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Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, California 95814

Via Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Re: Comments on Modified Text and Availability of Additional Documents and Information: Revised Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Regulation, dated May 13, 2019 (CTR)

On behalf of the Southern California Gas Company (SoCalGas) and San Diego Gas & Electric (SDG&E; SDG&E and SoCalGas are collectively referred to herein as “the Utilities”) and, on behalf of our over twenty five million customers, we respectfully submit the following comments regarding the California Air Resources Board’s (ARB) Modified Text and Availability of Additional Documents and Information for the Revised CTR.

The Utilities greatly appreciate the time that ARB staff has taken to discuss the CTR and work with stakeholders as reflected in Attachment C (Outreach and Notifications) posted on May 13, 2019. We continue to have concerns and questions, however, on the proposed modifications to the CTR as set forth in Attachment A (Revised Regulation Text), also posted on May 13, 2019.

I. NEED MECHANISM FOR NOTIFYING FACILITIES OF THEIR COMPLIANCE OBLIGATIONS TO AVOID UNNECESSARY ENFORCEMENT ACTIONS [GENERAL APPLICABILITY §93401(a)]

The Utilities are concerned about the lack of procedure for notifying affected facilities regarding whether they are subject to the CTR and need to report. Indeed, there is no information regarding which agency will be notifying affected facilities, and when or how such notification shall be made. This lack of a notification mechanism may cause compliance problems for the affected facilities.

An example of a notification mechanism that ARB should consider adopting, would be one based on the South Coast Air Quality Management District's (SCAQMD) Annual Emissions Report (AER) reporting tool. SCAQMD recently modified the AER tool to include a new section with Assembly Bill (AB) 617 information. The AB 617 section of the AER tool serves to inform affected facilities that they fall under one of four reporting categories. Therefore, facilities in the SCAQMD's jurisdiction are able to use the tool to determine which criteria has been applied and whether they are subject to the CTR. This SCAQMD AER tool, however, is not replicated by the air districts with jurisdiction over the Utilities or other air districts throughout the state.

By contrast, ARB should avoid developing a notification mechanism based on how some air districts execute the AB 2588 "Air Toxics Hot Spots" program. A facility may not know for some time that it has been deemed high priority under an air district's AB 2588 program for a specific calendar year, thereby presenting data gathering problems. For example, an air district might inform a facility in September of a given year that it has been deemed high priority. That facility then must report emissions under the CTR for that same year, when data for the first eight months of that year may not have been collected. Consequently, we recommend that ARB develop a uniform notification methodology that would not place facilities in jeopardy of potential enforcement action for failing to report when they were not even aware they were subject to the requirement.

II. NEED CLARIFICATION ON REPORTING REQUIREMENTS (§93403, §93404 AND APPENDIX A)

The Utilities respectfully request that ARB clarify what equipment may use abbreviated reporting. It is also unclear how Table A-3 - *Sector Phases and Activity Level Reporting Thresholds for Additional Applicability Facilities Subject Per Section 93401(a)(4)* and Table A-4 - *Qualifying Permitted Processes and Data Elements to Report for Abbreviated Reporting Per Section 93403(c)(2)* are consistent with each other.

In addition, the draft CTR is ambiguous as to whether it requires reporting if a facility has permitted processes meeting any of the "activity level reporting thresholds" listed on Table A-3, or if a facility has "qualifying permitted processes" listed on Table A-4. Is the intent that those facilities with permitted processes listed under Table A-3 perform full reporting and those processes listed under Table A-4 perform abbreviated reporting? Or is abbreviated reporting only allowed when there are very few processes at a facility? For example, does §93403(c)(2)(A)(2) mean that if one has any other processes at a facility besides those listed on Table A-4 then abbreviated reporting is not allowed for any equipment or process at the facility?

Table A-4 includes the category, "Combustion of diesel or other fuels, in emergency standby engines or direct-drive emergency standby fire pump engines." Is the intent that facilities with only emergency engines be given the allowance of abbreviated reporting? Table A-3 includes the category, "Combustion of residual, distillate, or diesel oil, except for agricultural operations and medical-related industry sectors...", while A-4 as noted above includes "other fuels" besides diesel. The difference in the list of fuel types is confusing. Does this mean there are different reporting requirements for identical equipment at different facilities? Is the intent that these two categories are mutually exclusive? More precise language that expresses inclusivity or exclusivity may answer these questions and provide clarity.

The Utilities greatly appreciate your attention to the details regarding our questions and concerns. We hope the next version of the CTR makes applicability and reporting requirements for each type of subject equipment and process clearer.

III. RECOMMEND REEVALUATING EXCLUSIONS FOR PORTABLE EQUIPMENT REPORTING [§93404(b)]

The Utilities recommend that ARB reevaluate §93404(b)(2)(C) because reporting emissions from all portable engines regardless of ownership appears to include on-road and off-road motor vehicles and other mobile equipment such as forklifts, tractors and lawn mowers. Section 93404(b)(2)(C) specifies that emissions “from portable engines or devices operated at a facility, regardless of equipment ownership or duration of operation, must also be reported.” We understand that facilities under the initial phase-in reporting period [(§93403(a)(1))] will report pursuant to local air district procedures and protocols, but after the phase-in period they must report according to the requirements of §93404. As an example, SCAQMD’s AER program has a frequently asked questions document¹ that clearly states how certain equipment categories such as on-road motor vehicles (cars, trucks, vans, etc.), off-road vehicles and mobile equipment (forklifts, bulldozers, tractors, lawnmowers, etc.) and portable equipment registered under the Statewide Portable Equipment Registration Program are not subject to AER program reporting requirements. We urge ARB to include clear exclusions for these types of “portable engines” and devices. Further, portable equipment/devices registered under the Statewide Portable Equipment Registration Program have existing recordkeeping and reporting requirements under that program and should therefore be excluded from the CTR to avoid double counting.

IV. CONCLUSION

The Utilities very much appreciate ARB staff’s continuing work with stakeholders on the development of the CTR, but we remain concerned for the tens of thousands of small businesses that will be burdened by the new regulation. We are grateful to ARB Staff for its efforts to address our previous comments, and value the time staff has taken to discuss intent, schedule, evolving regulatory language and to listen to stakeholders. We believe that dialogue, coupled with additional revisions to the draft CTR, is needed for smooth rollout and implementation across the State. Despite knowing staff does not intend to take the regulatory package back to your Board, we urge you to consider an informational Board update item at which stakeholders might provide comment. Thank you and we look forward to engaging with ARB staff as the process proceeds. Please contact Colby Morrow at (559) 999-3450 if you have any questions or concerns about these comments.

Sincerely,

/s/ Tim Carmichael

Tim Carmichael
State Agency Relations Manager
SoCalGas and San Diego Gas & Electric

¹ <http://www.aqmd.gov/docs/default-source/planning/annual-emission-reporting/faq.pdf?sfvrsn=19>