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**Gretchen Bennitt, Executive Director**

November 16, 2020

Richard Corey

Executive Officer

California Air Resources Board

PO Box 2815

Sacramento, CA 95812

Electronic Submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

RE: Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) and Emissions Inventory Criteria and Guidelines (EICG)

Dear Mr. Corey:

The Northern Sierra Air Quality Management District (NSAQMD) appreciates the opportunity to review the proposed regulatory amendments to the CTR and EICG, and thoroughly supports the spirit of the CTR and the EICG. People should be able to identify serious risks to their health from air pollution. That has been the focus of many previous and ongoing efforts of local air districts, CARB, EPA and the California Legislature. However, the proposed CTR (combined with the EICG) takes data collection to an unprecedented degree of detail, within a rushed timeframe, and does so at great cost to California’s businesses and its taxpaying public.

Other air districts have provided a number of meaningful comments about the CTR (and the EICG). The NSAQMD supports those other air districts’ comments and would like to add a few more points.

**Open Burning**

It is not clear if emissions from open burning are to be reported. §93401 (b)(2)(B) of the CTR expressly exempts agricultural burning, but nothing is mentioned about non-agricultural burning for other types of vegetation management. Additionally, it is not clear if forest management burning is considered agricultural burning.

Some air districts issue permits for open burning (which may take place at facilities that have traditional permits to operate). Districts don’t typically refer to open burning permits as “permits to operate” (the term used in the General Applicability §93400(a) of the CTR), but there is no definition of “permit to operate” in the proposed regulation. With no definition, open burning permits are permits to operate at an open burning location. A burn project emitting 4 tpy of any pollutant falls into the CTR via §93401(a)(4)(A). The CTR’s definition of “permit” does not preclude open burning permits. The definition of “facility” includes “any physical property…having one or more sources….” Further, “source” is defined as “any physical unit, process, or other use or activity that releases a criteria air pollutant or toxic air contaminant into the atmosphere.” It technically sounds like open burning should be reported.

Regarding open burning at facilities with other district-permitted emissions sources, would standard vegetation management burning for wildfire danger reduction or ditch, road and right-of-way maintenance be considered as fugitive emissions? Fugitive emissions are required to be reported. The definition of “fugitive emissions” is “those emissions from a source which could not reasonably be expected to pass through a stack, chimney, vent, or other functionally-equivalent opening.” Open burning is not excluded. Emissions from open burning are highly condition-dependent, annually variable and impossible to quantify with enough certainty to make decisions or draw conclusions for AB 2588/EICG/CTR purposes.

The proposed regulation should be amended to prevent confusion and potential lawsuits.

**Real Costs to Air Districts**

The real costs of the proposed regulation to air districts are not trivial. Costs to California’s local air districts are estimated at up to $5.3 million per year and $39 million over the next 10 years (ISOR, p. 20). In addressing how districts can cover the costs, the ISOR states (p. 21), “…districts could levy service charges, fees, or assessments sufficient to pay for any implementation required under the proposed regulation.” Both politically and functionally that is not an easy thing for most air districts to do, particularly with so many businesses struggling right now. Imposing new fees at the local level is an exhaustive and potentially contentious process. Also, air district boards would have to make a finding of necessity (i.e. that a need exists) under Health and Safety Code §40727 to amend their fee rules to pull in that extra $39 million, but it’s not guaranteed that they could make that finding.

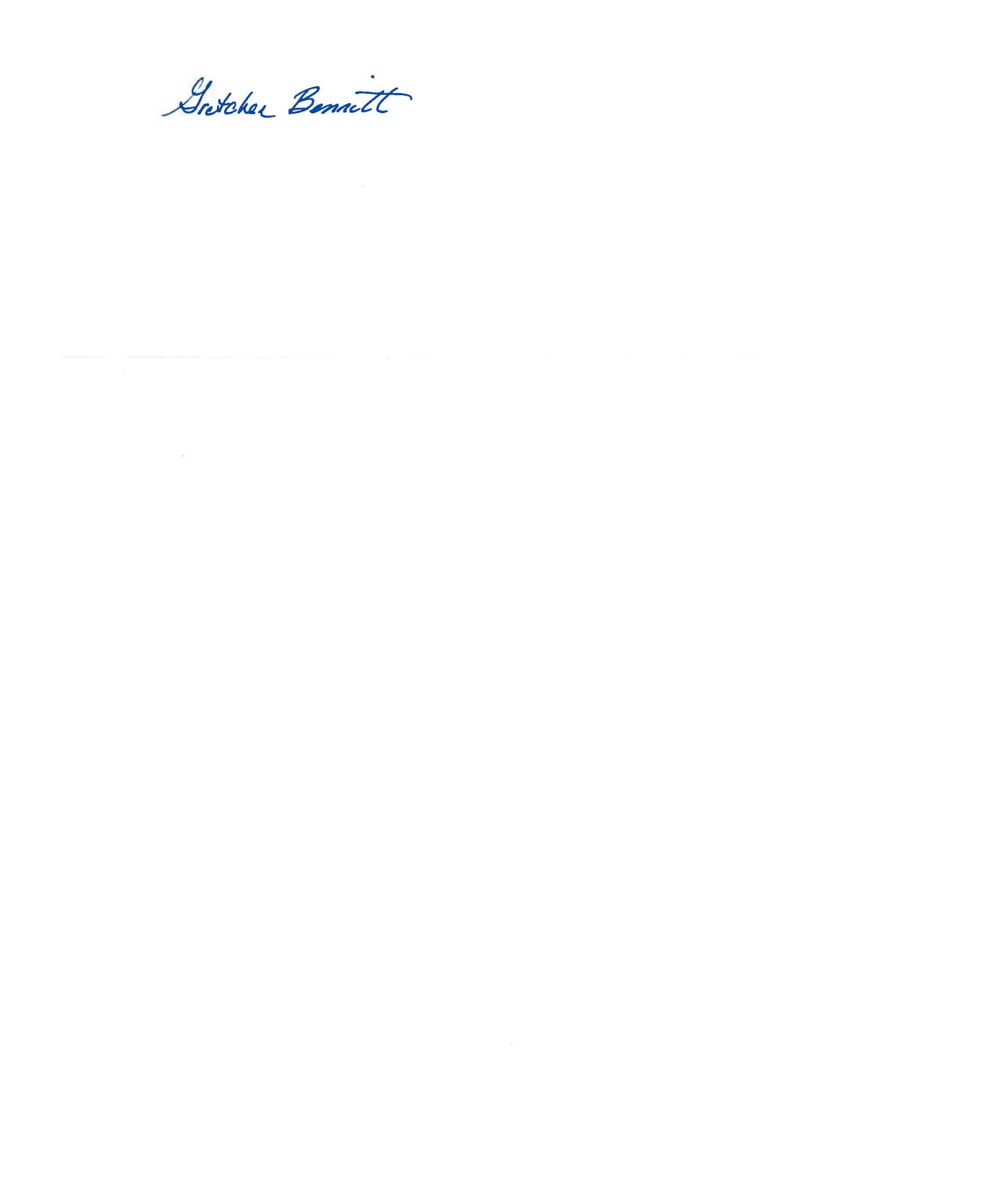
**Economic Impacts Assessment**

The Economic Impacts Assessment concludes (ISOR, p. 15) that the regulation will not have the potential to cost California businesses more than $10 million in any year, and is therefore not a “major regulation.” Table 1 on page 16 of the ISOR lists annual projected costs to businesses of up to $9.6 million in 2027 (not counting penalties) plus another $5 million for local air districts and other local government entities (with air districts accounting for approximately 95% of that cost), which are authorized to charge fees to businesses to cover their costs. In addition, the ISOR estimates an additional cost to businesses of $1.3 million from the EICG (Table 3, p. 22). $9.6 million plus $5 million plus $1.3 million equals $15.9 million, assuming districts do charge fees to businesses to cover their costs. Therefore, the CTR as proposed should trigger a “major regulation” analysis, especially with the added EICG.

**Conclusion**

For the reasons included herein and in many other comment letters submitted by local air districts, the NSAQMD feels that there is not enough need for the CTR/EICG’s proposed level of emissions detail to justify the costs and burdens of the proposed emissions inventory data collection overhaul set forth in the CTR/EICG. In addition, there are issues with the proposed pieces of legislation that still should be worked out before adoption. There should be more time allowed for thorough public and agency review and, especially, for implementation. There should also be consideration given to reducing the scope of the proposed data collection. Finally, there should be funding provided to air districts by the State of California to cover the costs of implementing the proposed regulations. It is not realistic to rely on an assumption that all air districts will be able to recover their resource expenditures by simply charging their permitted businesses and other public agencies “service charges, fees or assessments.”

Please contact Sam Longmire of the NSAQMD staff ([saml@myairdistrict.com](mailto:saml@myairdistrict.com) or 530-274-9360 x506) with any questions.

Respectfully,

Gretchen Bennitt, Executive Officer

Northern Sierra Air Quality Management District