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Vice President

August 23, 2018

Dr. David Edwards  
Branch Chief  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

sent via email: Ctr-report@arb.ca.gov

Re: WSPA Comments on AB 617 Criteria Pollutant and Toxic Air Contaminant Emissions Reporting Workshops (July 30 - August 8, 2018)

Dear Dave,

The Western States Petroleum Association (WSPA) appreciates this opportunity to provide feedback to the California Air Resources Board (CARB) on its second group of Workshops regarding the Proposed AB 617 Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting, held on July 30, July 31, August 2, August 7, and August 8, 2018. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California and four other western states.

### **General Comments**

WSPA continues to support the concept of “uniform” emissions reporting, as well as improving transparency and public access to information. WSPA recognizes that CARB is working at an accelerated schedule to develop and adopt a new regulation for emissions reporting by the end of this year. WSPA agrees with CARB’s previously proposed two-phase approach to emissions reporting, with “best available” methods being used for reporting years 2018 and 2019. That being said, concerns still remain about this process, largely related to the logistics of reporting outlined in Subarticle 1 of the preliminary draft regulation language.

### **Specific Comments**

#### **§ 93401. Applicability**

With regard to applicability, § 93401(a)(3) states: *“A facility that is categorized by the air district as high priority for toxic emissions at the beginning of the reporting year,...”* WSPA recommends that a definition for “high priority facility” be added to § 93402. The definition should include the criteria that air districts would utilize to categorize such facilities. Such categorizations should be made six (6) months prior to the beginning of the reporting year.

During the Los Angeles workshop held on August 8, 2018, you indicated that letters to facility operators confirming final applicability will be sent by CARB (not the air districts) soon after the regulation is adopted. Since previously mailed CARB letters did not constitute a final determination of applicability, WSPA requests that final applicability letters be provided as soon as possible.

Slide 20 of the Workshop presentation pertains to Emission Reporting Requirements. It states:

*“For 2018 and 2019 data, facilities...are subject to reporting based on ‘actual’ emissions”*

*“Starting with 2020 data, applicability based on permitted ‘authorized to emit’ criteria emission”*

WSPA requests that CARB clarify in the regulatory language when actual and permit limiting emissions are the basis of applicability and move related statements from section § 93403(a) to section § 93401(a).

### **§ 93402. Definitions**

*“Best available data and methods”* is broadly defined and appears to accommodate differences in current air district emission reporting programs and to provide flexibility for reporting years 2018 and 2019. *Potential-to-emit* emissions based on district-issued permit or other information are explicitly mentioned as not meeting the definition of *“best available data and methods”* per the following proposed regulatory language: *“Best available data and methods requires the use of actual emissions and other data, and not the “potential” to emit information.”* WSPA is concerned that calculations associated with some existing air district emission reporting programs may not meet this definition for reporting years 2018 and 2019.

*“Community”* and *“Boundary of a community”* are not yet defined in the proposed regulatory language. Given the sensitivity and uncertainties related to community selection, WSPA requests that these definitions be shared in advance of the 45-day comment period for the final proposed regulation.

§93400 states: *“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 stationary sources.”* Under Definitions, *“Stationary means neither portable nor self-propelled, and operated at a single facility.”* WSPA is concerned that air districts that include portable sources in their current emission reporting programs may not have manageable means or resources to remove such emissions from data transmitted to CARB.

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

§ 93403(b)(1) states: *“Facility owners or operators shall provide annual emissions or activity data to the air district on or before May 1 immediately following the calendar year in which the emissions occurred. District rules may specify an earlier submittal date, which supersedes the May 1 due date.”* A number of attendees (identified as facility owners and operators) at the CARB workshops expressed their concern that this reporting deadline is unrealistic for the first reporting year as some air districts have acknowledged challenges associated with modifying their programs in time to accommodate the new data reporting requirements of this regulation.

As previously recommended in the WSPA comment letter of June 29, 2018, WSPA strongly recommends that CARB consider a first year deadline for review and finalizing data of October 1, 2019. This would equate to a July 1 state reporting deadline. Similarly, individual air districts with superseding deadlines should extend their respective normal reporting deadlines by two (2) months for the first reporting year.

#### **§ 93404. Emissions Report Contents**

§ 93404(b)(3) states: *“In addition to total facility emissions, facility owners or operators shall also, to the extent feasible, estimate and report actual air emissions of criteria pollutants and toxic air contaminants at the emissions process or device level.”* This reference to “extent feasible” is understandable because sometimes source emissions are aggregated in air district reporting programs (e.g., fugitives). It is important that air districts provide facilities with advance notice of any forthcoming district-level reporting changes, namely new data elements and/or reporting formats required to satisfy the reporting content requirements of § 93404. For example, air district-level reporting (unrelated to AB 2588) often does not include source classification codes (SCC) and certain AB 2588 Appendix A-1 toxics. § 93404(a)(10) postpones reporting § 93404(a)(5) release/stack parameters until reporting year 2020, but other data elements required beginning with reporting year 2018 may or may not be incorporated into existing district emissions reporting programs in time. WSPA requests that CARB add language to the regulation clarifying that fulfilling air district emissions data reporting requirements satisfies compliance and completeness of reporting under this new regulation. WSPA also recommends that regulation paragraph § 93404(a)(10) be move up closer to its referenced paragraph § 93404(a)(5).

§ 93403(b) and § 93404(b) appear to be written to accommodate air district program differences (i.e., report the actual annual facility emissions, or sufficient activity data to calculate such emissions). For facility owners and operators accustomed to reporting only activity data (e.g., throughputs, source commodities, fuel types) to their air districts, this regulation allows for the continuation of this practice. For facility owners and operators accustomed to reporting actual annual emissions (e.g., SCAQMD AER online reporting tool), this practice can continue as well. WSPA agrees with this approach and appreciates that CARB recognized that need to incorporate such flexibility in the regulation.

§93404(g) states with regard to attestation that: *“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 all information submitted pursuant to this article is true, complete and correct.”* Given the uncertainty as to how air districts will treat, reformat, and/or possibly change data reported by facilities, WSPA is concerned that facility owners and operators will be uncomfortable with attesting that “all information submitted pursuant to this article is true, complete and correct”. WSPA recommends that CARB create a standard attestation form (acknowledged in the regulation) that facilities can submit to their local air district. Such a form should distinguish between attestation of *reported emissions* and *reported activity data* (used by the air districts to calculate and report emissions). WSPA also suggests that CARB provide means for a facility owner or operator to retrieve and review an electronic copy of data it receives from an air district for its facility.

#### **§ 93406. Confidentiality**

§ 93406(a) states: *“Emissions data submitted to CARB under this article are public information and shall not be designated as confidential.”* WSPA understands and supports that AB 617 is community-centered legislation which promotes transparency and better public access to information. Nonetheless, WSPA member companies consider certain activity data (e.g., throughputs) to be sensitive and proprietary to the business. There is currently no mechanism defined at the data level for how, per § 93406(b), an owner or operator may claim such

information as “confidential” by clearly identifying such information as “confidential.” Given that air districts will be the end-point reporters of emissions data to the state, WSPA recommends that CARB incorporate into a standard attestation form means for facilities to claim certain information as “confidential”.

### **§ 93407. Enforcement**

WSPA is concerned that by air districts being responsible for transmitting data to CARB (i.e., end-point reporters), there is a risk of certain data and documentation being submitted inaccurately or perhaps not at all for the reporting years 2018 and 2019. Because of this risk, WSPA recommends that enforcement of § 93407(a)(1) and § 93407(a)(2) start with 2020 data reported in 2021. We also recommend that enforcement of § 93403(b)(1), § 93403(c)(1), and § 93403(c)(1)(A) which are all associated with emission reporting requirements not be subject to enforcement until beginning with 2020 data reported in 2021.

WSPA appreciates this second opportunity to provide comments related to the proposed regulation for emissions reporting. We look forward to continued discussion of this important aspect of the AB 617 program. If you have any questions, please contact me at (805) 701-9142 or via e-mail at [tom@wspa.org](mailto:tom@wspa.org).

Sincerely,

