



Date: October 2, 2018

David Edwards, Ph.D.
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: California Air Resources Board's proposed AB 617 criteria and air toxics emissions reporting regulation.

Dear Mr. Edwards:

Lockheed Martin Corporation generally supports CARB's proposed collaborative approach to harmonizing data submittal requirements, methods, reporting frequency and deadlines as it works with the air districts to improve emissions characterization for sources that may be subject to new regulatory requirements pursuant to California's new Community Air Protection Program (AB 617). Our principal concern with CARB's proposed statewide criteria and air toxics emissions reporting regulation is that it is likely to impose enforceable new requirements on facilities that: a) are not within the boundaries of CARB-designated AB 617 communities, b) do not emit greenhouse gases or criteria air pollutants above statutory applicability thresholds, and c) do not present significant air toxics risks to surrounding communities or sensitive receptors. This latter point is especially concerning given the lack of precision in historical air district approaches to risk-based facility categorization.

Streamlining Statewide Data Reporting:

Some air districts are ahead of others in updating air toxics "prioritization scores" for facilities in their jurisdictions. We encourage CARB to work closely with the air districts to develop a single set of emissions data reporting requirements as new or updated air toxics regulations, such as Bay Area Air Quality Management District (BAAQMD) Regulation 11 Rule 18, are implemented. While we appreciate the challenge of integrating variable air district data into a new statewide data base to support AB 617 implementation, this need must be balanced against the additional regulatory and administrative burdens on affected facilities and the contribution of those facilities to the exposure burden in the surrounding community. Accordingly, the proposed source-specific emissions reporting should be required only once for each facility subject to the regulation, except in the case of future physical or operational changes that are likely to have material impacts on covered facility emissions. Furthermore, default annual emissions reporting should be limited only to facilities that present significant air toxics risks or are major sources of localized criteria pollutant emissions, and which operate within CARB-selected AB 617 communities. In addition, some data fields such as source descriptions and location coordinates, stack height, stack diameter, exhaust flow rate, temperature, etc. already exist in air district data bases and should not need to be replicated or updated unless the underlying information is no longer accurate.

Based on past practice, we would expect some air districts to take steps to reduce the data acquisition burden for most facilities in future years based on the results of health risk assessments. This practice should be codified in the proposed regulation for all air districts. In particular, data requirements should be reduced to material throughput records as is currently the case for operations that use organic compounds. Air districts should also be required to reduce the frequency of reporting and the overall reporting burden for low- and intermediate-priority facilities, provided they establish and/or maintain procedures to identify facility changes that may increase facility risk above applicable regulatory thresholds. For example, BAAQMD requires facilities to report increases in emissions of any Toxic Air Contaminant (TAC) by more than 50% of the action level in Regulation 2-5. This practice is adequate to ensure that facility air toxics risk will not increase significantly without the knowledge and oversight of the air district.

Emissions data reporting should be based on current air district programs, with an option for regulated facilities to submit corrected or updated information as it becomes available. CARB should not require a different set of data or a different data format than what is specified by the air districts, provided the data reported to the air district satisfies minimum statutory requirements. Our reading of the proposed regulation suggests that CARB intends this approach for the first phase of its statewide emissions reporting regulation. However, preliminary discussions about the second phase of this rulemaking suggest a departure from these principles.¹ We encourage CARB to consider first what can be accomplished through minor modifications to existing air district emissions reporting programs and work with the air districts and other stakeholders to ensure that any additional requirements are carefully targeted to fill data gaps that preclude development of air quality monitoring and emissions reduction programs that satisfy AB 617 requirements in the communities selected by CARB.

Air Toxics Facility Prioritization Scores:

Prioritization scores are by design conservative screening estimates used to indicate the need for further assessment of individual facilities. They are not intended to serve as estimates of facility risk and will always indicate a higher level of concern than a more detailed facility health risk assessment.

The California Air Pollution Control Officers Association's Air Toxic "Hot Spots" (AB 2588) Program Facility Prioritization Guidelines (August 2016) include two procedures for prioritizing facilities based on air toxics emissions. The guidelines characterize the emissions and potency procedure as a "preliminary" approach and the dispersion adjustment procedure as a "more comprehensive" approach to determine if a "high priority" designation is appropriate. The guidelines allow air districts to use either method independently or in combination. Air districts may also use unspecified alternative procedures "independently or in conjunction with the procedures presented in the guidelines" or set different "cut points or thresholds for high, intermediate and low priority." These features explicitly encourage a patchwork approach to facility prioritization which is likely to result in significant variations in the level of scientific rigor and the extent to which the assigned categories are representative of actual facility air toxics risk.

Moreover, while the guidelines cite the requirement in Health and Safety Code § 44361 that every facility identified in the "highest priority category" must submit a health risk assessment within 150 days

¹ CCR § 93403(b)(1) requires use of best available methods and best available data "until uniform methods are added pursuant to subarticle 2 of this regulation."

of the district's priority designation, it is silent about re-evaluation of facility prioritization scores based on new information such as updated emissions factors and facility data or the results of a facility health risk assessment. Under existing state and local air toxics programs, facility prioritization scores can lie dormant for long periods of time without any regulatory effect.

AB 617 Implications:

However, with the passage of AB 617, the regulatory application of air district facility prioritization scores will reach well beyond existing air toxics programs. For example, facility prioritization scores may influence future selection of candidate AB 617 communities, the design of AB 617 air monitoring programs and the selection of source-specific measures for community emissions reduction programs. AB 617 also establishes facility air toxics priority as a stand-alone criterion for determining which sources will be subject to ARB's forthcoming statewide criteria and air toxics emissions reporting regulation², regardless of whether the affected facilities are located in AB 617 program communities. Air district prioritization scores that rely on default emissions factors, exposure assumptions and outdated emissions data are designed to overstate potential facility risk, elevating facility profile and suggesting that it bears greater responsibility for reducing the cumulative exposure burden in the surrounding community. These new regulatory ramifications necessitate a more consistent and scientifically rigorous approach to the air district facility prioritization process than is recommended in the 2016 CAPCOA guidelines. They also necessitate a review and adjustment of existing facility prioritization scores to ensure that new AB 617 regulatory requirements are focused on sources that "cause or significantly contribute to a material impact in a sensitive receptor location or disadvantaged community."³

Adequacy of Cessation Provisions:

While we appreciate CARB's inclusion of language in its July 27, 2018 draft regulation that would allow for cessation of reporting based on a facility risk estimate below the applicable local air district public notification threshold, the draft language also specifies that the risk assessment must be based on the updated air toxics health risk assessment guidelines issued by the Office of Environmental Health Hazard Assessment in 2015. The change in risk assessment methodology has created a workload backlog for air districts which means that many facilities will be subject to the new emissions reporting requirements for an indefinite period of time based only on facility prioritization scores that overstate actual facility risk.

Recommendations:

For the reasons stated above, we recommend that CARB amend the draft regulation to include the following requirements:

1. *Streamlining Emissions Reporting Requirements* – Default annual emissions reporting should be limited only to facilities that present significant air toxics risks or are major sources of localized criteria pollutant emissions, and which operate within CARB-selected AB 617 program

² Health and Safety Code § 39607.1 (a)(2)(C) defines "stationary source" for purposes of facility-level emissions reporting as "A facility that receives an elevated prioritization score based on cancer or noncancer health impacts pursuant to section 44360."

³ Health and Safety Code § 44391.2(b)(3).

communities. Air districts should be required to reduce the data acquisition burden for facilities with approved health risk assessments below applicable air district public notification thresholds. Air districts should also be required to reduce reporting burdens for facilities designated as low- and intermediate-priority. We agree with comments submitted by the California Small Business Alliance (dated August 22, 2018) stating that CARB should establish de-minimis emissions thresholds for all pollutants subject to the proposed regulation below which annual reporting would not be required. Reporting requirements should be aligned at both the state and local air district level.

2. Facility Prioritization Scores - Air districts should be required to update facility prioritization scores using best available risk-based screening methods and current facility air toxics emissions data **before** determining which facilities will be subject to the reporting regulation pursuant to CCR § 93401 (a)(3). Air districts should also be required to periodically review and update prioritization scores to reflect updated toxicity, exposure and facility emissions data or the results of an approved facility health risk assessment. This review should occur at least once every four years, consistent with current AB 2588 emissions inventory update requirements.
3. Dispute Resolution – Facilities covered by the AB 617 emissions reporting regulation should have the right to dispute the air district analysis supporting prioritization scores for any individual site. The proposed regulations should include a dispute resolution process for this purpose.

We appreciate CARB's consideration of our comments on its proposed emissions reporting regulations. If you have any questions, please do not hesitate to contact Jeff Sickenger of KP Public Affairs at 916 448-2162.

Sincerely,



Michael G. Anderson
Lockheed Martin Corporation

cc: Karen Magliano – Chief, Community Air Protection Program
Heather Arias – Community Air Protection Program