

November 12, 2020

Richard Corey, Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812
Electronic Submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

SUBJECT: COMMENTS ON PROPOSED AMENDMENTS TO THE REGULATION FOR THE REPORTING OF CRITERIA AIR POLLUTANTS AND TOXIC AIR CONTAMINANTS AND THE EMISSION INVENTORY CRITERIA AND GUIDELINES REPORT FOR THE AIR TOXICS "HOT SPOTS" PROGRAM

Dear Mr. Corey:

The Monterey Bay Air Resources District (MBARD) appreciates the opportunity to be involved in the revisions to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) and the AB2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Regulation (EICG). We also appreciate the time CARB has spent engaging in receiving feedback from the air districts. However, MBARD believes a slower approach to implementing these rule revisions will allow for establishing the appropriate level of review and the ability for CARB to create a uniform statewide system for reporting as directed in AB 617. We are in support of CTR and EICG; however, we are concerned that the proposed path forward undermines the success of these proposed revisions for the regulated community, air districts, CARB, and the public.

Rushed timing

The timeline for receiving materials to review prior to the comment deadlines continues to be insufficient. The materials for the September 30 workshop were posted the afternoon of September 29 providing attendees little, if any, time for review. If CARB seeks to receive meaningful comments, more time should be given to review the over 700 pages of material included in the CTR and EICG rulemaking documents. A 45-day review period is insufficient time for air districts, the regulated community, or public to review all the documentation and changes. Finally, having comments due three days prior to the Board meeting means these comments cannot be reviewed, nor adjustments made, in a timely manner to allow your Board to make a fully informed decision based on the concerns raised by the commenters.

Cost of the Regulatory Requirements

In the Economic Impacts Assessment section of the Staff Report- Initial Statement of Reasons, CARB estimates costs of \$560 for the first year and \$300 each subsequent year for small business reporting. The longer-term impacts of COVID-19 are unknown so even an additional \$300 burden every year might be too much for a small business.

CARB's cost analysis also states air districts may need to establish fees in order to support the additional workload generated from the regulatory requirements. In our jurisdiction we have approximately 1,200 facilities that will be subject to reporting. Using CARB's logic that it will cost \$300 on-going for small businesses

to report, this represents our staff time of about 2 hours per facility or 2,400 hours. Reporting is due each year by May 1 to the air districts and then by August 1 to CARB. It is unreasonable for medium-sized and rural air

districts to support this level of workload, 2,400 hours, in an eight-month period. Finally, in this time of COVID-19, it is highly unlikely that our Board of Directors would be willing to add a new fee to struggling small businesses to support this level of reporting effort. CARB must seek a funding source to support these regulatory changes or scale back the reporting requirements for sources located in medium-sized and rural air districts (as listed in CTR Table A-2, Group B).

Lack of Transparency for New Pollutant Lists (CTR Appendix B)

MBARD does not support reporting for chemicals for which there are no established toxicity values, source testing methods, and for many chemicals no emission factors or other emission quantification methods. CARB has not provided any documentation or justification to support how the CTR Appendix B chemical lists were created or how existing substances in EIDG Appendix A-1 (shown as 'e') were newly associated with specific processes in the EIDG Appendix C. For example, there are substances, such as crotonaldehyde, which was added as a substance emitted from natural-gas fired combustion sources or tert-butyl alcohol which was added as a substance emitted from gas stations. A reporting regulation should be based on a clear understanding of what is emitted from a process from established emission factors or source testing. Reporting for common equipment such as natural-gas fired boilers and gas stations cannot be based upon each reporter researching how to calculate emissions. This approach is not consistent with the AB 617 requirement to establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants.

Data Reporting Tool

The proposed changes to CTR introduce a massive amount of additional data for CARB to receive and store. It is hard to envision how the current system of using HARP transaction files to import the data into the outdated CEIDARS will be successful. Many of the required data fields and pollutants called out in the CTR regulation are not available data fields in HARP or CEIDARS. We have heard talk of a new database platform but have not seen progress toward this database and believe the timeline for the reporting requirements make it impossible to have a new system up and running to receive data.

CTR Specific Comments

Reporting Threshold

MBARD does not support the reporting threshold in §93401(a)(4)(A) of 4 tons per year. There is no justification or consistency with any existing regulation for this level of emissions to trigger reporting. At a minimum, MBARD's recommendation is to bring a level of consistency with existing air district regulations by changing the applicability to 5 tons per year. Many current air district regulations define federal "de minimis" actual emissions at a level of 5 tons per year based on a CARB and California Air Pollution Control Officers Association (CAPCOA) developed model state rule to limit potential to emit. Please see the information provided in this link, including the California model rule: <https://www.arb.ca.gov/fcaa/tv/tvinfo/pteatt.pdf>. A slower implementation approach would lead to more successful compliance with the reporting requirements. MBARD suggests allowing medium and rural air district more time to implement the regulation. As mentioned above, the staff time necessary for medium and rural air districts to help sources meet the reporting requirements is not feasible.

MBARD recommends allowing all sources meeting the additional applicability requirements in §93401(a)(4)(A) to submit abbreviated reports.

Section 93410 (f) Request for Determination of Applicability

Rule applicability determinations should be addressed by CARB as requested by a facility or air district. Citizens do not need to be given the authority to request an applicability determination in the CTR language. The public has the right to request records such as a permit application completeness letter or engineering evaluation which could include permit status information. However, an air district is not required to create a record that does not exist to satisfy a citizen request (Gov. Code, § 6252). Our recommendation is to remove this language from the regulation and allow the public records regulations to cover citizen requests.

EICG Specific Comments

Population-Wide Risk Assessment

CARB's directive in Health & Safety Code §44342 is to develop criteria and guidelines for site-specific inventory plans. The terms "site-specific" and "facility" are clearly used in §44342 to indicate AB2588 was intended to address facility risk not the combination of risks from many facilities on a population. The language added regarding taking into consideration population-wide impact assessment, persistence, or bioaccumulative properties are beyond the scope of CARB's responsibility for developing guidelines and should be removed from the document.

The district may consider population-wide impact assessment in addition to point estimates of risk, and may consider the facility's risk individually or in combination with other facilities. The district may consider additional properties of concern including persistence and bioaccumulative properties.

Gas Stations and Industrywide Emission Inventory

CARB and CAPCOA have been working on Industrywide Guidance for Gas Stations and this document will go to CARB's Board later this year. The compound tert-butyl alcohol is not included in this guidance document but has been added in EICG Appendix C as emitted from gas stations. With the addition of tert-butyl alcohol, does this invalidate the efforts of CARB and CAPCOA staff such that the industrywide guidance cannot be used because of the following language in the EICG (Section II, page 14): unless the district notifies the facility in writing that the facility's emissions of the added substance are or will be included in an industrywide emission inventory prepared by the district, and submitted to CARB?

On-Site Mobile Sources

On-site mobile sources were added in Section VIII, G with the justification being a concern about hazardous materials. However, Appendix A does not include a substance called "dust emissions" nor does Appendix C identify what hazardous materials are to be quantified in dust emissions from routine and predictable on-site motor vehicle activity. Does this mean every site now needs a geologic assessment of whether the unpaved roadway or other surface materials contain silica or naturally occurring asbestos or some other hazardous material? Please remove this requirement or identify what hazardous material(s) are supposed to be reported as emitted from dust emissions.

The subsection for other non-motor vehicle emissions should be removed from the guidelines. Most of the examples provided are regulated by CARB's own separate regulations and in some cases have reporting

requirements under those regulations. It is not clear what is gained by requiring emissions reporting for a lawn mower, chainsaw, or refrigeration unit at a facility. Finally, the statement that “the district may require the facility operator to report activity data regarding the usage of non-motor vehicle mobile sources that are periodically located within the facility property” is unclear as the term “periodically” is not defined.

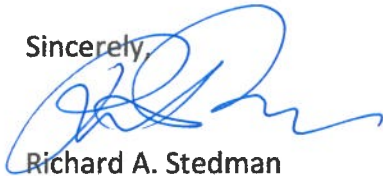
Appendix C

CARB has provided no justification for the substances newly associated with common processes listed in Table C-1. As an example, carbon nanotubes were added to Drinking Water Treatment on page C-1[38] and Publicly Owned Treatment Works on page C-1[147]. This substance is also included in CTR Appendix B. We are not aware of any emission factors or other methods to estimate emissions of this substance. CARB should provide more transparent references and information to support how substances were associated with processes in Appendix C.

MBARD recommends extending the review and comment period to have additional time to address the issues included with this letter and other issues we have communicated in prior comment letters which have not been addressed. We also recommend applying the proposed regulatory changes only to the air districts with AB 617 communities. Once a reporting system is established with these air districts, additional consideration can be made to roll-out the requirements statewide.

MBARD will continue to work with CARB on the emissions reporting requirements but requests that CARB postpone the regulation changes so that our comments can be addressed and heard by your Board.

Sincerely,



Richard A. Stedman
Air Pollution Control Officer