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Clerk of the Board  
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[https://www.arb.ca.gov/lispub/comm/bcsubform.php?comm\\_period=A&listname=ctr2018](https://www.arb.ca.gov/lispub/comm/bcsubform.php?comm_period=A&listname=ctr2018)  
and via email: [cotb@arb.ca.gov](mailto:cotb@arb.ca.gov)

Re: Comments on Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, dated October 23, 2018
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On behalf of the Southern California Gas Company (SoCalGas) and San Diego Gas & Electric (SDG&E) and our over twenty million customers, we respectfully submit the following comments regarding the California Air Resources Board (ARB) Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants dated October 23, 2018 (CTR Regulation). SoCalGas and SDG&E greatly appreciate the time staff has taken to discuss and work with stakeholders on the proposed CTR Regulation; however, we have concerns with the proposed regulation text that have yet to be resolved. We respectfully request the ARB Board to not adopt the October 23, 2018 version of the proposed CTR Regulation at the upcoming Board Meeting on December 14. Our comments and suggestions for specific sections are outlined below for your consideration.

**I. APPLICABILITY – SECTION 93401**

**A. General Applicability, §93401(a)**

SoCalGas and SDG&E provide service to over twenty million customers, most of which are small businesses and residential customers. We are very concerned about the burdens for many small businesses that may be required to report emissions for the first time under proposed CTR Regulation §93401(a)(4) that will require reporting by facilities with air district permits “located within the boundary of a community selected by CARB.” Most small businesses lack the resources

and training necessary to comply with the two-page list of required data in General Contents §93404(a) for each annual report. We fear these requirements may be so confusing and burdensome that a small business may consider closing or moving outside of a selected community, thus hindering economic development or limiting services in an already disadvantaged area.

As currently proposed, the CTR Regulation has uneven applicability for small facilities in selected communities due to differences in permit requirements amongst air districts. For example, some air districts require permits for hot water heaters with hourly heat input ratings as low as one million BTU per hour while other air districts exempt the same devices with heat input up to five million BTU per hour. It would be unfair to require reporting by one facility that has the same equipment as a second facility solely because one is in a certain air district versus another. Because air districts already calculate toxic air-pollution emission inventories for area sources, we request ARB work with air districts to prepare more detailed criteria and toxic emission inventories for selected communities. Greater accuracy would be afforded by professional ARB and air district staff preparation of the emission inventories in the selected communities rather than assisting and training already stretched small businesses owners on new reporting requirements.

Neither ARB nor the air districts have yet to clearly define boundaries for selected communities. While we understand that such small facilities would start reporting in 2021 for 2020 data, South Coast Air Quality Management District staff indicated at a recent community steering committee meeting<sup>1</sup> they want to avoid redlining and do not want to draw hard boundaries around selected communities. Staff discussed how natural boundaries such as major highway or cross street would be more appropriate. Given it is not clear who may be in and who may be out, ARB should not include all permitted small facilities in selected communities in the proposed CTR Regulation. Alternatively, we request that ARB include a threshold or de minimis level below which small businesses would be excluded from the proposed CTR Regulation.

#### **B. Exclusions, §93401(b)**

SoCalGas and SDG&E appreciate ARB including exclusions for both suppliers of natural gas and natural gas distribution systems, although clarification is needed in both §§93401(b)(1)(A) and (C). These sections are written to not allow exclusion of either suppliers of natural gas or natural gas distribution systems if one reports “combustion emission sources.” Our interpretation is if one must report just the number of combustion devices (sources), such as under Environmental Protection Agency (EPA) 40 CFR Part 98 Subpart W<sup>2</sup>, but are not required to report the emissions of such devices due to de minimis levels, one would not be eligible for the exclusion. This discrepancy would be clarified by taking out the word “sources.” Thus, the exclusion would still not be applicable if one reports combustion emissions, but would be allowed if one only reports a number for de minimis devices (sources).

#### **C. Cessation of Reporting for Facilities, §93401(c)**

SoCalGas and SDG&E believe that only those facilities whose greenhouse gas emissions exceed 10,000 metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>) in a single calendar year should

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<sup>1</sup> East Los Angeles/Boyle Heights/Commerce Community Steering Committee Meeting on November 28, 2018

<sup>2</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-11-30/pdf/2016-27981.pdf>

be required to report under proposed CTR Regulation §93401(c)(1). ARB's Mandatory Greenhouse Gas Emissions Reporting regulation (MRR) requires continued reporting for three consecutive years despite a facility's greenhouse gas emissions falling below the MRR threshold of 10,000 MTCO<sub>2</sub>e per calendar year. We believe ARB requires the consecutive three-year period for MRR, because it is linked to the three-year compliance periods in the Cap-and-Trade Regulation. The Assembly Bill (AB) 617 statute<sup>3</sup> for emissions reporting, Health and Safety Code (H&SC) §39607.1, stipulates reporting from stationary sources subject to greenhouse gas reporting pursuant to H&SC §38530, which only addresses greenhouse gas reporting and is not related to ARB's Cap-and-Trade program. Therefore, it appears requirements in MRR that are linked to the Cap-and-Trade program exceed the requirements in the statute for AB 617 reporting.

It is also uneven treatment to require a facility that was once subject to MRR but has fallen below the threshold of 10,000 MTCO<sub>2</sub>e per calendar year to report under the proposed CTR Regulation. For example, if there are two facilities (not subject to another applicability section of the proposed CTR Regulation) that have greenhouse gas emissions of 9,900 MTCO<sub>2</sub>e for three years in a row, but one of them had emissions of 10,100 MTCO<sub>2</sub>e the year prior, that facility would have to report under the proposed CTR Regulation for four years, while the other would not at all. We respectfully request that ARB make it clear that reporting facilities under proposed CTR Regulation §93401(c)(1) do not have to report for calendar years in which greenhouse gas emissions do not equal or exceed 10,000 MTCO<sub>2</sub>e.

## **II. DEFINITIONS - §93402**

### **A. Facility**

SoCalGas and SDG&E appreciate ARB carrying the exclusions in §93401(b)(1) over into the facility definition in §93402. However, it appears clarification is needed as greenhouse gas emissions from natural gas distribution systems, §93401(b)(1)(C), are not quantified under MRR §§95111, 95121, 95122 nor 95123. Rather they fall under MRR §95153. We request that this section be added to this list under the definition for facility in Definitions §93402.

### **B. Natural Gas Distribution**

SoCalGas and SDG&E appreciate ARB using the definition for natural gas distribution in MRR §95150(a)(8) in Definitions §93402, but note that a new sentence excluding "major leaks" has been added with no definition of what constitutes a major leak. SoCalGas and SDG&E report leaks from our pipeline systems pursuant to the California Public Utilities Commission Gas Leak Abatement Rulemaking (R.15-01-008) also known as the Senate Bill 1371 program. We believe adding "major leaks" to the definition will result in duplicative reporting. We respectfully request that the second sentence excluding "major leaks" be removed from the definition for natural gas distribution as it is duplicative, overreaching, and unclear.

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<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB617](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB617)

### **III. EMISSION REPORTING REQUIREMENTS AND CONTENTS - §93403 AND §93404**

#### **A. Submittal of Emission Reports to CARB, §93404(c)**

SoCalGas and SDG&E understand that ARB intends for facilities to continue business as usual reporting with the addition of annual toxics emissions, but §93403(c) is confusing. This section states air districts “may” submit emissions data on behalf of facilities and if an air district does not do so by August 1, the facility is required to provide emissions and activity data to both ARB and the air district. First, if the facility has already provided data to the air district, it would be duplicative to provide it again to the air district as required in §93403(c)(1)(A). Second, some air districts have existing electronic reporting systems, so it is unclear as to the format for providing data to ARB if the air district does not do so on the facilities behalf. Third, §93403(c)(1)(A) allows 30 days for facility submittal to ARB of emissions-data reports representing actual emissions, but if current air district reporting practice only entails facility submittal of activity data, 30 days may not be adequate to resolve such data into actual emissions.

Section 93403(c)(2) states that beginning in 2021 a facility with air district approval may use an available state electronic data system. This section also states if an air district chooses this option, the requirements of §93403(c)(1)(A) do not apply. It appears the requirements of §93403(c)(1)(A) only apply if ARB makes the determination of missing data. Also, there is no incentive to report to a state electronic data system if it does not replace reporting requirements to air districts.

#### **B. General Contents, §93404(a)**

The two-page list of general contents for each report is excessive. For example, §93404(a)(9)(C) specifies that each device at a facility be reported with a “unit type code” that is defined in §93402 by referencing an EPA Registry Service with which we are not familiar. Also, the required “pollutant code,” §93404(a)(11)(C), is not defined in §93402. We believe it would be more appropriate and consistent for air district or ARB staff to assign these codes if necessary to minimize confusion and reporting burden.

#### **C. Emissions, §93404(b)**

Section §93404(b)(1) specifies the criteria air pollutants that must be reported, which include lead and ammonia. We understand that lead is an EPA criteria pollutant and ammonia is defined in §93402 as a precursor pollutant for particulate matter, but ammonia is reported under the Air Toxics Hot Spots Reporting Program Appendix A-1, September 26, 2007, with a 200-pound degree of accuracy. It is duplicative to require reporting of the same compound twice in the same annual emissions report; therefore, we respectfully request that ARB remove the language for ammonia reporting under criteria pollutants.

The air districts to which we provide annual criteria-pollution emission reports have not required reporting of lead and it is not a listed compound in the Air Toxics Hot Spots Reporting Program, Appendix A-1, September 26, 2007, although lead chromate is listed in Appendix A-1. While we understand the importance of lead as a criteria pollutant, we are not sure it is emitted from

stationary sources like it was from gasoline-fueled motor vehicles until tetra- ethyl lead was removed from gasoline in the 1970s.

We respectfully request ARB to remove ammonia from the criteria-pollution emissions reporting since it is already reported under the Air Toxics Hot Spots Reporting Program, and either remove lead from the criteria-pollution emissions reporting since lead chromate would be reported as an air toxic or further evaluate and provide additional information and guidance as to possible reporting of lead as a criteria pollutant.

#### **IV. ENFORCEMENT - §93407**

SoCalGas and SDG&E acknowledge that enforcement provisions are essential to effective regulatory programs; however, enforcement provisions should seek to achieve desired objectives cost effectively and incent desired behavior. It is critical that enforcement provisions consider efforts of regulated entities to comply and not penalize entities for activities that could not have reasonably been prevented. For example, §§93407(a)(2) and (3) state that failure to submit, or incomplete or inaccurate data are considered violations. Yet initially air districts will be collecting, quantifying, reviewing and submitting emissions data on facilities' behalf; therefore, it might be outside of one's control to ensure that there is timely, complete and accurate reporting to ARB.

We suggest that ARB consider developing Memoranda of Agreements (MOAs)<sup>4</sup> with air districts similar as was done for the state's Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities<sup>5</sup>. Such MOAs should delineate which agency will primarily be enforcing the CTR Regulation once adopted and that there will not be duplicative enforcement and penalties.

#### **V. CONCLUSION**

In summary, we urge the ARB Board not adopt the proposed CTR Regulation as currently drafted and take our comments and suggestions into consideration when making needed revisions to it. SoCalGas and SDG&E greatly appreciate the time staff has taken to discuss and work with stakeholders on the proposed CTR Regulation and believe continued dialog, revised language and stakeholder comment is needed for smooth rollout and implementation across the state. We look forward to engaging with ARB staff as the process proceeds. Please contact me if you have any questions or concerns about these comments.

Sincerely,

*Tim Carmichael*

Tim Carmichael  
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SoCalGas and San Diego Gas and Electric

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<sup>4</sup> <https://ww2.arb.ca.gov/resources/documents/oil-and-gas-regulation-moa>

<sup>5</sup> <https://www.arb.ca.gov/regact/2016/oilandgas2016/ogfro.pdf>