

December 7, 2018

Mr. David Edwards, Ph.D.  
California Air Resources Board  
Air Quality Planning & Science Division  
1001 "I" Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Mr. Edwards:

Subject: Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants

The Los Angeles Department of Water Power (LADWP) appreciates the opportunity to provide comments on the California Air Resources Board's (CARB) proposed *Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants* (CTR regulation) that was posted on October 23, 2018. The purpose of this regulation is to establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants. LADWP believes that consistent and accurate emissions data is important in CARB and local air districts' evaluation of the effects of air pollutants at the local and statewide levels.

**Section 93401 – Applicability**

The cessation of reporting for shutdown facilities in section 93401(c)(3) should be clarified such that "cease to operate" applies only to "applicable" emitting processes or operations at the facility. It appears CARB intended to limit "cease to operate" only to industrial operations and processes by excluding space heaters and water heaters. However, the notification to cease reporting requires certifying the "cessation of **all** [emphasis added] greenhouse gas, criteria pollutant, and toxic air contaminant-emitting processes and operations." This is confusing because the burning of natural gas in space and water heaters creates emissions of greenhouse gas, criteria pollutant and toxic air contaminants. LADWP recommends the following clarifications:

93401(c)(3)(B) The owner or operator must submit a notification to CARB and the local air district that announces the cessation of reporting and certifies to the cessation of all applicable greenhouse gas, criteria pollutant, and toxic air contaminant-emitting processes and operations. The notification must be

submitted no later than May 1 or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which the report would be due in the absence of the shutdown. The facility owner or operator, or the designated representative, must provide the cessation notification to the mail address or email address indicated in section 93403(f) of this article.

93401(c)(3)(C) For the purposes of this provision, "cease to operate" means the facility did not operate any applicable greenhouse gas, criteria pollutant, or toxic-emitting processes for an entire calendar year. Continued operation of space heaters and water heaters as necessary until operations are restarted in a subsequent year does not preclude a facility from meeting the definition of "cease to operate." The owner or operator must resume reporting for any future calendar year during which any of the applicable criteria pollutant or toxic-emitting processes or operations resume operation and are subject to reporting.

### **Section 93403 – Emission Reporting Requirements**

Proposed Section 93403(a)(3)(A) states that for an affected facility located within the boundary of a community selected by CARB that is subject to reporting under applicability 93401(a)(4) only, after five consecutive years of reporting, reporting is only required every third year unless the CARB Executive Officer notifies the facility that an alternate reporting schedule is required. "Alternate reporting schedule" is not defined and 93403(a)(3)(A) does not address situations where a facility may meet the cessation criteria in Section 93401(c)(3) for shutdown facilities. To address what appears to be an inadvertent omission, LADWP recommends the following changes:

93403(a)(3)(A) For a facility subject to section 93401(a)(4) only, a facility owner or operator must report annual emissions for five consecutive years, unless the facility meets the requirements to cease reporting under section 93401(c)(3). After the first five years, reporting is only required every third year, unless specifically notified by the Executive Officer that an alternate reporting schedule is required or the facility meets the requirements to cease reporting under section 93401(c)(3).

In addition, LADWP supports the changes made to Section 93403(c)(1) to clarify that CARB will notify the designated representative (instead of the facility owner or operator) to correct emissions report data or submit emissions report data. This change appropriately identifies the designated representative as the facility point of contact for the emissions report.

Lastly, LADWP requests that the Final Statement of Reasons be consistent with the rule language as the "Summary and Purpose" discussion in the ISOR for Sections 93403(c)(1) and 93403(c)(1)(A) is inconsistent with the rule language.

### **Section 93404 - Emission Report Contents**

Section 93404(a) (General Contents) provides a list of data to be included in a facility report. Items (a)(3) and (a)(4) should be simplified to eliminate redundancy (e.g. repeated references to “owner or operator of each facility subject to this article must provide/report”) and include just the information being requested to be consistent with the rest of the list. Recommended changes are as follows:

(3) ~~Owner or Operator. The owner or operator of each facility subject to this article must p~~Provide legal name(s), and physical and mailing addresses of the facility owner or operator responsible for preparing and submitting the required emissions data report.

(4) ~~NAICS Codes. The owner or operator of each facility subject to this article must r~~Report the following NAICS code(s) that apply to the facility:...

Section 93404(b) would require affected facilities to report emissions data to the local air district for permitted sources. In addition, this section would require affected sources to report emissions from unpermitted emission sources if they are currently reported to the local air district. Since not all local air districts require sources to report emissions from unpermitted emission sources, including this requirement would be inconsistent with AB 617’s goal to develop and implement a statewide uniform emissions reporting program.

If some facilities only submit permitted equipment emissions information and other facilities submit permitted and unpermitted equipment emissions information, the public will be viewing facility emissions data that was generated in an inconsistent manner. As acknowledged in the Staff Report: Initial Statement of Reasons (ISOR),<sup>1</sup> AB 197 requires CARB to make available on its website, and update at least annually, emissions of greenhouse gas, criteria pollutant, and toxic air contaminant emissions for each facility that reports to CARB and air districts.

The ISOR also states that unpermitted sources “are not included in the applicability determination because doing so would create a more inconsistent approach to determining applicability.”<sup>2</sup> Consistent with this approach, CARB should not include unpermitted stationary source emissions in this regulation.

LADWP recommends the following changes to Section 93404(b):

*Emissions.* Annual emissions reports shall include the direct, and fugitive emissions for permitted processes and devices at the facility. ~~Emissions from~~

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<sup>1</sup> Public Hearing to Consider the Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Staff Report: Initial Statement of Reasons, October 23, 2018

<sup>2</sup> From the Initial Statement of Reasons on the proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants released on October 23, 2018, page 71.

~~unpermitted sources, including fugitive emissions, that are currently reported to or quantified by the air district, shall also be quantified and reported, but are not included in the applicability determination for criteria pollutant emissions.~~  
Emissions from permitted portable equipment operated at a facility shall also be reported, except for portable equipment registered and reported under the Statewide Portable Equipment Registration Program Regulation (CCR, title 13, section 2450 et seq.). The annual emissions of the following air pollutants shall be reported:...

For facilities subject to reporting under applicability Section 93401(a)(4) only, data reported to local air districts should be limited to the permitted equipment only. For example, if applicability 93401(a)(4) triggers the facility to submit an annual emission report to the district, but the district reporting program is set up to collect both permitted and unpermitted emissions data from each facility, then 93401(a)(4) facilities should not have to report unpermitted emissions data which is not necessary for the purpose of this regulation.

#### **Amending Emission Reports and Enforcement**

As LADWP previously stated in its August 23, 2018 comment letter (Enclosure 1), there needs to be a process for improving the accuracy of a submitted emission report without incurring a violation. For example, a facility may want to update emissions factors used in the submitted emission report with more accurate emission factors.

LADWP recommends CARB include rule provisions that would allow a facility owner/operator, through the designated representative, the ability to make revisions to the report after the report submittal deadline without incurring a violation. The flexibility could mirror the report amendment process or procedure that local air districts currently have in place. For example, the South Coast Air Quality Management District (SCAQMD) allows for the submittal of an amended Annual Emission Report with the revised emissions data written in above the old emissions data, new summary of total emissions, a new authorized signature page, and applicable fees. LADWP suggests adding the following provision:

93404 (d) Amending Emission Reports. The designated representative may submit proposed revisions to a previously submitted emission report to the local air district and/or CARB.

- (1) Beginning with 2018 emissions data reports
  - (A) Print the emission reports with relevant data to be amended
  - (B) On the emission report print-out, strikeout the incorrect data and write the new data above the old data
  - (C) Correct the new total emissions on the emission report summaries
  - (D) Submit the certified (signed) amendment to the local air district.
- (2) Beginning with 2020 data reported in 2021 and for subsequent years, a facility owner or operator may, with the approval from the local air district,

amend emission reports directly from the state administered electronic data system, if such a system is available at that time. If this option is chosen, the requirements in section 93403(d)(1) do not apply.

(A) Submit the authorized (signed) amendment and applicable fees to the local air district.

**Section 93407 - CARB/Local Air District Enforcement**

As expressed in its June 29, 2018 comment letter (Enclosure 2), LADWP recommends that CARB delegate compliance and enforcement responsibilities for the AB 617 emissions reporting program to the local air districts who will be reviewing the emissions data reports for quality assurance. This approach would avoid the potential for a facility owner or operator to be cited by both CARB and the local air district for the same issue, and be consistent with CARB's intent expressed in the ISOR that "a facility will not be subject to enforcement by both CARB and an air district for the same violation(s) of the proposed regulatory requirements."<sup>3</sup> By delegating the regulation's enforcement authority to the local air districts, CARB can provide support and oversight of local air district's enforcement programs rather than maintaining overlapping enforcement programs.

In closing, LADWP appreciates your consideration of these comments on the CTR Regulation.

If you have questions or would like additional information, please contact Ms. Jodean Giese at (213) 367-0409.

Sincerely,



Mark J. Sedlacek  
Director of Environmental Affairs

EK/JG/CP:rs

Enclosures

c/enc: Mr. John Swanson, CARB  
Mr. Patrick Gaffney, CARB  
Ms. Jodean M. Giese

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<sup>3</sup> From the Initial Statement of Reasons on the proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants released on October 23, 2018, page 76.



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June 29, 2018

Mr. David Edwards, Ph.D.  
California Air Resources Board  
Air Quality Planning & Science Division  
1001 I Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

Via email: [Ctr-report@arb.ca.gov](mailto:Ctr-report@arb.ca.gov)

Dear Mr. Edwards:

Subject: Proposed AB 617 Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting Workshop

The Los Angeles Department of Water Power (LADWP) appreciates the opportunity to provide comments on topics discussed at the Proposed Assembly Bill (AB) 617 Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting Workshops.

**1) Emission Reporting Requirements**

Good quality emissions data is needed to support the AB 617 Community Air Protection Program, the AB 2588 Air Toxics "Hot Spots" program, State Implementation Plans, and Air Toxics Control Measures. To achieve an accurate emissions inventory, LADWP recommends designing the emissions reporting requirements to use equipment-specific emission factors when available, rather than default emission factors that tend to be over generalized. For reporting of criteria and air toxics emissions, LADWP recommends establishing a hierarchy of emission factor sources in order of preference, which could include (but not limited to) the following:

- 1) Continuous emissions monitoring system data
- 2) Source test data
- 3) Manufacturer emission data (for specific equipment type)
- 4) Permit based emission factor or Rule based limit
- 5) Default emission factors provided by the air districts or California Air Resources Board (CARB)
- 6) Published sources (e.g. AP-42 US Environmental Protection Agency Compilation of Emissions Factors)

Mr. David Edwards  
Page 3  
June 29, 2018

their annual criteria pollutants and toxic air contaminants with their local air districts following the existing established reporting protocols. Once the AB 617 emission reporting requirements are synchronized with the local air districts, LADWP recommends phasing in the new reporting requirements to avoid undue reporting burden on facility operators. To spread out the reporting burden, LADWP recommends that "supplemental data" (such as stack heights and locations, facility location information, data about the footprint of facility) not be due at the same time as the emissions data.

**4) Applicability**

The workshop presentation identifies all permitted sources within "communities" (AB 617 Communities) as applicable sources subject to the reporting requirements, and indicates "highly detailed inventories will be developed for selected communities, including stationary, area, and mobile sources." The workshop discussion also mentioned clustered facilities are also applicable sources subject to the reporting requirements. However, Health and Safety Code Section 39607.1 does not specifically identify all permitted sources within "communities" or clustered facilities in the definition to report its annual emissions of criteria pollutants and toxic air contaminants to CARB. LADWP requests clarification of the rationale for including the above mentioned proposed applicable sources.


**5) Reporting Schedule**

Sufficient time is needed by compliance entities to compile information and prepare/submit the annual emissions report. Facilities already subject to emissions reporting to local, state and federal regulatory agencies have a significant existing reporting workload in the first quarter of the year. In addition, the local air districts and CARB will need sufficient time to review and finalize the reported emissions data by August 1 of each year. LADWP believes the suggested reporting deadline of May 1<sup>st</sup> for the AB 617 annual emissions reporting is reasonable.

In closing, LADWP appreciates your consideration of these comments on the Proposed AB 617 Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting Workshop.

If you have questions or would like additional information, please contact Ms. Jodean Giese at (213) 367-0409 or Mr. Edward Kim of my staff at (213) 367-6702.

Sincerely,



Mark J. Sedlacek  
Director of Environmental Affairs

EK:rc

c: Mr. John Swanson, CARB  
Mr. Patrick Gaffney, CARB



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Board of Commissioners  
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William W. Funderburk Jr., Vice President  
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Christina E. Noonan  
Aura Vasquez  
Barbara E. Moschos, Secretary  
David H. Wright, General Manager

August 23, 2018

Mr. David Edwards, Ph.D.  
California Air Resources Board  
Air Quality Planning & Science Division  
1001 "I" Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

Sent via email: [Ctr-report@arb.ca.gov](mailto:Ctr-report@arb.ca.gov)

Dear Mr. Edwards:

Subject: Preliminary Discussion Draft of the Proposed Regulation for the Reporting of Criteria Pollutants and Toxic Air Contaminants

The Los Angeles Department of Water Power (LADWP) appreciates the opportunity to provide comments on the Preliminary Discussion Draft of the Proposed Regulation for the Reporting of Criteria Pollutants and Toxic Air Contaminants (Discussion Draft).

**Applicability**

The proposed Sections 93401(a)(1), (2), (3), and (4) identify the four applicability criteria for annual emission reporting. Of the four applicability criteria, LADWP is concerned with Section 93401(a)(4) which requires a facility that has one or more permit(s) to operate issued by an air district, emits criteria pollutants and toxic air contaminants, and is located within the boundary of a community selected by the California Air Resources Board (CARB) Governing Board pursuant to Health and Safety Code (HSC) Sections 42705.5 and 44391.2, to report emissions annually. The Discussion Draft workshop presentation stated that this applicability description requires "all permitted sources within selected communities" to report emissions annually. Section 93404(b) of the Discussion Draft states "Annual emissions reports shall include the direct, process and fugitive emissions for permitted processes and devices at the facility. Emissions from unpermitted sources that are currently reported to, or quantified by the air district, shall also be quantified and reported, but are not included in the applicability determination for criteria pollutant emissions." Under the South Coast Air Quality Management District (SCAQMD) emission reporting requirements, a facility required to file an annual emissions report must include emissions from both permitted equipment as well as sources not requiring a permit. Therefore, the "all permitted sources within selected communities" applicability criteria will have the unintended consequence of reporting



Furthermore, there is concern that the use of existing default emission factors for toxic compounds could overstate emissions and make a facility appear worse than it actually is. For example, the table below shows the difference between default emission factors for toxic compounds and actual emissions based on a source test.

| Toxic Compound         | SCAQMD AER Default Factors | AP-42                   |                            | Source Test             | Percent Difference                    |
|------------------------|----------------------------|-------------------------|----------------------------|-------------------------|---------------------------------------|
|                        |                            | Stationary Gas Turbines | Rating for Emission Factor |                         |                                       |
| Fuel Type: Natural Gas | Turbine, All Sizes         |                         |                            | GE Model 7FA.05 Turbine | Source Test vs SCAQMD Default Factors |
|                        | (lb/mmscf)                 | (lb/mmscf)              |                            | (lb/mmscf)              |                                       |
| Benzene                | 0.0122                     | 0.01224                 | A                          | 0.00019                 | -98.44%                               |
| 1,3-Butadiene          | 0.000439                   | 0.0004386               | D                          | not tested              |                                       |
| Formaldehyde           | 0.724                      | 0.7242                  | A                          | 0.017                   | -97.65%                               |
| Total PAHs             | 0.00225                    | 0.002244                | C                          | 0.000876                | -61.07%                               |
| Ammonia                | 18                         | --                      |                            | 1.35                    | -92.50%                               |

The first step should be for CARB and/or the air districts to review and update the default emission factors. If CARB requires small sources to report emissions, the small sources would likely use the default emission factors. If the default emission factors overstate emissions and if CARB publishes granular emission data from all permitted sources within the community, that could raise alarms unnecessarily.

In summary, LADWP urges CARB to reconsider Section 93401(a)(4) applicability in the Discussion Draft, and work with the air districts to quantify emissions from small sources rather than requiring "all permitted sources" to submit an annual emissions report.

**Definition**

The "Portable" definition within proposed Section 93402(a) states "Equipment is not portable if any one of the following conditions exists:

"...The equipment or a replacement resides at the same location for more than 12 consecutive months..."

be reported annually, unless and until the cessation requirements described in Section 93401(d) are met.

- (3) The owner or operator of a facility subject to 93401(a)(3), must begin annual reporting the year after the air district has categorized it as high priority for toxic emissions and has been notified by the CARB Executive Officer and the local air district Executive Officer. The owner or operator of a facility subject to 93401(a)(3) will be notified by the CARB Executive Officer and the local air district Executive Officer prior to the data year or reporting period. For example, a facility categorized by the air district as high priority in 2018 will be notified in 2018 and must report their 2019 emissions in 2020.
- (4) The owner or operator of a facility subject to Section 93401(a)(4) only, must begin annual reporting the year after a community is selected for a community monitoring program or a community emission reduction program and has been notified by the CARB Executive Officer and the local air district Executive Officer. The owner or operator of a facility subject to 93401(a)(4) will be notified by the CARB Executive Officer and the local air district Executive Officer prior to the data year or reporting period. For example, a facility located in a region selected for a community monitoring program in 2018 will be notified in 2018 and must report their 2019 emissions in 2020.

Also, there appears to be an incorrect reference in Section 93403(a)(2). It seems the reference should be to "93403(a)(2)(A) and (B) below" instead of "93401(b)(1) (A) and (B) below". Please see suggested change below:

"For facilities subject to reporting based on criteria pollutant emissions as identified in Section 93401(a)(2), submittal of an emissions report in 2019 and 2020, for 2018 and 2019 emissions data, respectively, is optional for a facility that meets both the criteria in Sections 93401(b)(1)(A) and (B) 93403(a)(2)(A) and (B) below."

#### **Community Selected by CARB Governing Board**

Proposed Section 93403(a)(3) indicates that an owner or operator of facility subject to Section 93401(a)(4) must begin annual reporting the year after a community is selected for a community monitoring program or a community emission reduction program. In addition, the frequency of annual emissions reporting for these facilities is annually for the first five years and then every three years "unless specifically notified by the CARB Executive Officer than an alternate reporting schedule is required." LADWP is concerned that this possibility of an alternate reporting schedule allows CARB the flexibility to change the reporting frequency to more frequent than annual reporting.

Mr. David Edwards  
Page 7  
August 23, 2018

In closing, LADWP appreciates your consideration of these comments on the Discussion Draft.

If you have questions or would like additional information, please contact Ms. Jodean Giese at (213) 367-0409.

Sincerely,



Mark J. Sedlacek  
Director of Environmental Affairs

EK/CP:dms

c: Mr. John Swanson, CARB  
Mr. Patrick Gaffney, CARB  
Ms. Jodean Giese