

# **FINAL REGULATION ORDER**

## **Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants**

### **California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 7.7, Article 1**

Adopt new Subchapter 7.7, Article 1, and sections 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, 93410, title 17, California Code of Regulations, to read as follows:

(Note: The entire text of sections 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, 93410, set forth below in “normal type,” is new language to be added to title 17, California Code of Regulations, and contains regulations to implement provisions of Assembly Bill 617- Nonvehicular Air Pollution: Criteria Air Pollutants and Toxic Air Contaminants (stats. 2017; Chapter 136; Health and Safety Code section 39607.1) and Assembly Bill 197 – State Air Resources Board: Greenhouse Gases: Regulations (stats. 2017; Chapter 250; Health and Safety Code section 39607).)

### **Subchapter 7.7: Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants**

#### **Article 1. General Requirements for Criteria and Toxics Reporting**

##### **§ 93400. Purpose and Scope**

The purpose of this article is to establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for specified permitted facilities. This article also requires owners or operators of specified permitted facilities to report to the state board (or in many cases, the local air district) annual emissions of criteria air pollutants and toxic air contaminants (or associated activity level data) using the uniform statewide system of annual reporting. This article implements the requirements of sections 39607 and 39607.1 of the California Health and Safety Code (H&SC) by identifying facilities subject to annual reporting, data to be reported, mechanisms for reporting, requirements for quantifying emissions data, and the timing and phase-in of specified data reporting requirements. It is also designed to support implementation and tracking of the requirements outlined in sections 42705.5 and 44391.2 of the H&SC.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

## § 93401. Applicability

### (a) *General Applicability.*

Except as provided in section 93401(b), this article applies to the owners or operators of any facility described in sections 93401(a)(1), (2), or (3), that is located in California. The applicability determination must include the data year emissions from all permitted processes and devices at the facility. Emissions from unpermitted processes and devices, including unpermitted processes and devices releasing fugitive emissions, are not to be included in the applicability determination.

- (1) *Greenhouse Gas (GHG) Reporter Applicability (GHG Facility).* A facility that is required to report to the state board the facility's greenhouse gas emissions pursuant to H&SC section 38530 at the beginning of the data year. For determining applicability under section 93401(a)(1), a facility includes any onshore petroleum and natural gas production facility.
- (2) *Criteria Emissions Greater Than 250 Tons per Year (tpy) Applicability (Criteria Facility).* A facility that is located in an air district for which any portion of the air district has been designated as nonattainment with respect to either the National Ambient Air Quality Standards (NAAQS) or the California Ambient Air Quality Standards (CAAQS), and that is authorized by one or more permit(s) issued by an air district to emit 250 or more tpy of any applicable nonattainment pollutant or its precursors at the beginning of the data year.
- (3) *Elevated Prioritization Toxics Applicability (Elevated Toxics Facility).* A facility that is categorized by the air district as high priority for toxic air contaminant emissions at the beginning of the data year, based on cancer or noncancer health impacts pursuant to H&SC section 44360.

### (b) *Exclusions.*

- (1) For facilities identified in section 93401(a)(1), this article does not apply to, and emissions reporting is not required for, the following facilities or entities that are subject to reporting their greenhouse gas emissions pursuant to CCR, title 17, section 95101:
  - (A) Suppliers of transportation fuels (CCR, title 17, section 95121), suppliers of natural gas, natural gas liquids, and liquefied petroleum gas (CCR, title 17, section 95122), and suppliers of carbon dioxide (CCR, title 17, section 95123), that do not report any facility combustion emissions under the requirements of CCR, title 17, sections 95100 through 95158.
  - (B) Electric power entities as defined in CCR, title 17, section 95102.
  - (C) Natural gas distribution facilities.
- (2) This article does not apply to, and emissions reporting is not required for, the combustion of diesel fuel or other fuels in internal combustion engines used for irrigation pumps (including booster pumps and groundwater well pumps) at agricultural operations.

- (3) This article does not apply to, and emissions reporting is not required for, open burning of fields, agricultural waste or residue that is subject to burn permitting by a local air district.
- (4) This article does not apply to, and emissions reporting is not required for, tactical support equipment (TSE).

(c) *Cessation of Reporting.*

The owner or operator of a facility that is subject to reporting pursuant to the applicability criteria in sections 93401(a)(1), (2), or (3), and submits notification to CARB and the local air district according to this section certifying that no applicability criteria apply to the facility, may cease reporting required by this article.

- (1) The owner or operator of the facility must provide in the notification the reason(s) for cessation of reporting, and the designated representative for the facility must certify that no applicability criteria apply to the facility pursuant to this article. Facility owners or operators must provide the cessation notification to the mail address or email address indicated in section 93403(g) of this article.
- (2) The notification must be submitted no later than May 1, or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which the emissions data report was due.
- (3) *Reinstatement of Reporting Requirements.* Any facility that ceases reporting is again subject to reporting under the full requirements of this article if in the future it meets any of the applicability criteria in sections 93401(a)(1) through (3).

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

## § 93402. Definitions

(a) For the purposes of this article, the following definitions apply:

“Activity level” means a measurable factor or parameter of a process that relates directly or indirectly to the emissions of an air pollution source during the period for which emissions are reported. Some examples of activity levels include throughput, hours of operation, quantity of fuel consumed, quantity of material produced, quantity of coating applied, etc.

“Actual emissions” or “actual air emissions” means the mass of a criteria air pollutant or toxic air contaminant measured, observed, or estimated to have been actually released by a process into the atmosphere during an associated data year, except in the case of radionuclide emissions, where the actual emissions is quantified in units of radioactivity instead of mass.

“Agricultural operations” means the growing or harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural operations do not include activities involving the processing or distribution of crops or animals.

“Air district” or “air quality management district” or “air pollution control district” or “district” means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with section 40000) of Division 26 of the H&SC.

“Annual” means with a frequency of once each year; unless otherwise noted, annual events such as reporting requirements will be based on the calendar year.

“Applicable nonattainment pollutant or its precursors” means:

- A pollutant for which any portion of the air district in which the facility is located has been designated as nonattainment with respect to NAAQS under 42 U.S.C section 7407(d) and the precursors of such pollutants identified in the applicable State Implementation Plan, including local attainment plans, approved by the U.S. Environmental Protection Agency;
- A pollutant for which any portion of the air district in which the facility is located has been identified as nonattainment with respect to a CAAQS under H&SC section 39608 and the precursors of such pollutants listed in CCR, title 17, section 70700.

“Best available data and methods” means technically justifiable and documented quantification methods and emission factors used in conjunction with technically justifiable and documented activity level data, for estimating criteria air pollutant and toxic air contaminant emissions. Best available data and methods may be based on and include continuous emission monitoring systems, source test data, material balance, manufacturer-guaranteed emission rates (on an activity level basis), source-specific emissions data, facility-established methods and protocols, engineering estimates, and emission factors published in literature. Best available data and methods should not necessarily be maximum emissions values, potential

to emit, or prescriptive limits established by permitting or regulation, unless those values provide the most accurate estimates available.

“Calendar year” means the time period from January 1 through December 31 of the same year.

“California Ambient Air Quality Standard” or “CAAQS” means the maximum amount of a pollutant averaged over a specified period of time that can be present in outdoor air without any harmful effects on people or the environment, as determined by CARB and codified in CCR, title 17, section 70200, Table of Standards.

“CARB” means the California Air Resources Board.

“Continuous Emissions Monitoring System” or “CEMS” means the total equipment required to obtain a continuous measurement of an emissions concentration or emission rate from combustion or industrial processes, which meets local air district or U.S. EPA certification standards.

“Criteria air pollutant” or “criteria pollutant” means those pollutants for which there is an established California Ambient Air Quality Standard or National Ambient Air Quality Standard, including their precursors, except as otherwise specified herein. These pollutants and precursors include total volatile organic compounds (VOCs) or total reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), particulate matter (PM), lead (Pb), and ammonia (NH<sub>3</sub>). For the purposes of this article, vinyl chloride, hydrogen sulfide, and sulfates are considered toxic air contaminants, and must be reported as such.

“Data year” means the calendar year in which emissions occurred.

“Design capacity” means, for devices or emissions units that combust gaseous, liquid, or solid fuels, the maximum design capacity of the device or emissions unit. For example, design capacity may be expressed as million British thermal units per hour (mmBtu/hr) or horsepower (hp), or for nameplate capacities for electric generators, megawatts (MW).

“Designated representative” means the person responsible for certifying and submitting the emissions data report.

“Device” means a piece of equipment that has a process associated with it (e.g., internal combustion engine, boiler, tank, spray paint booth, etc.).

“Direct emissions” means emissions released directly from a stack, or other functionally equivalent opening.

“Emission calculation method” means a description and reference of the method used to calculate emissions for a pollutant (e.g., by stack test, continuous emissions monitor, emission factor, etc.).

“Emission factor” means the value relating the quantity of emissions of a pollutant to an activity level. Emission factors are typically empirically, experimentally, or mathematically derived, and are typically multiplied by, or otherwise mathematically

applied to, a measured activity level to estimate the emissions associated with that activity.

“Emissions” means the release of criteria air pollutants or toxic air contaminants into the atmosphere from any sources and processes within a facility, including direct emissions or fugitive emissions.

“Emissions report” or “report” means the report prepared each year for a facility subject to this article that provides the information required by this article. The emissions report is for the submission of required data for the calendar year prior to the year in which the report is due. For example, a 2019 emissions data report would include data for emissions that occurred during the 2019 calendar year (i.e., data year) and would be reported in 2020.

“Emittent ID” means the Emittent IDs assigned for substances as identified in Appendix A-1, Substances for which Emissions Must Be Quantified, of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, version effective September 26, 2007, as issued by CARB, which is incorporated by reference herein.

“Enforceable” means legally required, and subject to enforcement actions under the authority of CARB or local air districts to hold a particular party liable and to take appropriate action if any of the provisions or requirements are violated.

“Engineering estimate” means an estimate of emissions based on engineering principles applied to measured and/or approximated physical parameters such as fuel use, hours of operation, production, throughputs, flow rates, or other data.

“Equipment unit” means equipment that emits PM<sub>10</sub> over and above that emitted from an associated engine.

“Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.

“Facility” means any physical property, plant, building, structure, or stationary equipment, having one or more sources, located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control.

- Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties. See also the definition for “Onshore petroleum and natural gas production facility” for additional specifications regarding these facilities.

“Fugitive emissions” means those emissions from a source which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

“Geospatial coordinates” means the latitude and longitude values identifying a physical location, without considering elevation, under the North American Datum of 1983, National Oceanic and Atmospheric Administration, December 1989,

incorporated by reference herein. Geospatial coordinates for fugitive or non-ducted sources shall be estimated to represent the typical or average location(s) of the majority of emissions into the environment.

“Industrial sources” means those entities that report greenhouse gas emissions under the North American Industry Classification System (NAICS) codes listed in Table 8-1 of the Cap-and-Trade Regulation (CCR title 17, section 95870); this includes entities that perform manufacturing activities, mining activities, support activities for air transportation, and the growing of food in greenhouses.

“Lead” or “Pb” means lead and lead compounds, measured as elemental lead. Emissions of Pb which occur as elemental Pb or as a chemical compound containing Pb should be reported as the mass of the Pb atoms only.

“Local distribution company” or “LDC,” for purposes of this article, means a company that owns or operates distribution pipelines, not interstate pipelines, that physically deliver natural gas to end users and includes public utility gas corporations, publicly-owned natural gas utilities and intrastate pipelines that are delivering natural gas to end users.

“National Ambient Air Quality Standards” or “NAAQS” means those pollutants and associated standards identified in the Code of Federal Regulations, Title 40, Part 50, as it existed June 14, 2019, which is incorporated by reference herein.

“Natural gas distribution facility” means the collection of all distribution pipelines and metering and regulating equipment at metering or regulating stations that are operated by a local distribution company (LDC) within California that are regulated as a separate operating company by a public utility commission or that is operated as an independent municipally-owned distribution system. This also includes customer meters and regulators, infrastructure, and pipelines (both interstate and intrastate) delivering natural gas directly to major industrial users and farm taps upstream of the local distribution company inlet.

“Nitrogen oxides” or “NO<sub>x</sub>” means all oxides of nitrogen except N<sub>2</sub>O.

“Nonattainment pollutant” means a criteria air pollutant for which a district is classified as a nonattainment area pursuant to the CAAQS and/or the NAAQS.

“North American Datum of 1983” or “NAD83”, means the coordinate system, and a set of reference points, used to locate places on the Earth used to define the geodetic network in North America.

“North American Industry Classification System” or “NAICS” means the six-digit code(s) that represent the products, activities, and/or services at a facility as defined in North American Industry Classification System Manual, 2017, United States Office of Management and Budget, which is incorporated by reference herein.

“Onshore petroleum and natural gas production facility” means all petroleum or natural gas equipment on a well pad, or associated with a well pad or to which emulsion is transferred and CO<sub>2</sub> enhanced oil recovery operations that are under common ownership or common control including leased, rented, or contracted

activities by an onshore petroleum or natural gas production owner or operator that are located in a single basin as defined in the Code of Federal Regulations, title 40, section 98.238, last amended October 22, 2015, which is incorporated by reference herein. For the purposes of this article, any cogeneration plant(s) permitted by a local air pollution control district as part of an onshore petroleum and natural gas production facility, are to be included as part of the facility for the purposes of reporting criteria air pollutant and toxic air contaminant emissions. This definition applies only to the determination that an onshore petroleum and natural gas facility is subject to the reporting requirements of this article; for the reporting of emissions, air districts or CARB may choose to disaggregate the emissions required to be reported within the onshore petroleum and natural gas facility to smaller sub-facility groupings, which may also be identified as individual “facilities” within the single basin.

“Operational control” for a facility subject to this article means the authority to introduce and implement operating, environmental, health and safety policies. In any circumstance where this authority is shared among multiple entities, the entity holding the permit to operate from the local air pollution control district or air quality management district is considered to have operational control for purposes of this article.

“Operator” means the entity, including an owner or leaseholder, having operational control of a facility. For onshore petroleum and natural gas production, the operator is the operating entity listed on the state well drilling permit, or a state operating permit for wells where no drilling permit is issued by the state.

“Particulate matter” or “PM” is a criteria air pollutant for the purposes of this article. For the purposes of this article, the following definitions apply:

- “PM<sub>2.5</sub>” means PM with an aerodynamic diameter equal to or less than 2.5 micrometers, including both filterable PM and condensable PM.
- “PM<sub>10</sub>” means PM with an aerodynamic diameter equal to or less than 10 micrometers, including both filterable PM and condensable PM. PM<sub>10</sub> will include PM<sub>2.5</sub>.
- “Condensable PM” means material that exists in vapor phase at stack conditions, but which condenses or reacts upon cooling or dilution in the ambient air to form solid or liquid PM after discharge from the stack. All condensable PM is in the PM<sub>2.5</sub> size fraction.
- “Filterable PM” means particles that are directly emitted by a source as a solid or liquid at stack or release conditions such that they could be captured on the filter of a stack test sampling train. Filterable PM can be in the PM<sub>2.5</sub> or PM<sub>10</sub> size fraction.

“Permit” or “Air District Permit” means a document, issued by a district, which authorizes a facility to construct or operate a device, process, or facility that emits substances into the air, including, but not limited to, criteria air pollutants and toxic air contaminants. Permits may establish numeric limits on activity levels for devices or processes, or the amount of emissions a facility is legally authorized to emit over a specified period of time.



“Permit ID” or “Air District Permit ID” means the identification code or other identifier used by the local air district for a facility permit.

“Permit or rule emissions limit” means the individual pollutant emissions limit(s) designated in applicable rule(s) or best available control technologies (BACT) determinations for a given device or emissions limit.

“Physical address,” with respect to a United States parent company as defined in this section, means the street address, city, state and zip code of that company's actual physical location. For facilities, the physical address serves to locate one or more emission sources rather than to locate a corporate office or as a mailing address. For facilities in rural or other locations without a distinct street or other address, or that are geographically dispersed, a best available address should be provided, which is nearest to the most significant emission source(s). A best available address could include cross streets, a road or highway number, or other identifying information for the street address and city.

“Pollutant code” means the numeric codes associated with the pollutant names as specified in the table below.

<b>Pollutant Code</b>	<b>Pollutant Name</b>	<b>Abbreviated Name</b>
42101	Carbon Monoxide	CO
42603	Oxides of Nitrogen	NO <sub>x</sub>
42401	Oxides of Sulfur	SO <sub>x</sub>
11101	Particulate Matter	PM
85101	Particulate Matter 10 Microns or Less	PM <sub>10</sub>
88101	Particulate Matter 2.5 Microns or Less	PM <sub>2.5</sub>
16113	Reactive Organic Gases	ROG
43101	Total Organic Gases	TOG
43104	Volatile Organic Compounds	VOC
7664417	Ammonia	NH <sub>3</sub>
7439921	Lead	Pb

“Portable” means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:

- The engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and

installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or

- The engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
- The engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.

“Process” means a type of activity that produces emissions (e.g. flaring, internal combustion, heating, painting, gravel screening, breathing loss, vehicle fueling, spillage, solvent cleaning, etc.).

“Reactive organic gases” or “ROG” means gaseous volatile organic compounds (or VOC), as defined in the Code of Federal Regulations, title 40, section 51.100(s), as of June 12, 2019, which is incorporated by reference herein.

“Release location” or “Release location exit” means the location at which a gas stream enters the ambient air.

“Release location exit gas flow rate” means the numeric value of the volumetric flow rate of a stack gas stream as measured in the stack or at the release point exit, in units of actual cubic feet per minute, or ACFM. Exit gas flow rate should represent, to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas flow rate may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location exit gas temperature” means the numeric value of the temperature of an exit gas stream as measured in the stack or at the release point exit, in units of degrees Fahrenheit. Exit gas temperature should represent, to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas temperature may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location exit gas velocity” means the numeric value of the velocity of an exit gas stream as measured in the stack or at the release point exit, in units of feet per minute. Exit gas velocity should represent, to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas velocity may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location height above ground” means the physical height of a release point above the immediate surrounding terrain, in units of feet.

“Release location stack diameter” means the inner physical diameter of a circular stack or the equivalent diameter of a rectangular stack, in units of feet.

“Release location type” means the identification of whether the release location is a stack or fugitive.

“Release point type” means an indication of whether the stack or release point is vertical, horizontal, goose-neck, vertical with rain cap, or downward-facing vent.

“Short ton” means a common international measurement for mass, equivalent to 2,000 pounds.

“Shutdown” means the permanent or indefinite cessation of operation of an emission source for any purpose.

“Source” means any physical unit, process, or other use or activity that releases a criteria air pollutant or toxic air contaminant into the atmosphere.

“Source Classification Code(s)” or “SCCs” means the eight-digit code(s) that represent distinct source processes, as listed in Appendix C to the “Staff Report: Initial Statement of Reasons” published by the California Air Resources Control Board on October 23, 2018, which is incorporated by reference herein.

“Stack” or “release point” means any opening or passage designed to emit gases, solids, or liquids from a source into the air, including a chimney, vent, pipe, or duct.

“Standard cubic foot” or “scf” is a measure of quantity of gas, equal to a cubic foot of volume at 60 degrees Fahrenheit and either 14.696 pounds per square inch (1 atm) or 14.73 PSI (30 inches Hg) of pressure.

“Standard Industrial Classification Codes” or “SICs” means the four-digit codes that are used to identify and classify a company’s primary business function or activity. SIC code numbers were last updated in 1987 by the U.S. Office of Management and Budget, and are no longer maintained or revised. The SIC codes are available on the United States Department of Labor, Occupational Safety and Health Administration, “SIC Division Structure” website page, which is incorporated by reference herein.

“Stationary” means neither portable nor self-propelled, and operated at a single facility.

“Sulfur oxides” or “SO<sub>x</sub>” means all oxides of sulfur.

“Tactical Support Equipment” or “TSE” means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.

“Total organic gases” or “TOG” means any gaseous compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

“Toxic air contaminant” means, for the purpose of this article, those substances identified in Appendix A-1 of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, version effective September 26, 2007, as issued by CARB.

“Unit Type Code” means the three-digit numeric code that represents the broad category or type of a device, from the “UnitTypeCode” value list defined in the U.S. EPA Data Element Registry Service (DERS, Accessed August 20, 2018), which is incorporated by reference herein.

“U.S. EPA” means the United States Environmental Protection Agency.

“Volatile Organic Compounds” or “VOCs” means, for the purpose of this article the same as Reactive Organic Gases.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93403. Emission Reporting Requirements**

Owners or operators of the facilities subject to this article must submit complete annual emissions data reports according to the requirements specified in section 93403 for criteria air pollutants and toxic air contaminants.

- (a) *GHG, Criteria, and Elevated Toxics Facilities Emissions Reporting: Phase-In Schedule.* Owners or operators of a GHG, Criteria, or Elevated Toxics Facility subject to reporting per sections 93401(a)(1), (2), or (3) must submit annual emissions reports according to the following phase-in schedule.
  - (1) *Annual Emissions Reporting Using Existing District Methods: Phase-In Period.* Owners or operators of a facility specified below in 93403(a)(1)(A) and (B) must submit annual emissions reports during the phase-in periods described below that include all data as specified by the local air district’s existing emissions reporting program and methods for the 12-month period of time currently required to be reported by the local air district. The annual emissions reports submitted during this phase-in period do not require reporting of the contents of section 93404, unless required by the local air district. Emissions reports must provide the same criteria air pollutants and toxic air contaminants that have most recently been reported to the local air district using applicable data year activity level data, or provide sufficient activity level data to calculate such emissions.
    - (A) For GHG and Criteria Facilities subject to reporting per sections 93401(a)(1) and (2), the above phase-in period and district existing methods requirements apply for the 2019 data year reported in 2020.
      - 1. *Criteria Facility Permitted Emissions Reporting Delay.* Criteria Facilities subject to reporting per section 93401(a)(2), but not subject to 93401(a)(1) or 93404(a)(3), are not required to provide an annual emissions report per this article for the 2019 data year

unless actual emissions of any applicable nonattainment pollutant or its precursors exceeds 250 tpy. Following the 2019 data year, applicability for Criteria Facilities is based on permitted, and not actual emissions.

- (B) For elevated Toxics Facilities subject to reporting per section 93401(a)(3), the above phase-in period and district existing methods requirements apply to both the 2019 data year reported in 2020, and the 2020 data year reported in 2021.
- (2) *Annual Emissions Reporting.* Following the phase-in periods described above in 93403(a)(1), owners and operators of GHG, Criteria, or Elevated Toxics Facilities must submit annual emissions reports according to the requirements and containing the contents of section 93404.
- (b) *Abbreviated Reporting.* Owners and operators of an agricultural operation, and subject to this article, qualify for abbreviated reporting to meet the requirements of this article. An abbreviated report may be prepared as specified below.
  - (1) *Agricultural Operation Abbreviated Reporting.* The air district or CARB will prepare and submit the emission report for the facility, based on the information provided in the abbreviated report. Agricultural operations submitting an abbreviated report must report the following.
    - (A) The data year being reported and facility information and location information from the general contents of sections 93404(a)(1) and (2).
    - (B) The activity level data needed to quantify permitted emissions sources such as, for example, the number of milk producing cows for dairies, or the quantity of fuel consumed or hours of operation, as applicable, for a combustion process.
  - (2) *Emissions for Abbreviated Reporting.* Emissions calculated from an abbreviated report must include the actual emissions from the permitted processes and devices at the facility. Annual emissions must include emissions of criteria air pollutants and toxic air contaminants.
- (c) *Submittal of Annual Emissions Reports.* For facilities subject to this article, emissions reports must be submitted annually, with the contents of the annual emissions report based on the phase-in schedules in 93403(a).
  - (1) Owners and operators of a facility subject to this article must submit annual emissions reports by May 1 of the year immediately following the data year.
  - (2) Annual emissions reports must be submitted to the local air district. Air districts may specify an earlier submittal date which supersedes the May 1 submittal date, and may provide approval for data submissions in other formats.
    - (A) By August 1 of the year immediately following the data year, annual emissions reports submitted to the air district may be submitted by the local air district on behalf of the facility to CARB. If an air district with jurisdiction over a facility does not submit an annual emissions report to

CARB on behalf of the facility by August 1 of the year immediately following the data year, CARB, after consultation with the air district, will notify the facility designated representative in order to obtain the data required by this article. The facility designated representative must provide the required data of 93404 to both the air district and CARB within 30 days of notification.

If an air district elects to quantify emissions for the owner or operator of a facility subject to this article, owners or operators must provide sufficient data for the air district to determine the data required by section 93404, except for the data elements identified in sections 93404(a)(5)(C) through (J), as the air district will determine those data elements.

- (B) If data required from any facility subject to this article is found to be missing, incomplete, or incorrect, CARB will contact the air district and notify the facility designated representative of missing, incomplete, or incorrect data. The facility owner or operator shall maintain liability for any late submittals and errors in data submitted to the local air district or CARB by the facility owner or operator.
- (3) *Electronic Reporting System.* CARB will make available a state administered electronic reporting system for submitting the data required by this article.
- (d) *Release Location Data Reporting Requirements.*
  - (1) *Release Location Data Reporting Timing.*
    - (A) *GHG, Criteria, and Elevated Toxics Facilities.* Owners or operators of a GHG, Criteria, or Elevated Toxic Facility subject per 93401(a)(1), (2), or (3) may defer reporting the release location data specified in 93404(a)(6) until the 2022 data year reported in 2023.
    - (2) *Update Frequency.* The data items listed in section 93404(a)(6) must be updated in the next required emissions data report, when there are physical changes to the facility structure or emissions release locations, or if there are substantive changes to emissions sources or operations, such as those requiring the addition, modification, or removal of district air permits.
- (e) *Disaggregation for GHG Facilities.* For owners or operators of a facility subject to this article pursuant to section 93401(a)(1) based on greenhouse gas (GHG) emissions, who report aggregated facility GHG emissions under CCR, title 17, sections 95100-95163, including but not limited to onshore petroleum and natural gas production facilities and geothermal electricity generation facilities, the criteria air pollutant and toxic air contaminant emissions must be quantified and reported for individual facilities as identified by local air districts.
- (f) *Reporting Responsibilities During Changes in Ownership.* The owner or operator at the time of a reporting deadline specified in this article has the responsibility for complying with the requirements of this article, including ensuring that the emissions data report is accurate and complete.

- (1) The owner or operator at the time of a reporting deadline is responsible for submitting the emissions data report covering the complete calendar year data.
- (2) If an ownership change takes place during the calendar year, reported data must not be split or subdivided for the year, based on ownership. The current owner or operator must submit a single annual emissions data report for the facility. This report must represent required data for the entire calendar year.
- (3) Previous owners or operators are required to provide data and records to new owners or operators that are necessary and required for preparing annual emissions data reports required by this article.

- (g) *Addresses.* The following address shall be used for any necessary notifications or materials that are not submitted by other means as described in this article:

Manager, Criteria Pollutant and Air Toxics Reporting Section  
Greenhouse Gas and Toxics Emission Inventory Branch  
Air Quality Planning & Science Division  
California Air Resources Board  
P.O. Box 2815  
Sacramento, CA 95812

Emailed notifications or materials must be submitted to: [ctr-report@arb.ca.gov](mailto:ctr-report@arb.ca.gov)

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

## § 93404. Emissions Report Contents

Annual emissions reports must contain the general contents, emissions, sources, methods, and attestation identified in this section. Refer to section 93403 for specifications regarding when identified data elements are subject to reporting.

(a) *General Contents.* Annual emissions reports must include the following information:

- (1) Data year being reported.
- (2) Facility information and location.
  - (A) Facility name and facility identification number established by the local air district.
  - (B) Owner or Operator. Legal name(s), and physical and mailing addresses of the facility owner or operator at the time of a reporting deadline specified in this article.
  - (C) NAICS code(s) that apply to the facility:
    1. Primary NAICS code. Report the NAICS code that most accurately describes the facility's primary product, activity, or service. The primary product, activity, or service is the principal source of revenue for the facility. A facility that has two or more distinct products, activities, or services may report additional NAICS code(s).
    2. Secondary and additional NAICS code(s). Report all additional NAICS codes that describe all products, activities, or services at the facility that are not related to the principal source of revenue, as applicable.
  - (D) Standard Industrial Classification (SIC) code. Report the SIC code that most accurately describes the facility's primary business function or activity. Report any secondary or additional SIC codes that apply to the facility.
  - (E) The air basin, air district, and county in which the facility is located.
  - (F) The facility physical address and mailing address.
  - (G) Geospatial coordinates. Latitude and longitude, in decimal degrees, of the approximate center (or centroid) of the facility, or the latitude and longitude of the location's street address.
- (3) For each device at the facility:
  - (A) Device name or ID
  - (B) Description of the device
  - (C) Unit Type Code
  - (D) Air District Permit ID associated with the device
  - (E) For combustion devices only, design capacity of device



- (4) For each process associated with a device at the facility:
- (A) Process name or ID
  - (B) Device name or ID associated with the process
  - (C) Release location associated with the process, as applicable
  - (D) Source Classification Code
  - (E) Activity level
  - (F) Activity level unit of measure. Activity levels for fuel use are to be reported in units of million British thermal units (MMbtu) for gases (or optionally, million of standard cubic feet (MMscf)), gallons for liquids, short tons for non-biomass solids, and bone dry short tons for biomass-derived solids.
- (5) For each criteria air pollutant and toxic air contaminant emitted by a process at the facility:
- (A) Process identifier name or ID associated with the criteria air pollutant or toxic air contaminant
  - (B) Device identifier name or ID associated with the criteria air pollutant or toxic air contaminant
  - (C) Pollutant code for criteria air pollutants or Emittent ID for toxic air contaminants
  - (D) Actual emissions
  - (E) Actual emissions unit of measure
  - (F) Emission factor as applicable
  - (G) Source of the emission factor (e.g., source test, air district provided, U.S. EPA, etc.)
  - (H) Emission factor unit(s) of measure
  - (I) Emission calculation method
  - (J) Permit or rule emissions limit(s) for industrial sources, if applicable
- (6) For each release location associated with a process at the facility (refer to section 93403(d) for the reporting schedule for release location data):
- (A) Release location type, stack or fugitive
  - (B) Geospatial coordinates
  - (C) If the release location type is "stack," the following must be reported:
    - 1. Stack identifier name or ID
    - 2. Release location height above ground
    - 3. Release location exit gas temperature
    - 4. Release location stack diameter in feet

5. Release location exit gas velocity in feet per minute or release location exit gas flow rate in actual cubic feet per minute
  6. Release point type
- (D) If the release location type is “fugitive,” then individual equipment components may be aggregated for the purposes of reporting if they are geographically located in a similar area and have similar release parameters and/or constituents. For example, fugitive emissions from flanges, valves, non-ducted venting, connectors, seals, and other similar equipment may be combined for reporting. Fugitive emissions may also be combined in a manner consistent with existing air district reporting, provided that geospatial coordinate information, as described in 93404(a)(6)(B), is provided.
- (b) *Emissions and Sources*. Annual emissions reports must include the emissions and sources as specified in 93404(b)(1) and (2).
- (1) *Emissions*. For permitted processes and devices (and unpermitted processes and devices, if emissions reporting is required pursuant to district rules or policies), the annual direct and fugitive emissions of the following air pollutants must be reported. Alternatively, at the discretion of the local air district, sufficient activity-level data must be submitted for the air district to calculate such emissions.
    - (A) Criteria air pollutants, in units of short tons per year, except for lead (Pb) and ammonia (NH<sub>3</sub>) which must be reported in units of pounds per year. For organic gases, unless otherwise required by the local air district, ROG, VOC, or total organic gases may be reported to satisfy this requirement. If a district has established a rule that defines ROG differently than this article, the district may use the district rule definition to quantify ROG. For particulate matter, emissions of PM<sub>2.5</sub>, PM<sub>10</sub>, and total PM must be reported, or as required by the local air district, one of the three values must be reported and CARB will quantify the other two values using existing speciation profiles.
    - (B) Toxic air contaminants in units of pounds per year, except for radionuclides which must be reported in units of curies per year. The list of reported toxic air contaminants must include those chemicals that are actually emitted by the facility, based on existing quantification methods.
  - (2) *Sources*. Emissions as specified in 93404(b)(1), must be reported for the following emissions sources:
    - (A) Permitted processes and devices at the facility.
    - (B) Unpermitted processes and devices at the facility, including unpermitted fugitive emissions, if at the beginning of the data year such facility-specific emissions are required by the local air district to be reported or if the emissions are quantified on behalf of the facility owner or operator by the local air district.

- (c) *Methods.* Annual emissions reports prepared pursuant to this article must provide the emissions calculation method and source of the reported emissions factor using best available data and methods to compute emissions of criteria air pollutants and toxic air contaminants. If an air district calculates emissions on behalf of a facility using activity level data provided by the facility, the district will report the calculation methods, emission factors and other information used to quantify emissions. Calculation methods must identify the general methods used, such as continuous emissions monitoring system, facility-specific emission factors, facility source test data, air district emission provided emission factors, or U.S. EPA emission factors.
- (d) *Attestation.* With the submitted annual report, 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 by the designated representative pursuant to this article is true, complete, and correct.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

#### **§ 93405. Document Retention and Record Keeping Requirements**

- (a) The owner or operator of a facility subject to this article, including those facilities that cease reporting pursuant to 93401(c), must retain records and documentation necessary to validate the data in the emissions data report for a period of five years from the date that the emissions report is submitted to CARB or the air district. Retained records include but are not limited to, information used to quantify or report emissions data in the emissions data report, underlying monitoring and metering data, invoices of receipts or deliveries, sales transaction data, calculation methods, protocols used, analysis results, calibration records, and other relevant information.
- (b) All records must be retained at the facility and made available to CARB or air district staff for onsite inspection at the time of inspection.
- (c) *Emission Report Audits.* Copies of any records or other materials maintained under the requirements of this article must be made available to the Executive Officer upon request, within 30 days of receipt of such request to the designated representative of the owner or operator of the facility subject to this article. The facility owner or operator must make available appropriate records, data, and personnel for either in-person on-site audits, or remotely implemented audit activities, so that CARB may review and verify the completeness and accuracy of submitted emissions data.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93406. Confidentiality**

- (a) Emissions data submitted to CARB under this article are public information and shall not be designated as confidential.
- (b) Any entity submitting information to the Executive Officer or local districts pursuant to this article may claim such information as “confidential” by clearly identifying such information as “confidential.” Any claim of confidentiality by an entity submitting information must be based on the entity’s belief that the information identified as confidential is either trade secret or otherwise exempt from public disclosure under the California Public Records Act (Government Code section 6250 et seq.). The designated representative must attest that the claim of confidentiality is true, correct, and complete. All such requests for confidentiality must be handled in accordance with the procedures specified in CCR, title 17 sections 91000 to 91022.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93407. Enforcement**

- (a) Owners or operators of facilities subject to this article are subject to enforcement by CARB as specified:
  - (1) Failure to comply with any of the requirements of this article shall be a violation of this article. Penalties may be assessed for any violation of this article pursuant to H&SC section 42400 et seq.
  - (2) Any facility report, data, or documentation submittal required by this article that is not submitted by the facility owner or operator to CARB or a district, or is submitted late by the facility owner or operator to CARB or a district, shall be a violation of this article.
  - (3) Falsifying any information or record required to be submitted or retained by this article, shall be a violation of this article.
  - (4) Failure to retain and failure to produce any record that this article requires to be retained or produced shall each constitute a violation of this article.
- (b) Any violation of this article may be enjoined pursuant to Health and Safety Code section 41513.
- (c) These enforcement provisions do not preempt any local air district enforcement authority.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93408. No Preemption of More Stringent Air District or Federal Requirements.**

This regulation does not preempt any more stringent requirements imposed by any air district. Compliance with this article does not excuse noncompliance with any Federal regulation. The Executive Officer retains authority to determine whether an air district requirement is more stringent than any requirement of this article.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93409. Severability**

Each part of this article is deemed severable, and in the event that any part of this article is held to be invalid, the remainder of the article shall continue in full force and effect.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

### **§ 93410. Implementation by CARB and by the Local Air Districts**

#### **(a) Implementation by CARB and by the Local Air Districts**

- (1) The requirements of this article are provisions of state law and may be enforced by either CARB or the local air districts where facilities covered by this article are located. Local air districts may incorporate the terms of this article into local air district rules. Any penalties secured by a local air district as the result of an enforcement action that it undertakes to enforce the provisions of this article may be retained by the local air district.
- (2) Implementation and enforcement of the requirements of this article by a local air district may in no instance result in a standard, requirement, or prohibition less stringent than provided for by this article, as determined by the Executive Officer. The terms of any local air district permit or rule relating to this article do not alter the terms of this article, which remain as separate requirements for all sources subject to this article.
- (3) Implementation and enforcement of the requirements of this article by a local air district, including inclusion or exclusion of any of its terms within any local air district permit, or within a local air district rule, or registration of a facility with a local air district or CARB, does not in any way waive or limit CARB's authority to implement and enforce upon the requirements of this article. A facility's permitting or registration status also in no way limits the ability of a local air district to enforce the requirements of this article.
- (4) If an air district requires additional facilities that do not meet the applicability criteria of this article to provide emissions or activity level data to the air district to meet any district, state, or federal reporting requirements, the air district may report the associated emissions data to CARB; however such a facility is not required to comply with the requirements of this article.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.