

December 10, 2018

David Edwards, Ph.D.  
Chief, GHG and Toxics Emission Inventory Branch  
Air Quality Planning & Science Division  
Air Resources Board  
Submitted electronically to: David.edwards@arb.ca.gov

**SUBJECT: Additional Comments Regarding the Preliminary Draft Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting under AB 617**

Dear Dr. Edwards:

The California Small Business Alliance (Alliance) is a non-partisan coalition of California trade associations committed to providing small businesses with a single constructive voice to advocate on their behalf before all branches of government, including air quality management districts and other environmental regulatory agencies. The individual businesses belonging to these trade associations generally reside in commercial and industrial neighborhoods, and many of them have resided there for generations. They are an integral part of these communities. Moreover, these small businesses are most often the only source of good paying jobs with benefits that are available to the residents.

Representatives of the Alliance have participated in all the California Air Resources Boards (CARB) public workshops on the proposed regulation for annual reporting of criteria pollutant and toxic air contaminant emissions for stationary sources.

It is our understanding that this proposed regulation will be used in connection with implementing the Community Air Protection Program, as directed by Assembly Bill (AB) 617, as well as to augment other programs such as the AB 2588 Air Toxics "Hot Spots" program, State Implementation Plans, Air Toxic Control Measures, monitoring studies. Therefore, since this proposed regulation and the other regulatory initiatives will have a direct impact on small businesses, we feel compelled to provide the following information and comments for your earnest consideration before presenting the regulation for board approval.

**General Applicability**

In our August 22<sup>nd</sup> letter we observed that Health & Safety Code (HSC) § 93401(a), sub-section (4) states: *"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."*

We further observed that while the first three sub-sections are intended to capture and control devices and equipment used by most traditional stationary sources, sub-section (4) will have the effect of pulling into the regulation thousands of small businesses, such as family-owned dry cleaners, auto body shops, gasoline dispensing stations, small light manufacturing operations – even emergency backup generators – for no other reason than that much of this equipment is required to be permitted in order to legally operate. We believe it is both necessary and appropriate to point out that some of this same equipment, which is used by small businesses, is either exempt from the requirement of having a permit to operate or is provided an alternative to written permits, because it emits small amounts of air contaminants. Examples of these exemptions and alternatives are Rules 219 and 222, which have been promulgated by the South Coast Air Quality Management District (SCAQMD).

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It is our concern that adding more costly, complex, time-consuming reporting requirements to small businesses, whose resources are already stretched to capacity, could cause some to scale back or move their operations out of the very communities that CARB and local air districts are trying to help.

With respect to addressing our concern about smaller facilities operating equipment requiring permits to operate, but whose emissions are demonstrably small, we believe this regulation will unnecessarily require a significant number of small sources to begin reporting emissions. The SCAQMD, for example, does not currently require annual emissions reporting for facilities emitting less than 4 tons per year. These facilities are unable to reasonably prepare the required reports without costly, external, expertise and/or support.

We respectfully, but strongly, suggest that CARB earnestly consider excluding from this proposed regulation those facilities and/or categories of equipment which air districts, like SCAQMD, have exempted from being permitted.

The Alliance would like to remind CARB that HSC Section 44391.2 (2) mandates that the statewide strategy reduce emissions of toxic air contaminants and criteria air pollutants in communities affected by a high cumulative exposure burden shall include assessing and identifying the contributing sources or categories of sources (stationary and mobile), and an estimate of their relative contribution to elevated exposure to air pollution in the communities that have been designated as being impacted. Much of this work has yet to be accomplished.

Notwithstanding that HSC Section 93404(b) requires a lengthy list of toxics be reported, we believe it is unreasonable to require reporting of the full list of toxics since:

- a. Most facilities are not required to test for these compounds (i.e., there is no reason to test for compounds unrelated to the facility).
- b. Source testing would be a financial burden on small facilities.
- c. Without source testing data, very conservative emission factors would be required that will greatly exaggerate the community inventory.

The Alliance suggests that rather than test for every toxic, it is more reasonable to first have local air districts perform community monitoring to identify the toxics of concern. This would identify the problem and focus efforts on testing and reporting any toxics that pose a risk to the community. This is exactly the approach used by the SCAQMD in the City of Paramount when hexavalent chromium was found in the community. We recommend postponing consideration of this provision until technical guidance on community inventories and assessments has been completed and allow local air districts to determine which facilities should be included.

**CARB must define a “Community” and the “Boundary” of a community before formalizing the Proposed Regulation**

Finally, as regular participants in CARB’s workshops for this proposed regulation, and observers at the community steering committee (CSC) meetings, which are presented by the SCAQMD, Alliance representatives have observed considerable confusion and frustration among stakeholders over the reluctance to designate clean and concise boundaries for any of the first-year communities in the SCAQMD. The absence of having defined boundaries has raised innumerable questions about such things as:

- Which neighborhoods will be monitored?
- How many monitors will be allocated to a community?
- Where will monitors be located?
- How much incentive money will be allocated to a community?
- How will it be spent?

And, of course, those organizations who represent small businesses, but have thus far been excluded from participating on the CSCs, are frustrated at not knowing which stationary sources (businesses) will be subject to air monitoring, and eventually included in the emissions reduction planning. These questions are also being asked by individual small business owner-operators.

The Alliance strongly urges CARB and local air districts to designate specific community boundaries before moving forward with the proposed Regulation for Criteria Pollutant and Toxic Air Contaminant Emissions Reporting under AB 617

**Cessation of Reporting for Facilities Subject to Applicability Criteria under section 93401(a)(1) or (2)**

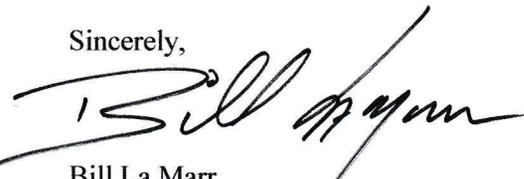
Section (c)(3)(A) requires facilities that shut down must report for a full year beyond the reporting year in which they shut down the facility (business). However, permits that have been cancelled by a local air district should be deemed a sufficient demonstration that a facility (business) has ceased to operate.

It is our experience that small business owner-operators faced with circumstances that make their enterprise unprofitable or impractical to continue operating usually put the business up for sale or close it down, cease operations, and often vacate the premises. Whatever the decision, the permits issued to the business are either reissued to a new owner-operator by the appropriate agencies or they expire for non-payment of fees. As such, facility (business) owner-operators who decide to cease operations should only be required to report their emissions up to the time of sale or cessation of operations. They should not be required to report (zero) emissions for a full year after nonoperation or after the time when their responsibilities end and become the responsibility of a new owner.

We strongly recommend that the reporting requirements under this section be reexamined and amended to reflect real world conditions before this proposed regulation is brought to the CARB board for approval.

Alliance members thank you for the time and effort that you and your staff have given to understanding the complex regulatory, administrative and technological challenges involved in moving towards a statewide reporting system, and to the outreach made to engage stakeholders and air districts. It is our hope that we will continue to move in a positive direction, and trust that these comments help support your work. Please contact me should you wish to discuss our suggestions in more depth ([billamarr@msn.com](mailto:billamarr@msn.com) or (714) 778-0763).

Sincerely,



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Executive Director

cc: John Swanson, Manager  
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