



**California Council for Environmental and Economic Balance**

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August 1, 2019

Mr. David Edwards  
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Mr. John Swanson  
Manager, Criteria Pollutant and Air Toxics Reporting Section  
California Air Resources Board  
Submitted electronically to the Clerk of the Board  
<http://www.arb.ca.gov/lispub/comm/bclist.php>

RE: Proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants – Second Notice of Public Availability of Modified Text

Dear David and John,

On behalf of the members of the California Council for Environmental and Economic Balance (CCEEB), we submit these comments on California Air Resources Board (CARB) 15-day changes to the Proposed Criteria and Toxics Reporting Regulation (CTR Regulation). First and foremost, CCEEB wants to recognize the extensive outreach you and CARB staff have made to affected businesses, regional air districts, and public stakeholders, particularly efforts made following the 25-day changes released on May 13 of this year. Furthermore, we appreciate the careful consideration given to public comments and strongly support the currently proposed 15-day changes, which remove subsections 93401(a)(4) and 93404(b)(2)(c). If CARB decides to revisit these concepts in future rule amendments, we recommend staff initiate a 45-day public comment period.

CCEEB also appreciates the many minor changes made to the proposed CTR Regulation since its adoption on December 14, 2018. Staff has done a commendable job clarifying the regulation and aligning its definitions and requirements with existing federal and air district rules and programs in ways that set the stage for a successful transition to a uniform and consistent statewide reporting program. Looking ahead, we fully support the development of Article 2 and related background materials, and believe this work should be given the highest priority. What follows are minor, non-substantive suggestions on the 15-day changes intended to further refine and clarify the regulation.

**§ 93404(a). Emissions Report Contents: General Contents**

Subsection 93404(a)(5)(J) seems to assume that a process or device has only one emissions limit. However, this is not always the case as multiple rule and permit limits

may apply to a single process or piece of equipment. To clarify and simplify how this requirement should be interpreted, CCEEB suggests the following change:

~~Permit or rule~~ Annual emissions limit for industrial sources ~~(as defined herein)~~, if applicable

Because this could necessitate a change to the definitions, we suggest striking the definition for “Permit or rule emissions limit” as it would no longer be used, and instead add a definition for “Annual emissions limit,” such as:

Annual emissions limit means an annual, 12-month or 365-day mass limit of any pollutant.

Alternately, staff could provide clarification in its Final Statement of Reasons that the annual emissions limit is what should be reported.

#### **§ 93404(b). Emissions Report Contents: Emissions and Sources**

The goal of AB 617 and the CTR Regulation is to “establish a uniform system of annual reporting of emissions” for stationary sources.<sup>1</sup> While uniform calculation methods will be established subsequently through development of Article 2 and related efforts, the overall reporting framework outlined in the regulation must seek to maximize consistency across the thirty-five regional air districts. Until such time as uniformity is achieved, CARB should allow for “business-as-usual” (BAU) reporting to the districts and avoid adding any further inconsistencies in requirements and calculation methods.

93404(b)(1)(A) – Allowing each district to report ROG, VOC, or total organic gases differently seems to be at odds with the goal of uniform emissions reporting. While this may be acceptable in the BAU period, CARB ultimately needs to define these terms and establish consistency from district to district.

93404(b)(1)(B) – The explanatory text in the Notice is helpful in that it states that *only* those toxic air contaminants (TACs) that are “actually known to be emitted” must be reported. However, the text in the rule is ambiguous in that it does not preclude an air district from reporting additional toxics. For example, in a district where only activity level data is submitted, a district could include TACs not actually emitted by a facility. This occurs when a district’s “existing quantification method” allows for the arbitrary application of emission factors that may not be representative of the facility’s actual emissions or are only appropriate under certain conditions. This could also occur when a district represents any non-detection measurement as half the detection limit instead of reporting zero. CCEEB is concerned that such faulty emissions data would then be forwarded to CARB without notice to the facility, let alone concurrence.

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<sup>1</sup> California Health & Safety Code, Section 39607.1(b)(1).

CCEEB understands that CARB will soon update its AB 2588 Air Toxics Hot Spots Guidelines, and that the update will specifically list chemicals by sector that must be reported. We support the expeditious undertaking of this update, as it will provide much needed clarity and consistency for the reporting of TACs. For now, and in order to be consistent with the 15-day Notice, we suggest the following change:

The list of reported toxic air contaminants ~~must~~ **shall only** include those chemicals that are actually **known to be emitted and have been measured by the facility,** ~~based on existing quantification methods.~~

93404(b)(2)(B) – as with the reporting of TACs, CCEEB looks forward to the establishment of uniform and consistent reporting methods for unpermitted processes and devices, including fugitive emissions. During the BAU period, district reporting requirements and calculation methods should remain reasonably stable and not create further inconsistencies, recognizing that any desirable future changes are best done through the statewide harmonization process. Moreover, nothing in the CTR Regulation should be used as justification by a district to bypass its own rulemaking procedures and impose changes to reporting requirements without the appropriate public process. A secondary concern is the open-ended nature of the term “quantified by the local air district” since this could be interpreted as going beyond the scope of what we believe CARB intends, and could include quantification of emissions unknown to the facility or for sources for which the facility does not collect data. As such, CCEEB suggests the following change:

Unpermitted processes and devices at the facility, including unpermitted fugitive emissions, if ~~at the beginning of the data year~~ such facility-specific emissions were ~~either~~ required to be reported by the local air district **as of December 14, 2018.** ~~or if the emissions are quantified by the local air district.~~

Along with our recommended changes to § 93404(b)(2)(B), CCEEB recommends that the preceding subsection be modified to clarify that the CTR Regulation is not meant to trigger arbitrary and discretionary changes to air district reporting practices, nor is it meant to further exacerbate inconsistencies across the thirty-five air districts. Our suggested language to § 93404(b)(1) is:

Emissions. For permitted processes and devices, **and for unpermitted processes and devices required to be reported as of December 14, 2018,** ~~(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. Alternatively, at the discretion of the local

air district, sufficient activity-level data must be submitted for the air district to calculate such emissions.

**§ 93407(a)(2). Enforcement**

While we appreciate that the added language was intended to provide clarity, some ambiguity remains over whether a facility could be in violation should a *district* fail to submit a report to CARB by August 1 of each year. Our suggested language is as follows:

Any report, data, or documentation submittal required ~~by a facility~~ **by** ~~under~~ this article that is not submitted to CARB or a district, or is submitted late to CARB or a district, shall be a violation of this article.

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In closing, CCEEB again expresses our appreciation for staff's ongoing work and refinement of the CTR Regulation. Development of this rule marks an important milestone for AB 617 implementation, and data collected through the CTR Regulation is critically needed to support AB 617 programs and activities, as well as to further public understanding of emissions sources impacting local communities. We look forward to working with CARB staff, the air districts, and other public stakeholders on the next phase of implementation, which will include updates to the AB 2588 ATHS Guidelines (in support of reporting TAC emissions) and development of Article 2 of this regulation, which will set forth uniform statewide methods for the consistent calculation and reporting of criteria pollutants and TACs. While this future work will be technically challenging and resource intensive, as it involves harmonization of the various district and CARB reporting practices, we believe CARB's strong commitment to robust public engagement will help achieve the overall goals of the CTR Regulation and AB 617. We thank you for your efforts and offer our full support in all aspects of program development. Should you have questions regarding our comments, please contact Janet Whittick, CCEEB policy director, at [janetw@cceb.org](mailto:janetw@cceb.org) or (415) 512-7890 ext. 11.

Sincerely,



Janet Whittick  
CCEEB Policy Director

cc: Mr. Bill Quinn, CCEEB President  
Ms. Frances Keeler, CCEEB Vice President  
Ms. Kendra Daijogo, CCEEB Consultant and Air Project Manager