

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

Comments by Mukasa Kezala on Preliminary Discussion Draft – 7/27/2018 Version,

General Applicability

(a)(3) A facility that is categorized by the air district as high priority for toxic emissions at the beginning of the reporting year, based on cancer or noncancer health impacts pursuant to H&SC Section 44360.

(4) A facility that has one or more permit(s) to operate issued by an air district, emits any criteria pollutant or toxic air contaminant as defined in this article, and is located within the boundary of a community selected by the CARB Governing Board pursuant to Health and Safety Code sections 42705.5 or 44391.2.

1. The regulations should include a mechanism to ensure that all criteria pollutants and toxic air contaminants, and in particular, that emitted in disadvantaged communities, are reported.

By example, this is why. Some commercial or industrial facilities use contractors for routine maintenance, process overhauls and/or turn-arounds, tank / vessel cleaning, major construction projects, etc. Contractors use portable equipment – IC engines for welders; compressed air; power generations; etc., and may use portable concrete batch-plants, etc. Emissions from this equipment and activities can be significant and are reported to CARB by contractors under the state’s portable equipment registration program.

While the resulting particulate matter and toxic air contaminants, etc. are borne by the neighboring community residents, the emissions are considered to be district-wide or area-wide – thinly spread over the entire air district or basin. We understand that some air districts include or consider such emissions in the affected facility’s HRA. Where this is not done, affected community residents are left without knowing what hit them or what they were exposed to.

Through these regulations, CARB should ensure that air districts and/or contractors track and report significant emissions from “portable equipment”, for the purpose of attributing them to the location they are emitted.

2. Section 39607.2 (C) of the Health and Safety Code sets the applicability threshold at “...*elevated prioritization score*”, Elevated is not defined in AB 617, and it does not necessarily mean “high priority”.

Due to the un-certainty and inconsistent categorization of “high priority” cancer and non-cancer risks by the 35 air districts, the applicability threshold should be based on an intermediate and standard priority score defined by CARB, in consultation with air districts.

For the purpose of these regulations, similar facilities should be categorized similarly – should be reported in the same risk category. That will be in line with the requirements of Section 39607.1(b)(1) and (b)(2), which, among other things, require reporting of toxic air contaminants using a uniform statewide system.

General Applicability, Cont'd

Regarding timely reporting of toxic air contaminants, there appears to be a big lag-time between placement cancer-causing substances on the OEHHA (and European Union) list and when the chemical is placed on CARB's list, last updated in 2007. In the meantime, sensitive populations are unknowingly exposed and nothing is being done to eliminate or minimize the risk. The lag-time should be shortened; for the toxic emissions inventories to be updated in a timely manner.

Definitions

1. Define “**stationary source**”. Example: For the purpose of this article, a stationary source is a facility that meets the criteria in Sections 93401(a)(1), (2), (3), or (4) of this article (similar to how it is defined in AB 617). The words “stationary” and “source” are defined but, when combined, in the common vernacular they mean something else.
2. “Activity level” or “activity value”, in the examples included in their respective definitions, consider using simple and commonly used terms, such as, hours of operation per day or process rate in tons/hour, cubic feet per minute, etc., – terms most people can relate to.

Emissions Reports

The reporting framework should include a mechanism to alert or let the public know when there is a significant or noticeable change in a facility's year-to-year emissions inventory. A more involved public is anticipated to notice these changes, and will want to know why. Such changes could be due to improvements in how emissions are quantified - a change from existing to uniform methods, process or equipment changes, discontinued use of toxic chemicals, etc. A proactive way to flag affected records will be helpful and will minimize the need to call for independent third-party verification.

Report Contents

(a)(1) Include Source Classification Code.

(a)(5)(B) Fugitives (on the run?)

(a)(5): Add Item (H) for if the release is fugitive dust (disturbed area, pile height, wind speed, etc.)

Fugitive organic gases: Clarify here and elsewhere how emissions are to be reported. One value for the entire facility? By process unit? By Component type? Etc.

Fugitive dust emissions: Fugitive dust emissions from mining activities; cement plants; concrete batch plants; mineral processing plants and similar facilities should be estimated and included in the respective facility's air toxics and particulate matter emissions inventories. Wind-blown dust from torn-up ground; from piles of ore, overburden, waste, off-specification product, etc., can be significant and may contain toxic air contaminants – arsenic, crystalline silica, heavy metals, etc. If it were not for activities at such facilities, those dust emissions would not be generated. The emissions are not area-wide – they are should be attributed to specific facilities. Reporting will let down-wind communities know the extent of their exposure, and disclosure will spur more effective dust control, by facilities wanting to show good corporate citizenship.

Third-Party Verification or Certification of Emission Reports

CARB should re-consider its decision not to implement the third-party verifier or certifier provision, provided for in AB 617, in the first year of reporting. The need for third-party report-verification is now, in light of the fact that presently, there is uncertainty and inconsistency in the reported air emissions inventories.

Third-party reviewers' findings could be insightful and help in the timely development of uniform emission quantification methods. And, an extra and independent set of eyes, will benefit all parties – CARB, the regulated community, affected APCDs and the public.

CARB should look at that provision from the perspective of certain communities that have endured and continue to experience a disproportionate share of exposure to the ravages of air pollution and other environmental burdens. AB 617 came about for good cause, and the provision for a third-party verifier or certifier was included in the bill for good cause. If the provision is put on the back-burner, it may be forgotten and dropped for good.

Timely accreditation of verifiers or certifiers has been mentioned among the reasons for not implementing the provision in the earlier stages of reporting. Clearly, there is a large pool of environmental professionals who routinely review or prepare air quality permit applications, compliance reports, and other environmental documents. Professionals of this caliber can easily meet any CARB accreditation requirements.

In the spirit of AB 617, third-party verification or certification, when the need arises, should be implemented in the first year of reporting.