

June 7, 2019

David Edwards, Ph.D.
Assistant Division Chief
Air Quality Planning & Science Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814
Submitted electronically to David.Edwards@arb.ca.gov

SUBJECT: Comments Regarding the 25-Day Modifications to the CTR Regulation

Dear Dr. Edwards:

The California Small Business Alliance (Alliance) is a non-partisan confederation of California trade associations committed to providing small businesses with a single constructive voice to advocate 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 the California Air Resources Board's (CARB) public workshops involving the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) throughout 2018, and during the first half of 2019. We have provided oral testimony on two occasions and submitted both informal and formal comment letters during the regulation development process.

Notwithstanding a few minor modifications which Staff incorporated into the revised regulation, it still has the potential to burden small businesses with many monitoring, recordkeeping and reporting responsibilities, as well as burdening them with the additional expense associated with collecting, analyzing and formatting the newly mandated data. We, therefore, feel compelled to provide the following comments for your earnest consideration before releasing the modified CTR regulation for implementation.

§ 93401. Applicability:

During a recent discussion with the Staff, we were encouraged to learn that the regulation no longer applies to unpermitted equipment. And since many of our members have small businesses within the jurisdiction of the South Coast Air Quality Management District

(SCAQMD), we were even more encouraged to learn that their program will also apply only to permitted equipment.

Nonetheless, Alliance members are still concerned about the Activity Level Reporting Thresholds, shown in Attachment A of the CTR regulation. We believe them to be arbitrary and not based on the threat that individual sources pose to workers, residents in the community, in nearby communities or even statewide. It is our position that the health risks from air pollutants and toxics is not always the same. The same emissions from similar processes, devices and equipment, but located in different communities or locations pose completely different risks, and in some cases no risk at all. Resources should be focused where air quality and public health risk problems are greatest.

Some examples of these arbitrary activity levels are as follows:

Surface coating at auto body shops" including new and used car dealers:

The activity level for reporting is over 30 gallons of paint used per year. Considering that it takes the most of a gallon of single stage paint to coat a medium to full size car, this threshold appears to be set so low as to collect emissions data, less for the purpose of protecting public health and more for the purpose of merely collecting data.

Dry cleaning using perchloroethylene: The activity level for reporting is Zero, meaning the use of any amount of perc will trigger the requirement to report. The Alliance is confused as to why CARB intends to compel mom and pop dry cleaners who still have perc machines with closed loop vapor recovery systems in operation to go to the effort and expense of accumulating emissions data when perc will be banned throughout California in 2020. Whatever data are accumulated from this small segment of business will be useless by the time CARB is able to evaluate it.

Isocyanate compound use, including but not limited to print shops and commercial printing; aerospace manufacturing and maintenance, adhesive and sealants manufacturing; plastics foam product manufacturing; military facilities; and autobody shops: The activity level for reporting is any use of materials containing over 3 pounds of isocyanates per year. The Alliance feels compelled to remind CARB that commercial printers, autobody shops, and numerous other small business enterprises that apply coatings to substrates use products containing isocyanate compounds. Since these businesses are generally considered as "Job Shops," the work they perform is done according to their customer's specifications, and the amounts of isocyanates used in these jobs varies from customer to customer. While the manufacturers of coatings, inks, adhesives and sealants provide Material Safety Data Sheets (MSDS) with the products they sell, the information on these MSDS sheets is often insufficient to calculate the amounts of isocyanates being used. To expect a small business owner to test every can or batch of paint, ink, adhesive and sealant for the exact amount of isocyanate compounds contained inside is as unrealistic as it would be to require them to allocate the amount used in each job in a day, week or month.

Small businesses of this type simply do not have the time, technical resources, and the level of sophistication to perform these kinds of analyses and still run their

businesses efficiently, economically and without having to hire additional staff. We believe this threshold is another example of collecting emissions data, less for the purpose of protecting public health and more for the purpose of collecting data.

Retail sale of gasoline: The activity level for reporting is over 25,000 gallons of gasoline sold per year. According to our sources, an "average station" will sell ~4,000 gallons of gasoline per day. We therefore conclude that a profit-oriented business would not be sustainable with such meager sales of gasoline. We believe this threshold is yet another example of CARB wanting to collect emissions data, less for the purpose of protecting public health and more for the purpose of collecting data.

While on a statewide basis the emissions from some of these sources may rise to a level of some significance, but on a community or regional basis, the potential harm from these emissions to the general public is problematic at best.

§ 93403. Emissions Reporting Requirements:

As previously mentioned, Alliance members have many legitimate concerns about what their new responsibilities will be in order to comply with the reporting requirements in the revised CTR regulation.

We appreciate the CARB staff adjusting the multi-year, phased-in approach for preparing and submitting emissions reports. On balance, we appreciate your allowing that: "*emissions reports must provide the same criteria air pollutants and toxic air contaminants (TACS) that have most recently been reported to the local air district, or sufficient activity level data to calculate such emissions.*" Nevertheless, we do recognize certain inconsistencies in thresholds for reporting TACS by some air districts and the thresholds for reporting set forth in Appendix A, Applicability Thresholds and Lookup Tables for Facilities Subject to Reporting Per Section 93401(a)(4) of the CTR regulation. So as not to repeat what we've already written, we ask that you refer to the four (4) examples of arbitrary activity levels we cited earlier in this letter.

As part of our collaboration with the CARB staff, the subject of *abbreviated reporting* was discussed to some extent. While we believe we could support any reasonable concept that would reduce the time and cost of gathering, inventorying, and testing emissions data, we still have some reservations about the way in which *abbreviated reporting* would be performed. As it was explained to us, *abbreviated reporting* would rely heavily on the use of default emission factors. Therein lies many of our concerns.

In our discussions with the CARB staff, we were led to believe that their emission factors may not be up to date. In similar discussions with local air districts, especially the SCAQMD, we were informed that their emission factors are indeed in need of updating.

Our concerns over the feasibility of using default emissions factors – at least at the outset of this new program – are not solely based on a few discussions with agency staff. In 2017, the SCAQMD was engaged in amending Rule 1401 (New Source Review of Toxic Air Contaminants). One of the amendments being considered was adjusting the emission factor for refueling activities at gasoline dispensing stations which differed from CARB's emission factor which was considerably lower for certain vehicles having (or not having) onboard

refueling vapor recovery systems. During the rule development proceedings both SCAQMD and CARB staff revisited their disagreement over whose emission factor was correct. At the conclusion of the proceedings both SCAQMD and CARB staff committed to resolving their differences by the end of 2017. To date we have yet to hear if their differences were ever resolved.

Businesses, whatever their size, cannot be held hostage because of technical or political differences. It threatens their ability to compete in a vibrant marketplace. It threatens the economy and it has the potential to harm the environment.

We wish to emphasize that the Alliance could support abbreviated reporting with the use of default emission factors, if we could be assured that they were up to date, supported by all 35 air districts, and by affected businesses and other stakeholders. Of equal importance is that if CARB intends to consider abbreviated reporting as an option, we strongly urge them to fully document how, when, and under what conditions it will apply in the regulation and nowhere else.

§ 93404. Emissions Report Contents:

Alliance members appreciate the revisions that the CARB staff have made in this section to reorganize some of the content to provide for a more logical flow of information. However, the complexity of many of the tasks and responsibilities that the regulation will impose on smaller emitters (small businesses) virtually guarantees that many will fail in their attempts to comply.

While small businesses operating at the lower end of the emissions scale (<4tons per year) for criteria pollutants should be accustomed to complying with the reporting criteria set forth by their designated air districts, compiling the data necessary to prepare the required reports for TAC emissions is very likely to be beyond their capability without procuring costly outside scientific and/or technical support.

This section requires a lengthy list of TACs to be reported. It is the position of the Alliance that it is unreasonable and unnecessary to require smaller emitters (small businesses) to report on a lengthy list of TACs, especially if the compounds are unrelated to the facility and there is little or no expectation of these compounds being present. Doing so, would necessitate exhaustive research and additional screen and/or source testing which would be an extreme financial burden on small facilities and facilities that have not had to report previously. We suggest that CARB consider using de minimis thresholds, exempting some compounds or adopt a sector-based approach to identify and prioritize which TACs should be tracked and reported to be protective of public health and sensitive to the needs of business.

At this juncture, we believe it is appropriate to remind the CARB staff of our earlier comments on the use of default emission factors by observing that without a history of source tests, or without conducting costly new source testing, very reliable and conservative emission factors would have to be accurate and available.

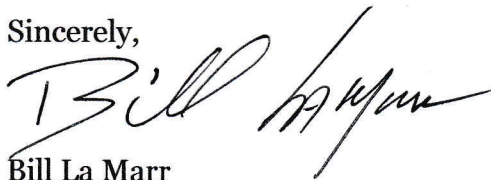
Finally, we would like to remind CARB that - 80 percent of the NO_x emissions come from sources other than stationary sources, such as mobile, rail, aircraft, ocean going vessels, and

harbor craft. While we acknowledge that CARB understands that emissions inventory data are critical to understanding the sources of emissions which contribute to adverse health risks at the local, regional, and statewide level, we are puzzled as to why the sources under your direct control are not included in this regulation.

Alliance members appreciate the lengths to which the CARB staff has gone to in order to inform the regulated community and general public of the CTR regulation. Most of all, we appreciate the opportunity to engage with you and offer our comments and recommendations. We are committed to working with CARB, the air districts, and other stakeholders to further refine the regulation and to develop the many core pieces of the program that are needed to ensure successful and timely implementation.

Should you have any questions, please contact me at (billlamarr@msn.com) or at (714) 778-0763.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill La Marr", written over a horizontal line.

Bill La Marr
Executive Director

cc:

Mary D. Nichols, Chairman/CARB
Richard Corey, Executive Officer/CARB
John Swanson, Manager
Patrick Gaffrey, Lead Staff
Office of the Ombudsman