CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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August 23, 2018

Mr. David Mallory
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted electronically via email: ctr-report@arb.ca.gov

Re: California Association of Sanitation Agencies Comments Regarding the Community Air Protection Program and Preliminary Draft Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting under AB 617

Dear Mr. Mallory:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to comment on the Community Air Protection Program (CAPP) and the preliminary draft regulation for criteria air pollutant and toxic air contaminant emissions reporting (Preliminary Discussion Draft) under Assembly Bill 617 (AB 617).

CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, as well as the generation and use of renewable energy, biosolids, and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians. Our members are focused on helping the State achieve its 2030 mandates and goals (also referred to as the Governor's Pillars), which include:

- Reducing short-lived climate pollutant (SLCP) emissions
- Effectively diverting organic waste from landfills
- Providing 50 percent of the State's energy needs from renewable sources
- Reducing carbon intensity of transportation fuel used in the State
- Increasing soil carbon and carbon sequestration under the Healthy Soils Initiative and Forest Carbon Plan

We also recognize and support the need to manage criteria air pollutant and toxic air contaminants while accomplishing the 2030 greenhouse gas emissions reduction target to protect public health and the environment.

In general, CASA agrees with CARB's plan to initially collect data from local air districts to support the implementation of AB 617, as most of the data required is available at local air districts. That said, we recommend a provision be added allowing a facility to update and revise emissions data should more accurate information become available. We strongly encourage CARB to work closely with local air districts, as well as the regulated facilities, over the next two years to develop the uniform, statewide electronic reporting system. While the regulation suggests facilities report directly to CARB using the electronic reporting

system, facilities should continue to have the option to report emissions via their local air district.

Our specific comments on the Preliminary Discussion Draft regulation are provided below for your
consideration - they are intended to support CARB in actively coordinating with local air district regulations as well as streamline reporting requirements (i.e., reduce duplicative reporting efforts).

§93401(a) – General Applicability

Section (a)(2) states that the regulation applies to "a facility located in an air district for which *any portion* of the air district has been designated as non-attainment…" However, the H&S code 39607.1(a)(1) definition of "nonattainment pollutant" is a "criteria pollutant for which the district is classified as nonattainment area…". These present two different approaches. The legislation (i.e., text in AB 617) references the traditional classification of *a basin* as either in attainment or nonattainment. However, the Preliminary Discussion Draft language would allow an individual community that has a higher regional background to have a different classification than the general basin classification, potentially subjecting a facility to future emission reductions or other requirements that go beyond recently approved Air Quality Management Plans. We recommend the regulation use (as the legislation states) the traditional classification of a basin as either in attainment or nonattainment.

Section (a)(3) uses the term "high priority," while AB 617 uses the term "elevated." Currently, if a facility in the SCAQMD and BAAQMD (for example) has a score of 10 or greater, it is considered high priority. This does not translate to the actual risk, which is determined upon conducting a health risk assessment. If the Preliminary Discussion Draft language remains as is (i.e., using the term high priority), the regulation will pull in more facilities than is necessary or appropriate. We suggest an alternative approach be stated in the regulation. If a facility has a high priority score, it should be covered (per law), but if a verified health risk assessment is available or performed that demonstrates the facility is actually below 10 in a million (and meets requirements per (c)(2)(A)), then a facility should not be captured under Section (a)(3) of this regulation.

Section (a)(4) of the Preliminary Discussion Draft essentially requires every permitted facility, big or small, within a selected community to comply with this regulation (i.e., submit emissions reports). We have the following concerns:

- CARB has not yet released technical guidance on how community inventories and assessments will be conducted or described what source information will need to be provided by the local air districts and CARB.
- Community boundaries for the "selected communities" may be tenuous – as a result, clarification is needed in order to know how facilities will be notified of their requirements.
- This regulation will unnecessarily require a significant number of small sources to begin reporting emissions. The SCAQMD does not currently require annual emissions reporting for facilities emitting less than 4 tons per year. These facilities are unable to reasonably

prepare the required reports without external expertise/support. Additionally, Section 93404(b) requires a lengthy list of toxics be reported. It is not reasonable to require reporting of the full list of toxics since:

a. Most facilities are not required to test for these compounds (i.e., there is no reason to test for compounds unrelated to the facility).
b. Source testing would be a financial burden on small facilities.
c. Without source testing data, very conservative emission factors would be required that will greatly exaggerate the community inventory.

Rather than test for every toxic, it makes more sense to first have local air districts perform community monitoring to identify the toxics of concern. This would identify the problem and focus efforts on testing and reporting any toxics that pose a risk to the community. This is exactly the approach used by SCAQMD in Paramount when hexavalent chromium was found in the community. We recommend postponing consideration of this provision until technical guidance on community inventories/assessments is complete and allow local air districts to determine which facilities should be included.

§93401(c) - Cessation of Reporting for Facilities

Section (c)(3)(A) specifies facilities that shut down must report for a full year beyond the reporting year in which they shut down the facility. However, permits that have been cancelled by a local air district should be deemed sufficient demonstration that a facility has ceased to operate. Facilities that cease to operate should only report the final year of emissions and not be required to report (zero) emissions for the first full year after non-operation. We recommend that the reporting requirements under this section be coordinated with existing reporting requirements, in order to promote harmonization of efforts and prevent superfluous cessation reporting requirements.

§93402(a) – Definitions

Regarding the definition for "applicable nonattainment pollutant or its precursors" – refer to comments provided above for §93401(a)(2).

§93403 – Emission Reporting Requirements

Section (a)(3)(A) states that facilities captured as part of a "selected community" will report emissions annually for the first five years and provide triennial reports thereafter. However, no endpoint is identified. We recommend that reporting should end after five years unless the local air district demonstrates a need for that facility to continue reporting, in which case a new endpoint (i.e., date for re-evaluating reporting applicability) should be specified no longer than two triennial periods.

Section (c)(1) states CARB will work with the air district and/or the facility that has missing, incomplete, or incorrect emissions data in the database to correct the data. However, according to §93407, those facilities will still be subject to enforcement. Refer to our detailed comments on §93407 and recommendation in the following paragraph/section.

§93407 – Enforcement

We appreciate that this section is still in development and see that it currently lists actions considered to be a violation of this proposed regulation's articles thus enacting state

enforcement. In the vein of streamlining resources and ensuring accurate data, it should be recognized that:

- Local air districts may already have adequate enforcement authority, making CARB enforcement redundant and unnecessary. We recommend that, where requested by a local air district, CARB enter into a Memorandum of Understanding (MOU) with said air district to delegate *all* enforcement to the local air district. Language should be added to the regulation to specify that a local air district with an MOU with CARB may enforce either the statewide regulation or its own rule, but not both.
- For the first five years of the program, we recommend that missing or inaccurate data or other information causing legitimate errors in the data should not be enforced upon unless such actions become chronic after the first five years of the program.

We appreciate the opportunity to provide input on the developing CAPP and regulation under AB 617 and further appreciate your willingness to consider our recommendations. Please contact me if you have any questions at (925) 705-6404 or sdeslauriers@carollo.com.

Sincerely,

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Climate Change Program Manager, CASA