation Plans*, as it existed June 12, 2019. Incorporated by reference in section 93402, in the definition of “Reactive organic gases.” The CFR text is available at: [https://www.ecfr.gov/cgi-bin/text-idx?SID=cafb770759c3d3ec44d883322cee77b0&mc=true&node=se40.2.51\\_1100&rqn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=cafb770759c3d3ec44d883322cee77b0&mc=true&node=se40.2.51_1100&rqn=div8)
- United States Environmental Protection Agency, Code of Federal Regulations, title 40, part 50, *National Primary and Secondary Ambient Air Quality Standards*, as it existed June 14, 2019. The document was included in the original text of the



regulation, and the revision is only to formally incorporate the document by reference into the CTR. The document is cited in section 93402 of the CTR, in the definition of "National Ambient Air Quality Standards." The CFR text is available at: [https://www.ecfr.gov/cgi-bin/text-idx?SID=cafb770759c3d3ec44d883322cee77b0&mc=true&node=se40.2.51\\_1100&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=cafb770759c3d3ec44d883322cee77b0&mc=true&node=se40.2.51_1100&rgn=div8)

These documents are available for inspection by contacting Bradley Bechtold, Regulations Coordinator, at (916) 322-6533.

### **Agency Contacts**

Inquiries concerning the substance of the proposed regulation may be directed to John Swanson, Manager, Criteria Pollutant and Air Toxics Reporting Section, at (916) 323-3076 or Patrick Gaffney, Staff Air Pollution Specialist, Criteria Pollutant and Air Toxics Reporting Section, at (916) 322-7303.

### **Public Comments**

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerk of the Board, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

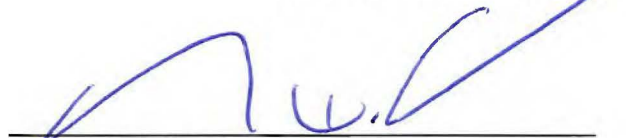
Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB on or before the deadline date for public comment listed at the beginning of this Notice. Only comments relating to the above-described modifications to the text of the regulations, attachments to this Notice, and documents added to the record shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this Notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey  
Executive Officer

Date: *July 17, 2014*

Attachments

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see CARB's website at [www.CARB.ca.gov](http://www.CARB.ca.gov)*