



August 23, 2018

Submitted via email to ctr-report@arb.ca.gov

Dave Edwards
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Criteria Pollutant and Air Toxics Reporting Draft Regulations

Dear Mr. Edwards:

The signatories to this letter are writing to provide input on the proposed regulations to require additional reporting of criteria pollutants and air toxics. Our organizations represent farmers and ranchers, as well as agricultural business who process California farm products. Our members grow and process the more than \$46 billion worth of agricultural products raised in California. The proposed regulation for criteria pollutant and toxic air contaminant emissions reporting will affect our members and we are submitting these comments to request changes to the draft regulations.

As AB 617 was being considered by the legislature, the discussions focused upon increasing resources and actions to improve air quality in “the highest priority locations”¹. We would urge the California Air Resources Board (CARB) to focus these regulations similarly to save resources that could be put to better use towards cleaning the air.

¹ Health and Safety Code Section 42705.5 (c)

Fugitive Emissions

Section 93401 outlines which facilities must report under the regulations and generally includes 1) facilities subject to the mandatory greenhouse gas reporting rule, 2) stationary sources that have a permit to emit more than 250 tons per year of any nonattainment pollutant, 3) a facility categorized as a high priority for toxic emissions based on cancer or noncancer health impacts and 4) a facility that is permitted to operate and release criteria pollutants or toxic air contaminants located within the boundary of a community selected by CARB and defined as sensitive receptors. The draft regulations should be amended to exclude facilities that otherwise would not exceed the 250 ton per year threshold or be defined as a stationary source solely based on the release of fugitive emissions. Our organizations were directly engaged in the negotiations that resulted in the adoption of AB 617 and a broad understanding existed between all parties that the reporting requirements would be relegated to industrial “type” facilities that emit non-fugitive emissions. We are concerned that without clarification, farms and ranches could be subject to the reporting requirements based solely on their fugitive emissions. Farms and ranches are already regulated to control fugitive criteria pollutants and dust emissions using what available control mechanisms are available. We believe that not specifically clarifying that only those stationary sources that have a permit to emit more than 250 tons of nonfugitive emissions or are located in an area selected by CARB based on the release of nonfugitive emissions, will cause confusion and result in unintended impacts whose economic consequences have not been thoroughly evaluated.

We also believe that Section 93401 goes beyond the requirements of AB 617 by including the second paragraph in Section 93401(2). This paragraph states that a facility located within an air district that is in nonattainment must report if emissions exceed more than 250 tons per year of specific pollutants. Regarding this point, AB 617 specifically defines facilities to include those “authorized by a permit issued by a district to emit 250 tons per year of any nonattainment pollutant or precursor”². Including facilities that have a permit to operate but no emission threshold specifically identified by the air district would be contrary to the enacting legislation. The first paragraph in Section §93401 adequately captures the requirements of AB 617 so we believe the section paragraph and subsection (A) – (D) should be deleted altogether.

Reporting Requirements Should Match Permit Requirements

Section 93404 of the draft regulations lays out specific requirements for how emissions are to be reported to the air district in which facilities are located. We are concerned with the “one-size-fits-all” reporting standards. The requirements included are meant for a typical refinery or power plant type facilities. Farms and agricultural and food processors do not fit into these standards. Instead, reports should match the emissions estimates and reporting requirements provided to air districts as part of their permits. This prevents unnecessary duplication and allows flexibility in reporting so that it better reflects the facility type and practices and will likely generate more accurate results. As an example, facilities already performing annual source tests and participating in the Predictive Emission Monitoring System (PEMS), should be able to build upon or utilize those existing mechanisms as a method of compliance for this regulation.

² Health and Safety Code Section 39607.1(a)(2)(B)

Pesticides

There was no discussion of pesticides being included when AB 617 was being discussed in the legislature. However, it is becoming clear that CARB's intent is to include pesticide use under its AB 617 programs. CARB's authority over pesticide use reporting is limited to those that are classified as toxic air contaminants. Facilities that are required to report under this regulation should be able to utilize the pesticide use reports submitted to the County Agricultural Commissioners, rather than having to report differently than what is already required and reported.

Enforcement

Section 93407 of the draft regulations outline the enforcement process CARB will follow for facilities that violate the regulations. We are concerned about the potential lack of coordination between CARB and local air districts. Specifically, Section 93407(a)(5) states "these enforcement provisions do not preempt any local air district enforcement authority." This language is concerning given that it appears to allow CARB to take enforcement action against a facility and then allow a local air district to take additional enforcement action against the same facility. We request that enforcement be taken by local air districts and clarity be added to the regulation to specifically prevent enforcement and penalties taken at both the state and local levels.

We appreciate your consideration of these comments as you continue to refine these regulations. California's farms and ranches do not fit the typical profile of "point source" emitters. These regulations will require reporting by farms and ranches and the agricultural processing facilities upon which farmers and ranchers depend to process their products for market. We request changes to the regulations to ensure that these regulations recognize the differences and seasonal nature of agricultural businesses and rely on existing reporting materials, rather than requiring new reporting systems. Should you have questions or need additional information, please contact Noelle Cremers with the California Farm Bureau Federation at ncremers@cfbf.com or (916) 446-4647.

Sincerely,



Will Scott, President
African American Farmers of California



Emily Rooney, President
Agricultural Council of California



Richard Matoian, Executive Director
American Pistachio Growers



Justin Oldfield, Vice President, Government
Affairs
California Cattlemen's Association



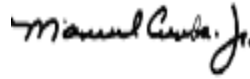
Roger Isom, President/CEO
California Cotton Ginners and Growers
Association, Inc.
Western Agricultural Processors Association



Noelle G. Cremers, Senior Policy Advocate
California Farm Bureau Federation



George Radanovich, President
California Fresh Fruit Association



Manuel Cunha, President
Nisei Farmers League



Renee Pinel, President/CEO
Western Plant Health Association



Anja Raudabaugh, Chief Executive Officer
Western United Dairymen