



November 11, 2020

Mr. Dave Edwards
Assistant Division Chief
California Air Resources Board
Sacramento, California

SENT VIA EMAIL

RE: Comments Regarding Proposed Amendments to Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (or CTR)
Draft Dated 9/30/2020
Formal Comment Period: October 2, 2020 to November 16, 2020

Dear Mr. Edwards:

Thank you for this opportunity for the Industrial Environmental Association (IEA) to submit comments regarding the proposed amendments to the CTR Regulation. Once again, we appreciate the outreach and availability of staff to discuss these revisions.

Following are recommendations respectfully submitted by IEA for your consideration:

§ 93401. Applicability

(a)(4) Additional Applicability/Additional Applicability Facility

Comment: For the record, we would like to reiterate key points raised in our previous comment letters of June 6, 2019, August 1, 2019 and March 4, 2020, which we feel deserve careful consideration and discussion if the ARB intends to move forward with additional applicability criteria.

- It is well documented that the majority of emissions (80% or more) and health risks are due to mobile sources, which this regulation does not address. Instead, the amendments seem to focus on collecting significant amount of data with no clear strategy on how the data will actually be used to achieve meaningful emission reductions.

- Lowering the applicability threshold to 4 tons/year of any criteria pollutant except carbon monoxide, puts the emphasis on relatively small contributors to air pollution at great cost to the local agencies and regulated entities. New language at 4 (a) and 4(b) lower the applicability criteria even further by allowing the local districts discretion to set the applicability threshold based on the facility's authorized (permitted) potential to emit, instead of actual data year emissions. This change would potentially capture even smaller sources of emissions.
- This threshold is significantly lower than the threshold that the legislation had intended (i.e., 250 tpy). In San Diego alone, this threshold would pull an addition 7,500 facilities into the annual reporting program, putting a significant strain on San Diego APCD's already strained resources with minimal environmental benefits. This threshold should be revisited; possibly raised; or a tiered threshold should be implemented. For example, consider annual reporting for greater than 20 tpy facilities, bi-annual reporting for facilities between 10-20 tpy and reporting every 4 years for facilities with 5-10 tpy.
- The amendments seem to focus on quantities of emissions and not on another component of risk, which is proximity to receptors. IEA recommends that proximity of the affected facilities to offsite receptors be considered when determining reporting frequency. Facilities that are in remote locations, miles away from offsite residential communities and businesses, should be exempt or subject to less frequent reporting. Expending a significant level of effort to report annual air toxics emission for these facilities is not justified since the emissions do not reach any communities. These resources would be better spent if applied to actual emission reduction projects.
- Implementing this portion of the regulation, as currently proposed, could potentially take manpower and resources away from local air district programs that focus on reducing emissions, protecting disadvantaged communities, and providing a predictable and reliable permit process that is essential to businesses and facilities that choose to continue their operations in California.
- There is significant cost associated with the proposed modifications, but absent are clear environmental benefits. We also believe the existing economic impacts summaries underestimate the cost of implementing this program. There are many steps involved in collecting the data, detail checks, data gaps analysis, and submittal to the agency. One San Diego facility estimates 500 hours to complete the annual inventory for their facility. Furthermore, as we look ahead to another year or two of life in a pandemic, operations will continue to be restrictive and costly in order to ensure the safety of our employees. As a result, costs are up and production is down. This is the wrong environment and the wrong time to impose costly new regulations, particularly when some of these requirements lack clear environmental benefits.

(b) Exclusions

Comment: The regulation is structured in a way that no reasonable exemption can be sought. The petition process does not address exemptions. We recommend including a mechanism to negotiate an exemption status for yearly reporting at the discretion of ARB or the local APCD/AQMD. For example, under exclusions; add paragraph B, clause 4: "This article does not apply to facilities or emission units that meet exemption criteria as approved by the local air districts or ARB." Examples of criteria for exclusion include: Remoteness of facilities; distance from receptors, less than 10% change in operations or stability of operations, etc. or an emission change of less than certain amount per year (e.g., < 2 tons/year change a single pollutant).

§ 93403. Emission Reporting Requirements

General Comment

- We suggest that CARB allow annual emissions reporting to continue indefinitely using existing district programs and methods. For example, in San Diego County, regulated facilities provide usage data to the District. The District then calculates the emissions. Other Districts have their own established methods. These methods and programs have worked for years for both the air districts and regulated facilities and provide reliable emissions data.
- We appreciate the effort to use a phased-in approach in order to minimize resource impacts for air districts. However, absent a plan by CARB for providing the necessary resources to California's Air Districts, a phased in approach only delays the inevitable – air district staffs overwhelmed by a massive increase in workload required to review and process hundreds (thousands) of new reports.
- **(c)(1):** *Owners and operators of a facility subject to this article must submit annual emissions reports by May 1 of the year immediately following the data year.*

Comment: We recommend adding: "unless an extension is granted by CARB or the District."

Owners and operators of a facility subject to this article must submit annual emissions reports to the local air district by May 1 of the year immediately following the data year, unless approved by the local air district and CARB to submit emissions reports directly to CARB as specified in 93403(c)(2). For one or more facilities, a local air district may ~~specify a different submittal date which supersedes~~ extend the May 1 submittal date by 30 days, if the district is able to provide the data to CARB no later than August 1 of the year following the data year.

§ 93404. Emissions Report Contents

- **General Comment**

Comment: The regulation requires emissions to be reported by source. This methodology will not work for facilities with a facility-wide cap. For such facilities, alternate reporting methodologies approved by the local district or ARB should be used. An example is test cell facilities, where emissions are reported based on the number and size of engines tested not specifically by individual test cell.

- **(c)(1): “Emissions.** *For permitted processes and devices (and at the discretion of the air district for unpermitted processes and devices) the annual direct and fugitive emissions of the following air pollutants must be reported.*

- Comment: This regulation is intended to capture permitted emission units and processes. However, it contains language that allows the local districts to expand the scope to nonpermitted units at their discretion. In the interest of achieving ARB’s stated goal of a uniform state-wide reporting program, we recommend eliminating these provisions because they encourage non-uniform reporting requirements and will result in a complete lack of standardization from one air district to the next.

- **(d): “Use of Best Available Data and Methods”.** *Annual emissions reports prepared pursuant to this article must provide ~~the~~ any changes to emissions calculation method, the source of the reported emissions factor, and the control efficiency, as applicable, using best available data and methods, that are used to compute emissions of criteria air pollutants and toxic air contaminants. If some or none of the above information has changed from the previous year, no additional information is required to be submitted.”*

- Comment: Facilities should not be required to submit this information annually if the information has not changed. We recommend clarifying that only new or revised information should be added.

§ 93421. *Abbreviated Reporting*

- **General Comments**

- According to District staff, 40% of facilities could apply for abbreviated reporting, which could be as many as 27,000 facilities. How will the CARB accommodate the additional workload associated with reviewing these requests in a timely manner? One suggestion would be to add language to this section that provides an opportunity for facilities that have minimal or no changes in their emission reports over the previous year, to submit a form that simply documents there have been no significant changes since previous year or over a 3-year period (to allow for some operational/emissions variations). Examples of criteria for consideration would include remote facilities and distance from receptors, facilities with stable operations with less than 10% change in operations or with an emission change of less than certain amount per year (e.g., < 2 tons/year change a single pollutant).
- In addition, we believe it is essential for CARB staff to have some flexibility as this process moves forward. We recommend that this section be left open-ended, so staff has the flexibility and opportunity to introduce additional mechanisms and processes for abbreviated reporting that reflect the realities of CARB staffing. This section may require changes including a specific review action such as: After the end of the first (second) reporting period, CARB staff shall meet with stakeholders to conduct a review of the processes and options for requesting abbreviated reporting and consider changes to the program.
- IEA recommends that Abbreviated Reporting should apply to auto body shops and dry cleaners in addition to the ones already listed to be consistent with AB 2588 industry-wide survey sites that include gas stations.
- (a)(3): ***Emergency standby generators and direct-drive emergency standby fire pump engines*** – please clarify whether total hours include emergency operations. Currently, in San Diego County, we typically only report the hours for maintenance and testing, not the hours used for emergency purposes, since these hours/emissions are not routine. In addition, IEA recommends reporting diesel engine activity once every 4 years to be consistent with AB 2588. San Diego, for example, has over 2,000 diesel engines that are mainly emergency generators that only run for maintenance and testing. It is already difficult for air districts and facilities to report the emissions once every 4 years. We would recommend improving the reporting/review process before collecting annual data.
- (b): ***Petition Process for Requesting Additional Qualifying Activities for Abbreviated Reporting, and for Requesting Alternative Schedules or Alternative Parameters for Acquiring Activity Data for Qualifying Activities.***

- Comment: We appreciate that ARB has added a provision for requesting alternative schedules and additional activities to be included for abbreviated reporting. We agree with the 90-day ARB review timeline, after which, if no response is provided, the facility owner/operator, or district, may apply the requested alternatives.

We recommend that the scope of this petition be broadened, as proposed below, to include short-term and long-term exemptions based on factors such as the amount and nature of emissions and proximity to receptors; less frequent reporting schedules; and other program flexibilities.

(c) Petition Process for Requesting Less Frequent Reporting for Qualified Facilities. A facility owner or operator, or a district, on behalf of facility owners or operators, may submit a request to CARB that less frequent reporting be approved for remote facilities, facilities with stable emissions that certify to less than 10% change in annual operations or emissions, or facilities that fit other criteria that would qualify them for less frequent reporting. Such requests must include the justification for the request. Requests shall be submitted to the email address in section 93403(f) and, if applicable, the emissions inventory staff of the local air district. If CARB approves the request in writing or via email, or if CARB does not respond to the request within 90 days, the facility owner or operator, or district, as applicable, may consider the request approved.

Appendix A. Applicability Thresholds and Lookup Table for Facilities Subject to Reporting Per Section 93401(a)(4)

- Comment: It is our understanding that if one piece of equipment or process triggers reporting by exceeding the threshold in Table A-3, the entire facility's equipment and processes would be subject to reporting. There is no clear benefit of reporting all emissions when it comes at such a potentially significant cost. We recommend limiting reporting to the emission unit/process that exceeds the applicable threshold if no other rule applicability thresholds are exceeded.
- Emergency generator thresholds of hours/fuel used should be only for routine maintenance and testing to be consistent with AB 2588. Emergency hours and emissions should not be included when comparing to the threshold.

Thank you for your consideration of these recommendations. Should you require any additional information to support our suggestions or have any questions, we would be happy to respond.

Sincerely,



Jack Monger
CEO