

State of California
AIR RESOURCES BOARD

**PUBLIC HEARING TO CONSIDER THE
PROPOSED REGULATION FOR THE REPORTING OF
CRITERIA AIR POLLUTANTS AND TOXIC AIR CONTAMINANTS**

STAFF REPORT: INITIAL STATEMENT OF REASONS

DATE OF RELEASE: October 23, 2018
SCHEDULED FOR CONSIDERATION: December 13, 2018

Location:

**California Environmental Protection Agency
California Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814**

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

This Page Intentionally Left Blank

Table of Contents

I.	INTRODUCTION AND BACKGROUND	1
II.	THE PROBLEM THAT THE PROPOSAL IS INTENDED TO ADDRESS	2
III.	BENEFITS ANTICIPATED FROM THE REGULATORY ACTION, INCLUDING THE BENEFITS OR GOALS PROVIDED IN THE AUTHORIZING STATUTE	4
IV.	AIR QUALITY	5
V.	ENVIRONMENTAL ANALYSIS	5
VI.	ENVIRONMENTAL JUSTICE.....	6
VII.	ECONOMIC IMPACTS ASSESSMENT	7
	A. ANALYSIS OF ECONOMIC IMPACTS	8
	B. MAJOR REGULATIONS.....	16
	C. REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASON FOR REJECTING THOSE ALTERNATIVES	17
	D. SIGNIFICANT ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.....	17
VIII.	EVALUATION OF REGULATORY ALTERNATIVES	19
IX.	JUSTIFICATION FOR ADOPTION OF REGULATIONS DIFFERENT FROM FEDERAL REGULATIONS CONTAINED IN THE CODE OF FEDERAL REGULATIONS	22
X.	PUBLIC PROCESS FOR DEVELOPMENT OF THE PROPOSED ACTION (PRE-REGULATORY INFORMATION)	23
XI.	THE SPECIFIC PURPOSE OF EACH ADOPTION AND RATIONALE FOR CARB’S DETERMINATION THAT IT IS REASONABLY NECESSARY	26
XII.	REFERENCES	80
XIII.	APPENDICES	82

This Page Intentionally Left Blank

I. INTRODUCTION AND BACKGROUND

California's existing air quality programs are responsible for significant public health improvements through statewide and regional air quality planning requirements, advancement of technology-based solutions, and risk reduction efforts near industrial facilities. For example, since the 1970s, regulations at the State and local level have led to a nearly 70 percent reduction in nitrogen oxide emissions, a key component of smog formation. Also, in the past 25 years, emissions and health impacts from air toxics exposure has been reduced by 75 percent.

However, certain communities continue to experience adverse and inequitable environmental and health impacts from air pollution. As compared to other areas, communities near ports, rail yards, warehouses, or freeways, for example, experience a higher concentration of air pollution due to emissions from mobile sources such as cars, diesel trucks, locomotives, and ships. Many of the same communities also experience air quality impacts from large industrial facilities such as oil refineries. Additionally, in many communities across the State, smaller sources of toxic air contaminants like chrome plating facilities, metal recycling facilities, oil and gas production operations, and pesticide use, also contribute to localized air quality impacts. Within certain communities, multiple sources of toxic air contaminants that are located in close proximity to one another may also result in an elevated cumulative exposure burden for nearby human receptors.

Assembly Bill (AB) 617,¹ signed into law in July 2017, continues California's environmental leadership by establishing innovative new practices to improve air quality. AB 617 requires new community-focused and community-driven action, using multiple strategies and tools, to reduce air pollution and improve public health in communities experiencing a disproportionate burden from exposure to air pollutants.

Emissions inventory data is the foundation of many programs at the California Air Resources Board (CARB). Emissions inventory data for greenhouse gases (GHG) support CARB's programs focused on climate change issues, while inventory of criteria pollutant and toxic air contaminants emissions data is critical to programs devoted to assessment and protection of human health and environmental impacts. Consistently updated and accurate emissions data is also fundamental to the community-right-to-know tenets established in AB 197² and the community-driven action mandated by AB 617. Emissions data is crucial to evaluating and mitigating the effects of air pollutants at the local level, regionally, and statewide.

¹ Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2. Also, see Appendix B for the complete bill language. (Garcia, 2017)

² Assembly Bill 197, Garcia, E., Chapter 250, Statutes of 2017, modified the California Health and Safety Code, amending § 39510, and § 39607, and adding § 38506, § 38531, § 38562.5, § 38562.7, and Article 7.6 (commencing with Section 9147.10) to Chapter 1.5 of Part 1 of Division 2 of Title 2.

Historically, emission inventories were developed to assess emissions to support air quality programs such as State Implementation Plans and local measures implemented by the air districts. AB 197 and AB 617 require a more integrated, trend-based assessment of criteria pollutant and air toxics emissions data. However, the frequency and scope of reporting criteria pollutants and air toxics emissions varies between air districts. Many large air districts collect criteria and air toxic emissions data annually, while smaller districts may only report emissions once every three or four years, depending on the size of a facility. Additionally, the types of criteria pollutants and air toxics reported vary across districts, depending on the attainment status of air districts and the proximity of sources to large sources.

The emissions reporting requirements in AB 617 direct CARB to establish a uniform statewide system of annual reporting of criteria pollutant and toxic air contaminants for stationary sources, while working closely with the local air districts.

The proposed “Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants” (or CTR Regulation) includes the following:

- Annual criteria pollutant and air toxics emissions reporting for sources subject to the CTR Regulation;
- Consistency in the types of criteria pollutants and air toxics that need to be reported;
- Establishing applicability for sources subject to the reporting requirements;
- Establishing the contents and how the emissions must be reported in the emissions data report;
- Creating reporting deadlines and the process for submitting emissions data reports.

CARB will implement the proposed program requirements in tandem with local air districts to avoid potential duplication of reporting efforts. Air districts have worked closely with their local facilities for many decades and have detailed, specific knowledge of these facilities with regard to their permitting, data collection, and enforcement histories. The districts’ knowledge is necessary to ensure the success of the statewide reporting program.

This Staff Report provides the objectives and benefits, a summary of fiscal impacts, and other information related to the implementation of AB 617’s section 39607.1 of the California Health and Safety Code (H&SC) by establishing a uniform statewide system for mandatory annual emissions reporting to CARB.

II. THE PROBLEM THAT THE PROPOSAL IS INTENDED TO ADDRESS

Emissions inventory data is critical to understanding the sources of emissions that may contribute to adverse health risks or other impacts in communities. California criteria pollutant and toxics emissions data is currently collected separately by the thirty-five independent local air districts within the state. California air districts are diverse in size, number of emission sources, types of sources, population density, local geography, and

other factors. With this diversity come many variations in how emissions data is collected, the frequency and completeness of data collection, and how data is processed, used, and shared after collection.

AB 617 was developed in part to address statewide issues of inventory data inconsistency, varying reporting frequencies, inconsistent methodologies, and shortcomings in the transparency and accessibility for reported criteria pollutant and toxics emissions data. These objectives are highlighted in the text of AB 617's H&SC section 39607.1 that reads, "The state board, in consultation with districts, shall establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source." In related legislation, AB 197 also requires CARB to make available, and update at least annually, on its internet web site the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for each facility that reports to the state board and air districts, pursuant to H&SC section 38531. The proposed CARB regulation is a key step forward in creating uniformity and consistency across districts, and to ensure the quality and completeness of emissions data throughout the state. Achieving these goals will help the air districts, local community members and groups, scientists, industry, consultants, government agencies, and CARB to better identify regions and communities that are most disproportionately impacted, and most in need of additional resources to resolve inequities related to air pollution exposure. Additionally, over time, the proposed regulation will allow for statewide data comparability for various industrial sectors.

There are four applicability categories that flow from the regulation. The first three are specifically identified in AB 617, and include facilities subject to mandatory California greenhouse gas emissions reporting, facilities authorized by a district permit to emit 250 tons or more per year of nonattainment criteria pollutants, and facilities that receive an elevated prioritization score for toxics.³ Generally, the first two categories capture the largest California facilities, and the third category generally captures smaller facilities (not captured under the prior two categories), based on toxics emissions risk.

The proposed regulation also includes a fourth applicability category⁴ to include additional facilities located in the most highly impacted communities, which are those identified by the CARB Governing Board for the implementation of community air monitoring programs or community emission reduction programs established pursuant to AB 617, under H&SC sections 42705.5 and 44391.2. Examples of these additional facilities could include businesses such as retail gasoline fueling stations, dry cleaners, print shops, auto body and auto paint shops, metal plating, metal grinding and finishing facilities, coating and finishing facilities, industrial cleaning and degreasing operations, welding operations, facilities with backup diesel generators and emergency fire pumps, and others. Staff has concluded that emissions data from such facilities are needed to clearly establish which sources of air pollution are affecting the communities, for

³ These categories are respectively covered by the proposed language of subdivisions (a)(1), (2), and (3) of 17 CCR section 93401.

⁴ 17 CCR section 93401, subd. (a)(4)

tracking emissions over time, and to identify if there are harmful cumulative impacts, resulting when multiple nearby emission sources contribute to risk.

Once this new and refreshed facility emissions data is collected, it will facilitate a central component of AB 617—improving communication and information sharing with communities, which builds on the requirements of AB 197 as well. Access to up-to-date data for criteria and toxics emissions is important for data transparency and accountability. Accordingly, the proposed regulation seeks to improve statewide emissions data collection. Under the proposed regulation more data from more facilities will be collected as compared to current programs. Additionally, the overall effort includes development of new data systems and websites to collect, store, analyze, and transparently display collected emissions data.

III. BENEFITS ANTICIPATED FROM THE REGULATORY ACTION, INCLUDING THE BENEFITS OR GOALS PROVIDED IN THE AUTHORIZING STATUTE

Government Code section 11346.2(b)(1) requires enumeration of the anticipated benefits of the regulatory action, including the benefits and goals of the authorizing statute, in this case, AB 617. AB 617 was enacted to benefit those communities in California disproportionately burdened by air pollution. It requires community-focused emissions reduction programs to reduce exposure to air pollution in these communities. In addition, AB 197 mandates community right-to-know principles and, by requiring the annual collection of criteria pollutant and air toxics emissions data, the emissions trends for the State's largest emission sources will be more clearly delineated.

A key benefit of the proposed regulation is its harmonization of statewide data submission requirements, such as reporting deadlines, frequency of reporting, and the specific chemical substances and other data to be reported on an annual basis, so that similar industrial sectors will begin to have data comparability, regardless of where they are located within California. This improved data in turn provides benefits to community groups, the public, regulators, scientists, CARB, and others, who have growing needs to access complete, user-friendly, and high quality emissions data. The proposed regulation would significantly increase access to useful data in user-friendly forms, such as mapping (as provided in the current CARB Pollution Mapping Tool⁵), graphs, and detailed emissions data reports when needed.

In addition to addressing the goals of AB 197 and AB 617, inventory data helps to determine what is being emitted into the air, by whom, and where. Inventory data helps guide and provide the scientific basis for CARB's regulatory development process. Inventory data helps identify and address areas of concern, and to track progress in emission reduction efforts from stationary sources, area sources, and mobile sources. Inventory data is an essential element in the development of cost effective solutions to reduce air pollution and protect human health. Additionally, the reporting regulation provides no direct benefits to worker safety; however, over time, indirect benefits to

⁵ CARB Pollution Mapping Tool: https://www.arb.ca.gov/ei/tools/pollution_map/ (CARB, Pollution Mapping Tool, 2017)

workers and residents within these communities may be realized as a function of actions taken to reduce emissions, based on the improved inventory.

IV. AIR QUALITY

An overarching objective of AB 617 is reducing the impacts of criteria air pollutants and toxic air contaminants within California communities. As described in the previous section on benefits, the improved emission inventory data to be collected under the proposed regulation is a key pillar in achieving that objective to further protect public health by improving air quality, particularly within identified communities.

The proposed regulation requires collection and reporting of emissions data to CARB, to more completely understand the types, quantities, and locations of criteria and toxic emissions from facilities. As a reporting-only regulation, the proposed requirements themselves do not have direct air quality impacts. This is because the regulation requires data collection and reporting by applicable facilities, but it does not require any direct emissions reduction actions by the facilities.

Any air quality benefits from the proposed regulation would be indirect. CARB staff anticipates the collected data would be used to identify emissions sources of concern. Then, various approaches would be used to address the concerns, such as CARB or air district rules focusing on specific industry sectors or types of equipment. Through these types of mechanisms, the reporting regulation would play a role in providing data necessary for improving air quality and tracking air quality trends statewide and within communities.

V. ENVIRONMENTAL ANALYSIS

A. Introduction

CARB's regulatory program, which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans for the protection and enhancement of the State's ambient air quality, has been certified by the California Secretary for Natural Resources under Public Resources Code section 21080.5 of CEQA (California Code of Regulations (CCR), title 14, § 15251(d)). Public agencies with certified regulatory programs are exempt from certain California Environmental Quality Act (CEQA) requirements, including but not limited to, preparing environmental impact reports, negative declarations, and initial studies. CARB, as a lead agency, prepares a substitute environmental document (referred to as an "Environmental Analysis") as part of the Staff Report prepared for a proposed action to comply with CEQA (CCR, title 17, §§ 60000-60008).

This Environmental Analysis section provides the basis for CARB's determination that the proposed new regulation is exempt from the requirements of CEQA. A brief explanation of this determination is provided below. If the proposed regulation is

finalized, a Notice of Exemption will be filed with the Office of the Secretary for the Natural Resources Agency and the State Clearinghouse for public inspection.

B. Analysis

CARB has determined that the proposed regulation is exempt from CEQA under the “general rule” or “common sense” exemption (CCR, title 14, § 15061(b)(3)). The common sense exemption states a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

The regulation establishes reporting requirements for regulated entities, specifying that criteria pollutant and toxic air contaminant emissions must be reported on an annual basis to CARB. The proposed regulation only affects data collection, data reporting, program administration, and the contents of electronic databases, and does not involve or result in any changes to the physical environment. The proposed regulation includes administrative and procedural requirements to establish the emissions reporting program. Based on CARB’s review it can be seen with certainty that the proposed regulation does not impose any requirements that in any way could directly affect air emissions, the physical environment, or result in adverse impacts to the environment; therefore this regulatory activity is exempt from CEQA.

VI. ENVIRONMENTAL JUSTICE

State law defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Government Code, section 65040.12, subdivision (c)). CARB is committed to making environmental justice an integral part of its activities. The Board approved its Environmental Justice Policies and Actions (Policies) on December 13, 2001, to establish a framework for incorporating environmental justice into CARB’s programs consistent with the directives of State law (ARB 2001). These policies apply to all communities in California, but recognize that environmental justice issues have been raised more in the context of low-income and minority communities.

Actions of CARB, local air districts, and federal air pollution control programs have made substantial progress towards improving air quality in California. However, some communities continue to experience higher exposure than others because of the cumulative impacts of air pollution from multiple sources. Adoption and implementation of the proposed reporting regulation will have no negative environmental impacts on environmental justice communities.

AB 617 and AB 197 are specifically focused on protecting and assisting disproportionately affected communities. The primary elements of AB 617 establish

discrete actions and requirements for directly reducing the air pollution impacts on environmental justice communities. Under the proposed regulation, facilities throughout the state will be required to report their criteria and toxics emissions on an annual basis. For communities that are selected for community monitoring or emission reduction programs, there are enhanced reporting requirements, collecting data from all sources permitted by air districts. The submitted emissions information will be made widely available to the public at large, providing accurate and transparent emissions data to environmental justice communities, scientists, and others. The data will support community emissions reduction programs, community monitoring programs, CARB rulemakings, development of emission reduction strategies, and more, all focused on improving the air quality, and reducing air pollution impacts within the California environmental justice communities.

For additional information on the benefits of this proposed regulation to environmental justice communities, please see sections II and III of this document, describing the “The Problem that the Proposal is Intended to Address,” and, “Benefits Anticipated from the Regulatory Action, Including the Benefits or Goals Provided in the Authorizing Statute,” respectively.

VII. ECONOMIC IMPACTS ASSESSMENT

Government Code sections 11346.2(b)(2) and 11346.3(b) require the preparation of an economic impact assessment (EIA) for a non-major regulation, such as this regulation. In this chapter, CARB staff provides the estimated costs to businesses and public agencies to comply with staff’s proposed Regulation for the Reporting of Criteria Air Pollutant and Toxics Air Contaminants. The regulation is expected to affect approximately 13,980 business entities, including 1,610 local government entities (including local air districts) and 260 state government entities. Over four years, the total facilities affected include approximately 580 businesses (representing 1,276 individual facilities) subject to reporting because of their greenhouse gas, criteria, or toxic emissions, per applicability sections 93401(a)(1), (2), or (3) of the proposed regulation, and about an additional 13,400 facilities subject to reporting per applicability section 93401(a)(4), due to being located in a community selected (i.e., a “selected community”) for a community air monitoring program or a community emissions reduction program under AB 617. The number of facilities in the “selected communities” category will increase each year as additional communities are selected. See Section II of this ISOR for additional information regarding facility applicability.

The total cost impact to all affected entities, including private businesses and local and state government entities is projected to be \$10.5 million over a four-year period. Additional details regarding specific costs are provided in the remaining sections of this EIA. The cost estimates for implementing the regulation are based on approximations of the amount of time required for affected facilities to comply with the regulatory requirements, and for local air districts to assist in implementing the requirements. The approximations of costs provide a general estimate of the economic impacts that typical businesses and local governments subject to the proposed regulation might encounter.

Individual companies may experience different impacts than those calculated here depending on various factors such as the specific industry sector, the regulation changes that apply to them, the complexity of operation, the types of emission sources on-site, and existing compliance practices.

Because of the relatively small incremental additional costs, CARB staff does not expect businesses to be adversely affected by the costs of the proposed regulation. As a result, staff does not expect a noticeable change in employment, business creation, expansion, or elimination, or business competitiveness in California. In addition, because of the minor costs, no discernable fiscal impacts are expected for individual private persons within California.

1. ANALYSIS OF ECONOMIC IMPACTS

1. Summary of Economic Impacts

The primary costs associated with complying with the proposed reporting regulation are costs incurred for recordkeeping activities, preparation of an annual emissions data report, and submitting the report to the local air district (or at a future date, potentially, to CARB). Local air districts will also incur costs in receiving and compiling facility data, processing and checking data as needed, and then submitting the emissions data to CARB. Costs will vary widely from facility to facility and from district to district, depending on current practices. For example, in some air districts with existing comprehensive emissions reporting programs, many of the provisions within the proposed regulation are currently incorporated into existing business practices for the affected districts and facilities. Therefore, for these districts, and the facilities located within them, the costs to incorporate any additional provisions in the regulation will be relatively small. However, in other regions, which may not have fully established emissions inventory programs, and do not have complete annual reporting requirements for their affected facilities, the costs to comply with the proposed regulation will be higher for these facilities.

In developing the reporting regulation, staff attempted to minimize costs, while complying with the specific reporting elements of AB 617, that require collection of criteria and toxics emissions data annually, using a uniform statewide system. On an individual basis, the regulation will have minimal cost impacts for businesses affected by the requirements. This is because the costs to comply will typically be a relatively modest additional workload, supplementing the workload that is typically already required in most regions to meet existing mandated data collection and reporting requirements. Costs to local air districts in collecting and managing submitted data will vary by the number and types of facilities in their regions, the ability of existing staff to absorb additional workload, how rigorous the current district reporting requirements are, and the sophistication of existing air district data collection and management systems.

As noted previously, over four years, CARB staff estimates that the proposed regulation will affect 13,980 unique businesses, with a statewide net cost of \$5.3 million, with costs

incurred by both business subject to reporting due to greenhouse gas, criteria, or toxic emissions, and facilities subject to reporting because they are located in a “selected community.” Costs will incrementally increase each year as other communities are selected, which triggers reporting requirements for facilities in the additional selected communities.

The cost to 1,610 local agencies is estimated to be approximately \$5.0 million over four years. This includes the costs to local agency facilities that are subject to the proposed reporting requirements (approximately \$625,000), and the costs to local air districts who will be directly involved in implementing the requirements (approximately \$4.4 million).

Of the businesses affected by the proposed regulation, we estimate that 4,750 are likely to be small businesses, with an overall cost impact of \$1.1 million. The definition of “small business” is based on the description of “small business” as established in California Government Code Section 11346.3(b)(4)(B), which requires that the business is independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees. The cost of this regulation will have a minor financial impact on individual small businesses, to collect and report data needed to comply with the regulation. However, the regulation is not expected to have a significant material financial impact because the required data and reporting will typically include information that is currently being collected (and often reported) by facility operators such as throughputs, fuel use, material use, or sales data. Additional information regarding small business costs are provided in Section 4 below.

CARB staff does not expect a noticeable change in employment, business creation, elimination or expansion, consumer prices, or business competitiveness in California due to the reporting requirements. However, if the proposed regulation is adopted, we are expecting a minor additional increase in California employment for technical consultants who may assist facilities in meeting the regulatory requirements. These consultants will typically act as technical assistance providers to assist in compiling data, preparing and reviewing emissions reports, and submitting required data. The employment increase to assist facilities is expected to be minimal, possibly 25-50 new jobs statewide. The percentage is low because most affected facilities are already subject to data collection and reporting programs, so they will be able to comply with the regulation requirements using existing resources. We do not expect any new businesses to be created resulting from the regulation, because any needed consultants would most likely be hired from existing firms.

In addition to private business job creation, some local air districts may need to add staffing to manage additional workload they may incur in providing assistance in implementing the regulation. Many districts will be able to absorb the additional workload with current staffing, but some may need to hire new staff. Statewide, we estimate that approximately 5-15 additional district staff positions may be needed for districts that engage in implementing the requirements of the regulation, which is based on discussions with the air districts and their anticipated staffing needs. It is likely that

these additional district staff would also have additional duties beyond just implementing the requirements of the proposed regulation.

The reporting regulation would have limited impact on the ability of California businesses to compete with businesses in other states. This is because virtually all of the affected facilities are currently subject to a variety of data collection and reporting programs, so the proposed regulation would impose only a modest additional cost to comply with the emissions reporting requirements, relative to the overall total operational costs for affected facilities. Therefore, the additional cost to comply with this specific regulation would not meaningfully impact the ability of affected California businesses to compete with businesses in other states.

2. Legal Requirements for Fiscal Analysis

Section 11346.3 of the Government Code requires that, in proposing to adopt or amend any administrative regulation, California agencies must assess the potential for adverse economic impacts on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. The assessment must also include the potential impact of the regulation on California jobs, business expansion, and business elimination or creation.

Also, California agencies are required to estimate the costs or savings to any State or local agency and school district in accordance with instructions adopted by the Department of Finance. The estimate shall include any non-discretionary cost or savings to local agencies, and the cost or savings in federal funding to the State.

Health and Safety Code section 57005 requires CARB to perform an economic impact analysis of submitted alternatives to the proposed regulation before adopting any major regulation. A major regulation is defined as a regulation that will have a potential cost to California business enterprises in an amount exceeding ten million dollars in any single year. CARB staff has determined that the proposed regulation is not a major regulation as defined above.

The following is a description of the methodology used to estimate costs, as well as CARB staff's analysis of the economic impact on California businesses and State and local agencies.

3. Costs to State Government and Local Agencies

Under the proposed regulation, annual reporting of criteria air pollutants and toxic air contaminants would be mandatory for any facility or entity that meets the regulation's applicability requirements, including state and local agencies. As noted above, the cost to 1,610 local agencies is estimated to be approximately \$5.0 million over four years. The local agency cost estimate includes a four-year cost of \$4.4 million for 31 local air districts who will assist with implementation of the regulation, and a four-year cost of \$625,000 for approximately 1,574 additional local agencies, such as those operating

water treatment plants, landfills, power plants, etc., who would be subject to the proposed reporting requirements. In addition, approximately 260 state facilities would be subject to the reporting requirements, with an estimated four-year cost of \$138,000. State facilities include certain California state hospitals, prisons, universities, and others.

Regarding the costs to local air districts, air districts face no new specific legal requirements under the proposed regulation. The regulation applies to affected facilities, not the air districts. However, CARB recognizes that California's local air districts play an important role in collecting, processing, confirming the validity of, and managing facility emissions data, and that these actions are central to the proposed regulation's implementation, data collection, and enforcement provisions. The proposed regulation is intended to build on those existing efforts, because air districts are already familiar with local facility operators, conduct inspections, issue permits, and in many instances have been regulating applicable sources for decades. The proposal also includes provisions allowing for compliance and enforcement activities by local air districts, to support efficient and effective implementation of the requirements.

Regarding implementation tasks that local air districts may undertake, or any other costs that may result due to implementation of the statute, air districts have legal authority under H&SC sections 40510 and 42311 to recover related costs by imposing fees. The proposed regulation also specifies that local air districts that enforce the regulation may retain any penalty monies that result. Under the provisions of AB 617, the district costs are not reimbursable, because costs may be reimbursed through services charges, fees, or assessments. Districts have been provided some State grant funding to help cover their costs of implementing the many aspects of AB 617 including monitoring and emissions reductions programs, community outreach and training, emission inventory programs, and other activities. But, in some districts grant funding is not expected to cover all additional AB 617 implementation costs, and may not cover the costs of implementing this proposed regulation.

The following table summarizes approximate anticipated local air district costs for air districts that participate in implementing the provisions of the proposed regulation, based on the affected facilities in each region (note, there are 35 California air districts, but 4 do not have facilities currently affected by the regulation). These approximate district costs are over four years, and are based on a variety of factors including the number of affected businesses in the region, the types of facilities, the previous air district efforts in collecting criteria and toxics data, and the data management systems in place to process and compile collected data. These costs are anticipated total costs, but do not reflect any existing grant funding provided by the State for AB 617 implementation, which could potentially be used to offset some of the district costs.

**Local Air District Costs to Implement
the Proposed CTR Regulation Requirements**

(approximate costs over 4-years)

Air District	MRR⁶, Criteria, Toxics Applicability Costs*	Selected Community Applicability Costs**	Total
Amador County APCD	\$2,618	-	\$2,618
Antelope Valley AQMD	\$4,621	-	\$4,621
Bay Area AQMD	\$370,204	\$127,534	\$497,738
Butte County AQMD	\$22,180	-	\$22,180
Calaveras County APCD	-	-	-
Colusa County APCD	\$7,547	-	\$7,547
El Dorado County APCD	-	-	-
Feather River AQMD	\$28,341	-	\$28,341
Glenn County APCD	\$88,565	-	\$88,565
Great Basin Unified APCD	\$2,310	-	\$2,310
Imperial County APCD	\$11,013	\$221,799	\$232,812
Kern County APCD	\$13,477	-	\$13,477
Lake County AQMD	\$8,471	-	\$8,471
Lassen County APCD	\$2,618	-	\$2,618
Mariposa County APCD	-	-	-
Mendocino County AQMD	-	-	-
Modoc County APCD	\$770	-	\$770
Mojave Desert AQMD	\$43,667	-	\$43,667
Monterey Bay Unified APCD	\$18,329	-	\$18,329
North Coast Unified AQMD	\$6,161	-	\$6,161
Northern Sierra AQMD	\$3,081	-	\$3,081
Northern Sonoma County APCD	\$15,403	-	\$15,403
Placer County APCD	\$18,329	-	\$18,329
Sacramento Metropolitan AQMD	\$27,725	\$31,421	\$59,146
San Diego County APCD	\$141,397	\$93,032	\$234,429
San Joaquin Valley APCD	\$303,741	\$182,984	\$486,725
San Luis Obispo County APCD	\$6,469	-	\$6,469
Santa Barbara County APCD	\$123,222	-	\$123,222
Shasta County AQMD	\$15,403	-	\$15,403
Siskiyou County APCD	\$3,081	-	\$3,081
South Coast AQMD	\$307,284	\$2,094,766	\$2,402,050
Tehama County APCD	\$7,393	-	\$7,393
Tuolumne County APCD	\$2,618	-	\$2,618
Ventura County APCD	\$31,190	-	\$31,190
Yolo/Solano AQMD	\$49,489	-	\$49,489
Total	\$1,686,718	\$2,751,537	\$4,438,256

* These facilities are subject to reporting based on either their greenhouse gas, criteria pollutant, or toxics emissions.

⁶ California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (CCR, title 17, § 95100 et seq.)

** These facilities are subject to reporting because they are located in a selected community within the specified air district. Not all districts will have selected communities. The table provides an approximation of the affected districts and costs during the first two years of selected community emission reporting, which begins with 2020 data reported in 2021. For future years, as additional communities are selected, additional air districts will incur costs in implementing the community inventory reporting requirements.

Local government entities subject to the proposed reporting requirements face no new legal requirements specific to local governments under this regulation. The regulation applies to any local government agency that may be a regulated facility. As noted for the air districts, the regulation is not a reimbursable mandate because a local agency (or school district) has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated (AB 617). Furthermore, the regulation applies generally to all entities operating affected sources, not local government entities in particular, and so does not impose unique new requirements on local agencies, therefore this is not a reimbursable mandate.⁷ In addition, the state fiscal impacts are the result of generally applicable requirements, imposed by federal and state law, and are not uniquely focused on state government entities.

Adoption of the proposed regulation is expected to require continued funding for CARB to administer the program. The regulation will be implemented using existing CARB staffing, and no change in staffing level is anticipated to administer the program under the proposed rule for data reporting, data management, analysis, enforcement or other foreseeable activities. Any CARB staffing needs for implementing the proposed regulation are already accounted for in the current operational budget. However, future funding for development and maintenance of updated databases and web tools may be needed, and may be appropriated as approved through established budget procedures.

4. Costs to Small Businesses

The proposed regulation will impact some small businesses which, as classified under California Government Code Section 11346.3(b)(4)(B)⁸, meet the criteria that the business is independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees. Based on our analysis, we anticipate that 4,750 small businesses will be subject to the requirements of the regulation. Some of the types of affected small businesses include retail gasoline fueling stations, dry cleaners, print shops, auto body and auto paint shops, metal plating, metal grinding and finishing, coating and finishing facilities, industrial cleaning and degreasing operations, welding operations, facilities with backup diesel generators and emergency fire pumps, and others.

We estimate that the average cost per facility to comply with the reporting requirements would be approximately \$154 to \$1,527 per year depending on the complexity of the facility and the currently established data reporting requirements. These costs are

⁷ See *County of Los Angeles v. State of California* (1987) 43 Cal. 3d 46

⁸ California Government Code, Section 11346.3, approved by Governor September 14, 2016. (Gov. Code § 11346, 2016)

based on an estimated amount of time to compile data, confirm its accuracy and completeness, and data reporting, multiplied by a California-specific wage rate for professional staff.

As with other businesses affected by the proposed regulation, the cost per small business will vary, depending on their current practices and requirements, as shown above. For gasoline fueling stations, the additional requirements will be minimal because the facility operators already collect the fuel sales data needed to estimate emissions, and in many cases already report this information to the local air district. Because of this, their additional costs of compliance would be extremely small, possibly only reviewing a district-prepared criteria and toxics emissions estimate, prior to the district submitting the data to CARB. The same would be true for facilities with only backup diesel generators as the only permitted or currently inventoried emission sources, because typically these too are currently reported to districts. However, there will be some small businesses with higher costs, including those that may be more complex, or that may not have preexisting reporting requirements such that they are not currently collecting data needed to compute emissions data (which will typically be performed by air districts for the smaller facilities).

CARB staff expects the per-facility financial impact to be minimal and absorbable, because in general, the costs will only be minor additional incremental costs in addition to existing data collection and administration activities. In addition, for smaller facilities, such as small businesses, it is anticipated that the local air districts will often provide assistance to these facilities in computing criteria and toxics emissions based on easily obtained throughput and activity information such as the quantity of material sold (such as gasoline), material consumed (such as natural gas, diesel fuel, or coatings), or material produced or processed. In addition, the reporting costs will decrease over time as ongoing reporting methods are established, and as the air districts and CARB develop more advanced electronic data reporting systems to streamline the reporting process.

5. Estimating Costs of Compliance for Facilities and Districts

This section provides a general overview of the methodologies and underlying assumptions used in developing the cost estimates described above. In developing the proposed regulation, CARB staff estimated the costs of compliance for facilities subject to the regulation, as well as the costs to local air districts in implementing the requirements.

The CTR focuses on many different types of sources, from large sources subject to greenhouse gas emissions reporting, other large sources of criteria pollutants in nonattainment areas, sources of toxics deemed high priority, which may be of various sizes, and smaller businesses and facilities within specified community boundaries. The specific cost for a facility subject to annual reporting can vary depending on each facility's unique situation in terms of its sector designation and complexity, and its

current emission reporting requirements as compared to the requirements under this proposal.

In general, we do not expect the additional costs imposed by the regulation on individual facilities to be significant, in relation to their overall operational costs. This is because the requirements are an incremental addition to data that is typically currently being collected and reported. Larger and mid-sized facilities commonly have systems and practices currently in place to capture and report the bulk of the required data. For these large and mid-sized facilities, the primary cost impact will be annual reporting of toxic emissions (which has historically been done every four years in most instances), but this should not be a substantial workload.

For smaller and typically simpler facilities, the data to be collected and reported is either already being collected by facilities, or is generally readily available as part of normal operations. For smaller facilities, the primary fiscal impact will be submitting data necessary for computing annual criteria and toxics emissions data, in those air districts in which the data reporting is not already required. For all facility categories, as noted above, the associated air district costs will vary primarily based on how rigorous their current reporting programs are, and how many additional facilities may be subject to reporting under the regulation.

For an individual reporting entity, the cost per entity can vary widely. Additional costs for typical businesses subject to the proposed regulation will generally be small, because the bulk of the baseline costs are already incurred in complying with existing reporting requirements, or in collecting standard business information such as sales, production, and similar data.

The main process to estimate costs for facilities and entities is as follows:

- For the purpose of calculating costs, CARB staff first identified the facilities expected to be subject to the proposed reporting requirements. The affected facilities were then subdivided into two separate categories: 1) facilities subject to reporting based on greenhouse gas, criteria, or toxics emissions, and, 2) facilities subject to reporting based on being in a “selected community.” This was done because, in general, the two separate groups include different types of facilities, which in some regions historically have had different levels of reporting requirements, so will have different costs.
- Initial baseline costs for facilities to comply with the regulation were calculated by further subdividing the facilities into four primary classifications: large (complex), medium, small (simple), and “community facilities”. Baseline costs were estimated based on CARB staff experience with prior reporting programs, and evaluation of the expected time (hours) required to prepare and report the required data. To obtain a cost in dollars, these facility “additional hours” estimates were multiplied by an average California loaded wage rate, based on the types of personnel expected to perform the data collection, evaluation, and reporting activities.

- Baseline costs were then modified (i.e., reduced), based on an evaluation of the current air district reporting programs. For air districts with very robust and comprehensive programs, the additional incremental cost for facilities to comply with the regulation will be fairly minimal, because they are already required to provide most of what is required by the proposed regulation. Therefore, in these districts, the primary baseline cost is significantly reduced (but never to zero). For districts with less developed reporting programs and requirements, the initial costs for facilities (and the district) will be higher to meet and implement the requirements. In these cases, either the full baseline cost was used to estimate facility costs, or it was reduced by a district-specific scaling factor to approximate the completeness of existing reporting requirements in the district, as it relates to the new requirements.
- Local air district costs were computed in a similar fashion, identifying the number and types of affected facilities, and then applying a district-specific scaling factor to the anticipated district implementation costs for those facilities, to reflect the rigor of the existing district emissions reporting programs, and the number of affected facilities in each region. See Section 3 above for additional information regarding the district costs.
- As required by statute, cost impacts were separately calculated for small businesses, state agencies, and local government agencies. This information, as well as the number of affected businesses is provided in Sections 3 and 4 above.
- Costs were calculated over a four year time period, accounting for somewhat higher costs for the first year of implementation for initial start-up costs, and also additional costs that begin in 2021 when “community” facilities become subject to reporting. CARB staff selected a time-horizon of four years for calculating costs because the proposed regulation is expected to evolve over time, possibly adding or modifying requirements, so applying a duration of longer than four years would not produce realistic cost estimates.

The remainder of this section focuses on the potential for significant adverse economic impact directly affecting businesses.

B. Major Regulations

For a major regulation proposed on or after January 1, 2014, a standardized regulatory impact analysis (SRIA) is required. A major regulation is defined as one “that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars annually (\$50,000,000), as estimated by the agency.” (Govt. Code Section 11342.548) – Note: H&SC section 57005(b).)

For purposes of this section, “major regulation” means any regulation that will have an economic impact on the state’s business enterprises in an amount exceeding ten million dollars (\$10,000,000), as estimated by the board, department, or office within the agency proposing to adopt the regulation in the assessment required by subdivision (a) of Section 11346.3 of the Government Code. Based on the provided cost analysis,

CARB staff has determined that the proposed regulation is not a major regulation as defined above.

C. Reasonable Alternatives to the Regulation and the Agency's Reason for Rejecting those Alternatives

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Staff considered several alternatives to the proposed regulation, including not establishing the regulation (taking no action), evaluation of several alternatives related to altering the reporting applicability criteria, the adoption of performance standards, and alternatives for small business applicability. The specific alternatives are described in Chapter VIII of this document. These alternatives were evaluated, but dismissed as not being as effective or more effective than the proposed regulation in carrying out the purposes of the AB 617 reporting requirements.

As Chapter VIII describes, these alternatives would be ineffective in meeting the data reporting requirements mandated by AB 617, and so would not produce cost-savings in effectively carrying out those requirements. In conclusion, no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective, or less burdensome, to affected private persons than the proposed regulation.

D. Significant Adverse Economic Impact Directly Affecting Business

CARB staff estimates that the amended requirements will lead to a total net cost increase of approximately \$6.1 million for affected reporting facilities over a four-year time period (this value does not take into account costs to the local air districts). The changes are expected to have fiscal impacts on approximately 13,980 unique businesses, which represents approximately 14,680 individual facilities. The counts for businesses and facilities differ because one business, such as an oil production and refining company, may have multiple individual facilities. See the first part of this section for additional information about affected facilities based on reporting applicability.

On an average basis over four years, a typical reporting facility affected by the proposed regulation will have a net cost increase of \$1,405. The actual cost range for individual reporters per year can vary substantially, depending on the sector and the level of existing district reporting requirements for the facility; for example, initial first year costs potentially range from \$154 to \$77,000. In estimating costs, staff determined the first

year cost, which is typically higher in order to implement new procedures, systems, or other changes, the ongoing annual costs for a typical business, and the costs when the 2021 reporting requirements become effective for facilities in selected communities.

Additional detail regarding the approach is provided above in Section 5, but in summary, staff estimated costs by determining the number of reporting entities affected by the reporting requirements, grouping facilities based on complexity, evaluating the time/labor to implement the reporting requirements (including the benefits of existing district reporting requirements), and estimating per-facility costs by multiplying the time by a weighted California labor rate.

Table 2 below shows the approximate cost increase for each sector or industry classification subject to section 93401(a)(1), (2), or (3), and the percentage of the overall cost for the sector. Note that these costs do not include costs to the local air districts, but only apply to facility-specific costs.

For those sectors subject to section 93401(a)(1), (2), or (3) of the regulation, approximately 46% of facilities fall into the General Industrial category, which include sources such as aggregate and rock crushing operations, agricultural operations, petroleum terminals, shipbuilding, metal plating, wood and paper products, pharmaceutical and chemical, and miscellaneous manufacturing. The per-facility costs for this category are relatively low, because they tend to be less complex facilities, but this category includes a large number of affected facilities. Next is the Oil and Gas Production category, with approximately 15% of the facility costs which, again, has a fairly low complexity, but a significant number of facilities. In comparison are refineries, which have a relatively high cost per facility to implement the requirements, because of the facility complexity, but there are not a large number of refineries in California. The estimated costs for all major sectors subject to 93401(a)(1), (2), or (3) are summarized in Table 2.

**Table 2.
Share of Cost Increases for Affected Industry Sectors
Over Four-Years**

Industry	Cost Increases Resulting from Regulation Updates (\$)	Share of Total Cost Increase
General Industrial	\$1,266,718	46%
Oil and Gas Production	\$397,621	15%
Refineries	\$381,371	14%
Electricity Generation	\$340,015	12%
Commercial	\$128,921	5%
Waste, Water, and Wastewater	\$85,023	3%
Medical	\$85,023	3%
Universities/Colleges	\$18,483	1%
Others	\$37,429	1%
Totals	\$2,740,602	100%

Based on CARB staff analysis, the Executive Officer has made an initial determination that proposed regulatory action would not have a significant statewide adverse economic impact directly affected businesses. In addition, the Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide economic impact directly affecting representative private persons.

VIII. EVALUATION OF REGULATORY ALTERNATIVES

Government Code section 11346.2, subdivision (b)(4) (Gov. Code § 11346, 2016) requires CARB to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. This section discusses alternatives evaluated and provides reasons why these alternatives were not included in the proposal. As explained below, no alternative proposed was found to be less burdensome and equally effective in achieving the purposes of the regulation in a manner than ensures full compliance with the authorizing law (i.e., AB 617). The Board has also not identified any reasonable alternatives that would lessen any adverse impact on small business.

Take No Action Alternative. An overall “no action” alternative means that the regulation would not be developed. Under this alternative, criteria and toxics emissions would continue to be collected and reported incompletely and inconsistently within California. AB 617 requires that CARB “establish a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source.” Therefore, a “No Action” option would violate the legislatively mandated requirements upon CARB, so it is not a viable alternative and was rejected.

Use Alternative Criteria for Establishing an “Elevated Prioritization Score.” Under the staff proposal, for the purpose of determining applicability, an “elevated prioritization score” means facilities that are classified as “high” priority by local air districts, pursuant to AB 2588. CARB staff, working with stakeholders, had to establish the criteria for “elevated prioritization score” because it is not defined in the AB 617 statute or in any existing California statute. Staff considered many options for the “elevated” applicability criteria, weighing many factors such as the clarity of the requirement, statutory references to other sections of H&SC (i.e. the “Hot Spots” program), the ability to identify facilities subject to the requirement, the number of facilities affected, the need to identify potentially significant facilities, potential costs and workload, and the expected benefits of using the collected data to protect communities through emissions reduction programs and other mechanisms. After significant evaluation, and consideration of input from many stakeholders including air districts, industry, community groups, individuals, and others, CARB staff determined that the use of facilities categorized by air districts as “high priority” for toxics is currently the most effective and appropriate surrogate for an “elevated prioritization score” and therefore at this time did not propose use of other alternatives that were considered. CARB staff may reconsider alternate criteria to define “elevated prioritization score,” if future revisions to the proposed regulation are developed for consideration by the Board.

Do Not Include Facility Reporting for Selected Communities. Within the staff proposal, we include reporting requirements for facilities permitted by local air districts that are located within the boundary of a community selected by CARB Governing Board, pursuant to Health and Safety Code sections 42705.5 or 44391.2. These are the disproportionately affected communities that are selected for community air monitoring programs or community emissions reduction programs under AB 617. AB 617 is explicitly focused on communities, and community health. Therefore, it is necessary to clearly and completely identify the sources of air pollution within these selected communities, and the magnitude of emissions associated these sources. For these reasons, for facilities not otherwise subject to the regulation based on greenhouse gas, criteria, or toxics emissions, we rejected the “Do Not Include” option, and the proposed regulation requires criteria and toxics emissions reporting by all facilities within selected communities that have one or more permits to operate issued by a local air district.

Performance Standards in Lieu of Reporting Regulation Requirements. California Government Code section 11346.2(b)(4)(A) requires that, “In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as

an alternative.” A non-prescriptive performance standard would not meet the objectives required by the underlying statute requirements established in AB 617 for emissions reporting. The reporting regulation must set forth well-defined and consistent requirements for data collection and reporting, reporting deadlines, the contents of data reports, and other direct specifications. A general performance standard, which does not define specific means of compliance, would not be reasonable because it would lead to substantial inconsistency in collected data, uncertainty for reporters regarding requirements, enforcement uncertainty, and it would not allow CARB to establish uniform and consistent criteria and toxics emissions reporting, which are key requirements of the AB 617 statute.

Small Business Alternative. Government Code section 11346.2(b)(4)(B) (Gov. Code § 11346, 2016) requires a description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives. The applicability criteria in the proposed regulation will include small businesses, particularly for permitted facilities in selected communities that do not meet other applicability criteria. To reduce small business impacts, staff considered several alternatives to the proposed requirements. For example, we considered collecting required data from non-facility sources, such as from other agencies (for example, fuel stations report sales to the Franchise Tax Board). For this potential alternative, non-facility data is not available for all sectors, so it would create substantial complexities in implementing the regulation and establishing compliance, as well as creating inequities in reporting for those facilities that do not have preexisting data reporting requirements versus those that do.

Also, we considered establishing mechanisms which would place more of the data collection and emissions calculations responsibility on local air districts. In practice, the local air districts will need to be significantly involved in collecting and processing data from small business facilities, because the businesses may not have the technical staff available to fully comply with the requirements. Therefore, we determined that it would be impractical, unnecessary, and ineffective to place additional requirements or burdens on local air districts to reduce the burdens on small businesses, because the air districts are already anticipated to provide this direct assistance within the regulatory framework.

Finally, we considered reporting exclusions for small businesses, or for certain small business categories. In considering this alternative, during our public process in developing the proposed regulation, we received substantial public support to include as many facilities as reasonable, and to avoid exclusions of emitting facilities, particularly in selected communities. Community members and others have a very strong interest in knowing as much as possible regarding the sources of emissions in their communities, even if those sources are small businesses. In addition, small sources may cumulatively create unexpectedly significant impacts, which is another reason to not exclude certain facilities, merely because they are small businesses. For these reasons, to be health protective, and to collect the data needed to fully identify air pollution sources and impacts within communities and statewide, staff did not propose exclusions for small businesses within the proposed regulation.

Health and Safety Code section 57005 Major Regulation Alternatives. The proposed regulation will not result in a total economic impact on state businesses of more than \$10 million in any single year of implementation. Therefore, this proposal is not a major regulation as defined by H&SC section 57005.

IX. JUSTIFICATION FOR ADOPTION OF REGULATIONS DIFFERENT FROM FEDERAL REGULATIONS CONTAINED IN THE CODE OF FEDERAL REGULATIONS

Government Code section 11346.2(b)(6) requires CARB to describe its efforts to avoid unnecessary duplication or conflicts with federal regulations that address the same issues. As with the proposed CARB reporting regulation, various provisions of existing federal regulations require the reporting of criteria emissions and toxics air contaminants to U.S. EPA. For example, in 2008, U.S. EPA promulgated the Air Emissions Reporting Requirement (AERR), requiring states and local air pollution control agencies to submit emissions inventories for criteria pollutants to U.S. EPA's Emission Inventory System (EIS) (Title 40, Chapter 1, Subchapter J, Part 51, Subpart A, Requirements for Preparation, Adoption, and Submittal of Implementation Plans) (40 CFR 51, 2012). These regulations require reporting either annually or every three years based on the quantity of emissions from the source and the regional attainment status.

In addition, certain specified California industry sectors are required to annually report their emissions of specified toxic air contaminants to U.S. EPA under the federal Emergency Planning and Community Right-to-Know Act (42 United States Code, Title 42, chapter 116, §11001 et seq.) (42 U.S.C. 116, 2011), and Code of Federal Regulations Title 40, Chapter I, Subchapter J, Part 372, Toxic Chemical Release Reporting: Community Right-To-Know (TRI) (40 CFR 372, 1996).

Although the proposed CARB reporting requirements also require reporting of criteria and toxic emissions, which does have some overlap with existing federal requirements, the requirements are not duplicative. The proposed CARB regulation is specifically designed to address the needs associated with evaluating air pollution impacts in disproportionately impacted communities. These needs cannot be met with data collected under existing federal regulations, which makes it necessary to implement the new CARB requirements.

In addition, the reporting requirements are mandated by AB 617, section 39601.7(b)(1) of the H&SC, which requires CARB to establish "a uniform statewide system of annual reporting of emissions of criteria pollutants and toxic air contaminants for a stationary source." Further, the cost of differing reporting regulations is justified by the anticipated benefits to human health, public welfare, and the environment. Community monitoring and emission reduction programs will be implemented using the data collected under the regulation as a foundation to establish, evaluate, and quantify community air quality improvements.

The following paragraphs provide some specific examples regarding how data collected under existing federal programs is not sufficient to successfully fulfil the requirements of AB 617, and why the proposed CARB regulation is necessary.

For example, under the U.S. EPA requirements for criteria pollutant emissions reporting, for many facilities, data is only required to be reported every three years, which is not effective when evaluating community level impacts. It is important to know what the emissions are as soon as possible, to allow evaluation of immediate impacts and to track potential reductions. In addition, the thresholds for reporting applicability are in many cases much higher under the U.S. EPA requirements, and vary by district. The CARB regulation establishes consistent and annual statewide requirements, requiring reporting of synchronous criteria and toxics data, for more and smaller facilities, to effectively address community emissions concerns throughout California.

For the toxics data collected by U.S. EPA, there are similar limitations in the collected federal Toxics Release Inventory (TRI) (US EPA, 2017) data which necessitates that CARB establish a separate regulation and requirements to collect emissions data necessary to effectively implement the requirements of AB 617. For example, the facility self-reported TRI data is not necessarily reviewed by CARB or the air districts for quality or completeness, as would be done under the proposed CARB regulation. In addition, TRI focuses on specific larger industry sectors, and does not include smaller sources such as small diesel engines, gas stations, print shops, and paint booths. The TRI data does not explicitly collect diesel particulate matter as an individual toxic substance, which is of significant concern in impacted communities. Collecting criteria and toxics emissions data from small sources or facilities, which is then reviewed by air districts and CARB for public dissemination, is a critical element needed to understand and reduce the air pollution impacts in disproportionately burdened communities. For these reasons, the proposed CARB regulation and requirements are needed to successfully and fully meet the AB 617 program needs.

The proposed regulation also does not conflict with any Federal regulations. For facilities that may be subject to partial overlap between the federal and CARB requirements due to the new proposed regulation, the impacts would be minimal, because the collected data will meet the requirements of both federal and state reporting programs, so duplicative data collection is not required. In addition, for the federal criteria and toxics emissions reporting programs, we anticipate that the proposed CARB reporting regulation may enhance compliance and data quality, because of the requirement for annual reporting, and the enhanced scrutiny of AB 617 facility criteria and toxics data by CARB, local air district staff, and others.

X. PUBLIC PROCESS FOR DEVELOPMENT OF THE PROPOSED ACTION (PRE-REGULATORY INFORMATION)

Consistent with Government Code sections 11346, subdivision (b), and 11346.45, subdivision (a), and with the Board's long-standing practice, CARB staff held public

workshops and had other meetings with interested persons during the development of the proposed regulation. These informal pre-rulemaking discussions provided staff with useful information that was considered during development of the regulation that is now being proposed for formal public comment.

In this chapter, we provide a brief overview of the regulatory process and actions taken to develop the staff's proposed regulation.

With the initiation of AB 617 in July of 2017, CARB staff immediately began the work of evaluating the needs for implementing the AB 617 reporting requirements established in H&SC section 39607.1. This began with informal contacts in late 2017 with local air district staff, to obtain their initial input in helping to establish the framework for developing the regulation. This led to establishing a joint CARB-California Air Pollution Control Officers (CAPCOA) workgroup, representing CARB and local air district emissions staff, to specifically focus on implementing the emissions reporting requirements of AB 617. The group, which included representatives from large, medium, and rural air districts, held several teleconferences during the regulation development process. During the calls, CARB and district staff discussed both general and very detailed practical elements of the proposed regulation, some of which would impose additional reporting requirements on both facilities and air districts. The air districts were instrumental in the regulation development process, providing both verbal and written comments throughout the process on key issues, to help create the proposed regulation.

As part of our outreach efforts, CARB staff personally visited each of the 35 California local air districts. We traveled to each district to better understand how emission inventory data is currently collected by the individual local air districts, and to get a sense of how a new reporting regulation may affect district workload and business processes. The visits were extremely valuable, providing a much deeper understanding of the variations between air districts in their methods, their resources, staffing, and the overarching requirements under their purview. For example, a rural district with few emissions sources and a low population may not have a specific staff person assigned to compiling emissions inventory data, and may perform data collection using paper forms. But, a large district with many sources and high population densities, may have groups of staff, specifically focused on collecting, compiling, and checking emissions data, collecting and maintaining the data in electronic data bases and reporting systems.

The public outreach for the regulation development was extensive. Our intention was to provide as much outreach as possible in regions that are most likely to be affected by the proposed regulation.

CARB staff hosted ten public workshops focusing on the regulation. Prior to each round of workshops, CARB staff sent letters to nearly 1,000 facilities potentially subject to the proposed regulation. In addition, we electronically notified over 11,000 individuals or companies of the workshops via CARB email lists. Notices for the workshops were

posted to the email lists for: AB 2588 Air Toxics Hot Spots, AB 32 Public Health Workgroup, Community Air, Criteria & Toxics Reporting Regulation, Environmental Justice Stakeholders Group, GHG Mandatory Emissions Reporting, Oil and Natural Gas Production, Processing, and Storage, Refineries Sector, and Title V Activities list-serves. Webcasts and video conference options were available for some meetings to enable remote participation.

During May and June, 2018, staff held the first round of workshops in Sacramento, the Bay Area (Oakland), the San Joaquin Valley (Fresno), Los Angeles, and San Diego. The purpose of these initial workshops was to present the initial regulatory concepts regarding applicability, timing, reporting requirements, and general implementation, and then to facilitate discussion and comments regarding the proposed concepts. Each workshop was attended by about 40-50 people. The Sacramento workshop was Webcast, with about 400 people watching. The San Joaquin Valley workshop was hosted in Fresno at the air district office, with video conferencing to both Modesto and Bakersfield, to provide access throughout the San Joaquin Valley.

Attendance at the workshops included air district representatives, environmental groups, community groups, affected businesses, industry groups, academics, consultants, government agencies, and others. Following the workshops, we received twelve written comments regarding the staff proposal, which are posted on the CARB program website for the Criteria and Toxics Emissions Reporting Regulation⁹. Staff considered the submitted comments in developing the initial draft and the currently proposed regulation.

In July and August, 2018, staff hosted a second round of five workshops, at the same locations mentioned above with again, about 40-50 people attending each workshop. For these workshops, we provided a preliminary draft of the proposed regulation text, reviewed each element of the regulation, and then facilitated discussion, comments, and questions regarding each of the proposed requirements. The number of stakeholders participating and the types of stakeholders who attended was similar to the first rounds of workshops. Following the second round of workshops, we received 15 comment letters, which were also carefully considered in developing the proposed regulation. These comments are also posted on the CARB website (CARB, 2018).

In addition to the CAPCOA workgroup, the district visits, and the public workshops, staff has also had at least a ten follow-up visits to air districts, to discuss specific elements of the proposed regulation and its implementation.

Beyond the public, district, and workgroup meetings mentioned above, staff's outreach efforts included numerous personal contacts via telephone, electronic mail, regular mail, and individual meetings with interested parties. These contacts included regulated facilities, environmental and community organizations, industry groups, and other entities. Staff considered the informal comments provided during and after the contacts and meetings in crafting the staff proposal.

⁹ <https://www.arb.ca.gov/ei/ctr/ctr-regulation/ctr-regulation-comments.htm> (CARB, 2018)

XI. THE SPECIFIC PURPOSE OF EACH ADOPTION AND RATIONALE FOR CARB'S DETERMINATION THAT IT IS REASONABLY NECESSARY

The overall AB 617 program was established to reduce cumulative exposure from criteria pollutants and toxic air contaminants in California's most impacted communities. The statute requires that the state board prepare a statewide strategy specifying criteria for the development of community emission reduction programs. Inventory data is a guide to provide a scientific basis for CARB's regulatory development process, to identify and address areas of concern, and, in addition, to track progress in our emissions reductions efforts from stationary sources, area sources and mobile sources.

The proposed regulation is entirely new, so there are no amendments or repeals in this rulemaking, but only adoptions of new text. Below we describe the purpose for each section, and the rationale for including each section in the proposed regulation. The rulemaking will adopt new Subchapter 7.7, Article 1, sections 93400 to 93411, title 17, of the California Code of regulations. These provisions are to implement elements of Assembly Bill 617-Nonvehicular Air Pollution: Criteria Air Pollutants and Toxic Air Contaminants (stats. 2017; Chapter 136; Health and Safety Code section 39607.1), as included in Appendix B of this document.

Article 1. General Requirements for Criteria and Toxics Reporting

Section 93400. Purpose and Scope

Summary and Purpose of Section 93400

The purpose of this section is to explain the statutory basis for the proposed regulations and the scope of what they will govern. This section explains that the proposed regulations promulgate a statewide system of annual reporting to track emissions of criteria pollutants and toxic contaminants from specified facilities.

Rationale for Section 93400

Section 39607.1 of H&SC states that CARB shall require the owners or operators of specified facilities to report annual emissions of criteria pollutants and toxic air contaminants to CARB. Implementation of annual reporting of criteria pollutants and toxic air contaminants under a statewide framework will ensure compliance with H&SC, and will establish consistency with the frequency of emissions reporting for greenhouse gases.

Section 93401. Applicability

Summary and Purpose of Section 93401(a)

Section 93401 is the overall applicability section of the regulation; it establishes which facilities are subject to the requirements of the regulation. The applicability section is subdivided into several subsections, to identify the specific facility categories that must report. These specific facility categories are addressed below.

Rationale for Section 93401(a)

The applicability requirements are needed to unambiguously identify the parties subject to the regulation. This is necessary to provide regulatory certainty for regulated entities, by clearly establishing those facilities that have an obligation to comply with the new requirements.

Summary and Purpose of Section 93401(a)(1)

Section 93401(a)(1) establishes the reporting requirement for facilities subject to the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MMR) (CCR, title 17, § 95100 et seq). For clarity, this section also specifies that the reporting requirements apply to onshore oil and gas production or processing facilities as defined in MRR. The text also establishes that if a facility operator is subject to reporting under MRR at the beginning of a calendar year (January 1), then emissions must be reported for the calendar year under the requirements of this proposed regulation.

Rationale for Section 93401(a)(1)

AB 617, H&SC section 39607.1, specifically identifies that facilities subject to MRR are subject to the reporting requirements for criteria pollutants and toxic air contaminants under AB 617, so this section is included in the Criteria and Toxics Reporting (CTR) regulation to establish reporting applicability for MRR facilities. The clarifying text regarding onshore oil and gas production or processing facilities was included because these types of “facilities” under MRR often do not have a single definable facility footprint, but can be spread over an entire geologic basin. Because of this MRR variation from a traditional facility definition, the reference to the MRR definition was provided to clearly establish that the reporting requirements also apply to MRR oil and gas facilities. The text specifying that a facility’s obligation under this section will be determined based on their status as of January 1, is necessary to give regulated facilities certainty as to whether the regulation applies.

Summary and Purpose of Section 93401(a)(2)

This section establishes applicability requirements for a class of facilities subject to reporting identified in AB 617, H&SC 39607.1(a)(2)(B). The section provides the specific language and clarity needed to fully implement the requirement.

Rationale for Section 93401(a)(2)

This section is necessary to implement the provisions of AB 617 H&SC 39607.1(a)(2)(B). Under H&SC 39607.1(a)(1) a “nonattainment pollutant” may be one that is associated with the attainment status of a region in meeting either state or national air quality standards. Therefore, it was necessary within the text to establish that the determination applies to both the State of California and national air quality standards. It was also necessary to establish that the applicability determination does not include emissions from non-permitted sources, because it would be impractical and burdensome to include these emission sources in the determination. Within this section, we use the term “applicable nonattainment pollutant or precursor” to identify those emissions to be evaluated in determining applicability. This term is defined within section 93402(b) of the proposed regulation, and additional detail is provided later in

this chapter of the ISOR. Section 93401(a)(2) then provides a detailed description of the emissions levels that trigger the reporting requirements, as follows in the next section.

Summary and Purpose of Section 93401(a)(2)(A-D)

These sections establish the specific criteria pollutant emissions levels for individual air pollutants that would trigger reporting applicability, in the absence of meeting any other applicability requirements. It is included to provide clarity to reporters to assist in determining if they are subject to the requirements of the regulation. In this section, nonattainment pollutant criteria include 250 or more tons of any of: nitrogen oxides, reactive organic compounds, volatile organic compounds, particulate matter, carbon monoxide, lead, sulfur oxides or ammonia.

Rationale for Section 93401(a)(2)(A-D)

Although AB 617 identifies that the reporting applicability threshold is the authorization to emit 250 or more tons per year of any nonattainment pollutant or its precursors, there is potential ambiguity in the statutory language because it does not fully address the potential intricacies of determining specific nonattainment pollutants. Staff included this section to explicitly identify which pollutants are criteria pollutants, and what specific emission levels trigger reporting. The section was also included to make it explicit that the applicability threshold is based on quantities of individual pollutants or associated pollutant groups (such as NO_x or ROG), and not on summed, or additive emissions of the pollutants.

Summary and Purpose of Section 93401(a)(3)

The purpose of this section is to establish and clarify the reporting applicability requirements specified in AB 617, which require reporting by “A facility that receives an elevated prioritization score...” The proposed regulation requires reporting by facilities categorized by an air district as high priority for toxic emissions, pursuant to H&SC section 44360. This section also specifies that applicability is based on the status of the facility at the beginning of a year, and if the facility is “high priority” at the beginning of a year (January 1), then emissions reporting is required for that calendar year.

Rationale for Section 93401(a)(3)

Section 39607.1(a)(2)(C) of AB 617 does not define the term “elevated prioritization score.” Therefore, it was necessary for CARB staff to specify the meaning of the word “elevated” as it pertains to reporting applicability, so that facility operators could determine if they would be subject to the reporting requirements. Staff considered many options for the “elevated” applicability criteria, weighing many factors such as the clarity of the requirement, the ability to identify facilities subject to the requirement, the number of facilities affected, the need to identify potentially significant facilities, potential costs and workload, and the expected benefits of using the collected data to protect communities through emissions reduction programs and other mechanisms. After significant evaluation, and consideration of input from many stakeholders including air districts, industry, community groups, individuals, and others, CARB staff determined that including facilities categorized by air districts as “high priority” for toxics is the most appropriate surrogate for an “elevated prioritization score.”

Summary and Purpose of Section 93401(a)(4)

Under this provision, facilities with air district permits, and located within the boundary of a community selected for a monitoring plan or emission reduction plan by the CARB Governing Board pursuant to AB 617, that emit any criteria pollutant or toxic air contaminant would be subject to the reporting requirements under the proposed regulation.

Rationale for Section 93401(a)(4)

A primary purpose of AB 617 is to reduce emissions of toxic air contaminants and criteria pollutants in communities affected by a high cumulative exposure burden. Therefore, to address AB 617's purpose it is necessary to clearly and comprehensively identify the sources of air pollution at the community level, especially within the communities specifically selected for community monitoring or community emission reduction plans. Consequently, under the proposed regulation, permitted facilities not subject to the regulation based on greenhouse gas, criteria pollutant, or toxic air contaminant emissions applicability, but that are within "selected communities," are subject to reporting under the proposal. The collected data will be used to identify both localized and cumulative impacts, and can be used to definitively evaluate which facilities are, and are not, significant sources of air pollution. Emissions data from such facilities will also be used to evaluate increases or decreases in emissions within communities over time.

Staff also considered implementing this reporting requirement for permitted facilities statewide, regardless of whether the facility is located in a selected community or not. But, on a statewide basis, the requirement would impose a substantial burden on industry and air districts, while requiring emissions reporting by facilities in regions without significant air quality issues, or by facilities that are not necessarily causing localized air quality impacts. For these reasons, we do not propose to implement statewide reporting requirements for all permitted sources.

Summary and Purpose of Section 93401(b)(1)

This section of the regulation identifies specified entities subject to the Regulation for the MRR, but that are not subject to the requirements of the proposed regulation.

Rationale for Section 93401(b)(1)

AB 617 requires criteria pollutant and toxic air contaminant emissions reporting for all stationary source facilities that are required to report facility greenhouse gas emissions under MRR. However, MRR requires reporting from several classes of emissions sources, such as fugitive emissions from natural gas distribution pipeline networks, transportation fuel combustion emissions from fuel suppliers, and emissions resulting from out-of-state electricity generation from electric power importing entities, that do not have a specific facility geospatial footprint for which emissions occur within California. For this reason, to provide clarity regarding applicability, it was necessary to specifically exclude these types of emitting entities, because they are not commonly considered facilities, and emissions from these sources are generally not associated with a specific site or location, which could be used in the evaluation of community air emissions impacts.

Summary and Purpose of Sections 93401(b)(1)(A), (B) and (C)

These three sections, provide the exclusion language for specified MRR reporting sectors that are not appropriate for reporting under the proposed rule, and are therefore excluded from reporting requirements. These include: suppliers of transportation fuels and carbon dioxide that do not report stationary source combustion emissions, electric power entities that import electricity from out of state, and suppliers of natural gas, natural gas liquids, and liquefied petroleum gas, that do not produce any reportable facility emissions under MRR.

Rationale for Section 93401(b)(1)(A), (B) and (C)

As described above, the identified sectors are not appropriate for reporting under the provisions of the proposed regulation, because the GHG emissions reported pursuant to MRR for these sources do not occur at a defined location, and any collected data for criteria pollutants and air toxics would not be useful. For example, transportation fuel suppliers that report under MRR report the quantities of vehicle fuel that they provide for use within California. Emissions associated with those fuel deliveries occur when the fuel is combusted in a vehicle, so there is not a clearly identifiable stationary location where the combustion emissions occurred. The situation is similar for natural gas suppliers, when fugitive GHG emissions that occur from pipelines, meters, and other equipment that is part of a distribution network are reported pursuant to MRR. Such fugitive GHG emissions across the entire network likewise do not occur at a specific location. Therefore, such facilities are excluded from the proposed rule for criteria and toxic air pollutants. However, if a facility from one of these excluded sectors does have reportable stationary source facility-level emissions reported under MRR (i.e. stationary combustion emissions), then those facilities are subject to the proposed regulation.

Summary and Purpose of Section 93401(c)

This section, which includes several sub-sections, describes the criteria that must be met for facility operators to cease reporting.

Rationale for Section 93401(c)

This section is necessary to identify the criteria that must be met for a facility to cease reporting. Without this section, facility operators would either be subject to reporting indefinitely, which could create unnecessary reporting burdens, or the criteria for cessation of reporting would be undefined, leading to confusion in complying with the requirements.

Summary and Purpose of Section 93401(c)(1)

This section applies to any facility operator subject to reporting pursuant to the applicability criteria in sections 93401(a)(1) or (2), and identifies what criteria must be met, and which actions must be taken, in order to meet the reporting cessation requirements under the regulation.

Rationale for Section 93401(c)(1)

This section is necessary to establish cessation criteria, to provide clarity to reporters regarding the conditions under which they can cease reporting. The following three subsections provide the specific cessation criteria and requirements.

Summary and Purpose of Section 93401(c)(1)(A)

This section establishes that if a facility was subject to reporting pursuant to the applicability criteria in 93401(a)(1) or (2), but no longer meets any of the applicability requirements at the beginning of a data year, then the owner or operator may cease reporting.

Rationale for Section 93401(c)(1)(A)

The reason for this section is to establish that facility operators subject to this rule based on the applicability criteria in sections 93401(a)(1) or (2) may cease reporting if the facility emissions decrease such that the facility no longer meets any of the applicability criteria. If none of the applicability criteria apply, then such facilities will no longer be required to report. If the cessation mechanism was not provided, then an existing facility could be subject to reporting indefinitely.

Summary and Purpose of Section 93401(c)(1)(B)

This section determines that if a facility qualifies for cessation, and the facility owner or operator wished to cease reporting, then the owner or operator must submit in writing the reason for cessation of reporting. A designated representative must certify that the facility does not meet any of the applicability requirements in section 93401(a) by May 1 of the year that the report would be due, or by the local air district's reporting deadline if it is earlier than May 1.

Rationale for Section 93401(c)(1)(B)

A written certification indicating the reason that the facility may cease reporting (e.g. the facility no longer meets the applicability criteria, notifies CARB of the change in reporting status, and allows CARB to review whether or not the facility meets the cessation requirements. This is vital in order to support CARB oversight. In addition, a written notice provides a historical record to further support CARB oversight in determining compliance with the reporting requirements.

Summary and Purpose of Section 93401(c)(1)(C)

This section states that the owner or operator of a facility that wishes to cease reporting pursuant to section 93401(c)(1)(A) must maintain records for five years that demonstrate that the applicability criteria no longer apply to the facility.

Rationale for Section 93401(c)(1)(C)

As outlined in section 93405, the owner or operator of a facility subject to this regulation must retain records and documentation for five years from the date of final reporting of emissions data. The purpose for retaining the records for a minimum of five years is to allow CARB to perform any necessary review or audits of the records for any facility that has ceased operations within the previous five years. It is important that CARB have access to these records to evaluate compliance for facilities that have been subject to reporting under this rule, but have ceased reporting.

Summary and Purpose of Section 93401(c)(2)

This section applies only to facilities categorized as high priority for toxics. The Air Toxics "Hot Spots" Act requires districts to prioritize and then categorize facilities for the

purposes of health risk assessment. This section describes requirements for the cessation of reporting for facilities that have reported based on being categorized by an air district as “high priority” pursuant to the “Hot Spots” regulation.

Rationale for Section 93401(c)(2)

The following sections outline the requirements for cessation of reporting for facilities designated as high priority. High priority facilities are determined by districts based on population density near a facility, proximity of sensitive receptors to a facility, the presence of receptors at a distance of less than 50 meters, elevated receptors/complex terrain, frequency of nuisance violations, the importance of the non-inhalation pathway for substances emitted by the facility, and the presence of non-stack (fugitive) emissions.¹⁰ This section is needed to establish the circumstances under which facilities that have been designated as high priority may cease reporting.

Summary and Purpose of Section 93401(c)(2)(A)

This section establishes that if a facility does not meet any applicability criteria and is categorized in section 93401(a)(3) as high priority for toxics, the owner or operator can cease reporting if all of the following requirements in the subsections below are met.

Rationale for Section 93401(c)(2)(A)

The cessation requirements for high priority facilities differ from the requirements for facilities that fall into the other applicability categories and therefore must be defined separately. The cessation process for the high priority category is based on examination of the emissions inventory data, and the reference documents listed in the sections below.

Summary and Purpose of Section 93401(c)(2)(A)1.

This section states that, in order to cease reporting, the owner or operator of any facility included in the high priority category must prepare and submit a health risk assessment (HRA). The HRA must be prepared using the OEHHA February 2015 version of the Hot Spots Program Risk Assessment Guidelines (OEHHA, 2015), or using a similar risk assessment process approved by the Executive Officer.

Rationale for Section 93401(c)(2)(A)1.

For facilities that are designated as high priority, the first step for cessation of reporting is to complete a detailed HRA. Health risk assessments are required for facilities designated in the high priority category to establish the health impacts on nearby receptors, and must be prepared according to the guidelines established by the Office of Environmental Health and Hazard Assessment as stated in the Health and Safety Code § 44360(b)(2).

Summary and Purpose of Section 93401(c)(2)(A)2.

This section states that the HRA must indicate that the summed cancer and noncancer health impacts results do not exceed the district’s threshold for public notification according to §44362(b) of the Health and Safety Code.

¹⁰ (CAPCOA, 2016)

Rationale for Section 93401(c)(2)(A)2.

Health Risk Assessments that are submitted by high priority facilities are made available for public review indicating exposure to cancer and noncancer health risks.

Accordingly, each health risk assessment are submitted to the local air district. The districts make the HRA available for public review, upon request. HRA results below the district-established notification threshold for risk represent a level below which risk is minimal, and therefore, annual reporting of emissions is less significant with regard to the evaluation of pollution mitigation efforts.

Summary and Purpose of Section 93401(c)(2)(A)3.

This section determines that a high priority facility that is required by the district to complete a risk reduction plan may cease reporting if the facility's most recent actual annual reported emissions are associated with a level of risk that does not exceed the district's threshold for public notification according to the H&SC section 44362(b).

Rationale for Section 93401(c)(2)(A)3.

Requiring a risk reduction audit and plan for a facility provides both the district and CARB with information regarding health risk exposure resulting from facility emissions. The importance of notifying the public of cancer and non-cancer health risks based on a district-established exposure threshold improves transparency and public trust of both the district and CARB. The reason for this section is to allow districts the flexibility to determine that the facility's emissions have decreased to a point representing a level of risk that is below the district's notification threshold, prior to completing a subsequent HRA. If the facility's emissions fall to a level below that which would represent an exposure risk below the district's notification threshold, then the facility may cease reporting.

Summary and Purpose of Section 93401(c)(2)(A)4.

This section establishes that the owner or operator of a facility designated as high priority must provide justification in writing that the facility meets the requirements to cease reporting and submit the information to both the local air district and CARB. A facility will have 60 days to provide the HRA to CARB if requested. A designated representative must certify that the facility meets the cessation requirements in section 93401(c)(2)(A) by May 1 (or by the local air district's reporting deadline if earlier than May 1).

Rationale for Section 93401(c)(2)(A)4.

This requirement of written certification to cease reporting applies to high priority facilities that meet the cessation eligibility criteria. This section is needed to establish that the facility owner or operator must inform CARB and the local district that the cessation requirements have been met, and to determine that the designated representative is responsible for providing the justification that the facility no longer meets any of the applicability criteria. It is crucial that the local air district and CARB receive a detailed notification of a facility's eligibility for cessation to support program oversight, and for evaluation of compliance with the reporting requirements of the proposed regulation.

Summary and Purpose of Section 93401(c)(3)

This section outlines the requirements for owners or operators to cease reporting specifically for facilities that cease to operate or permanently shut down.

Rationale for Section 93401(c)(3)

The importance of defining the cessation requirements for shutdown facilities is because the circumstances differ from the previous two categories of facilities that may cease reporting pursuant to the proposed regulation.

Summary and Purpose of Section 93401(c)(3)(A)

This section states that if a facility discontinues all operations or permanently shuts down, the owner or operator must submit an emissions data report for the final year of operations and a report for the first full year of zero emissions. If the owners or operators are unable to provide the report or cannot be located because the facility no longer exists, then documentation from the district or other authorized entities showing zero emissions will be accepted.

Rationale for Section 93401(c)(3)(A)

In order to determine whether a facility has ceased all applicable greenhouse gas, criteria pollutant, and toxics-emitting processes, CARB must require a report of zero emissions to approve cessation of reporting. By requiring a facility to submit evidence that there are actually no further emissions resulting from processes operated by the facility, CARB will have the information necessary to confirm that the facility meets the cessation requirements under this section of the regulation.

Summary and Purpose of Section 93401(c)(3)(B)

As required for both the previous two categories for facilities requesting to cease reporting, written notification must be submitted for review by CARB. The notice must specify the cessation of all greenhouse gas, criteria pollutant and toxics-emitting processes and operations by the May 1 deadline, or by the local air district's reporting deadline, if earlier than May 1.

Rationale for Section 93401(c)(3)(B)

This section is needed to establish that the facility owner or operator must inform CARB and the local district that the cessation requirements for shutdown facilities have been met, and to determine that the owner, operator or designated representative is responsible for providing the justification that the facility no longer meets any of the applicability criteria. It is crucial that the local air district and CARB receive a detailed notification of a facility's eligibility for cessation to support program oversight, and for evaluation of compliance with the reporting requirements of the proposed regulation. The reporting deadline remains the same to reduce confusion and is uniform for each category of cessation requirements.

Summary and Purpose of Section 93401(c)(3)(C)

"Cease to operate" specifically applies to facilities that did not conduct any operations that resulted in emissions of greenhouse gas, criteria pollutant, and toxic-emitting

processes. These processes apply to facilities that have ceased all operations for a full calendar year.

Rationale for Section 93401(c)(3)(C)

To provide further clarification on facilities eligible for cessation from reporting, this definition clearly identifies which facilities may qualify for cessation based on operational status. This applies to facilities that have ceased all operations for at least one year. In the case that the facility resumes operations, the applicability requirements will resume and the owner or operator would be subject to reporting.

Summary and Purpose of Section 93401(c)(3)(D)

This section clarifies that the term “shut down” means that the owner or operator has proof that the operations have been terminated permanently and that there are no emissions resulting from any permitted device or process (other than space heaters or hot water heaters that may be used during decommissioning).

Rationale for Section 93401(c)(3)(D)

Clarification of the term “shut down” in this section is needed to prevent possible misinterpretation regarding the circumstances under which a facility is no longer considered to be in operation. This definition applies specifically to the facilities that have ceased operations as defined in section 93402 of this regulation.

Summary and Purpose of Section 93401(c)(3)(E)

This section excludes cessation for facilities that operate seasonally, or only during certain months within the year. These facilities do not meet the definition of being permanently “shut down” and are excluded from the option of reporting cessation.

Rationale for Section 93401(c)(3)(E)

For facilities that are only operational for a portion for the year, it is necessary to identify that they do not qualify for the permanent “shut down” category and are not eligible for cessation under this section. This section clarifies that facilities that operate on a seasonal basis would still be required to report under this regulation if they meet the applicability criteria.

Summary and Purpose of Section 93401(c)(3)(F)

This section states that a facility that was shut down and ceased operations, but then subsequently begins operations again, will be subject to reporting once operations resume, if the facility meets the applicability criteria. The owner or operator will be required to report for a future calendar year any criteria pollutant or toxic emissions.

Rationale for Section 93401(c)(3)(F)

This section is need to clarify that if a facility discontinues its operations for a full calendar year, but then later resumes operations and emissions, the applicability

requirements will resume as well. This ensures that CARB can continue to collect emissions data for those facilities subject to reporting.

Summary and Purpose of Section 93401(c)(4)

This section complements the previous section, stating that if any facility that has ceased operations for any reason has subsequently resumed operations, then that facility will be subject to all reporting requirements if it meets any of the applicability requirements referenced in 93401(a)(1-4).

Rationale for Section 93401(c)(4)

In the event that a facility does not meet any of the applicability requirements, cessation of reporting will occur and the reporting requirements are not applicable. However, if the operational status of a facility changes to reflect a fully operational facility, then the eligibility for cessation would no longer apply and that facility will be subject to reporting if the facility meets any of the applicability criteria. The intent of this section is to continue monitoring the emissions from facilities that re-start operation, by requiring these facilities to report emissions.

Summary and Purpose of Section 93401(d)

For a facility that does not meet any of the applicability requirements, this section allows the Executive Officer or the local air district to request a demonstration (through documentation or otherwise) that none of the applicability requirements apply to confirm that the facility is exempt from the reporting requirements.

Rationale for Section 93401(d)

This section is reserved for select facilities that have been identified as possibly subject to the proposed regulation. If available information suggests that a facility may be subject to the rule, but the owner or operator states that the facility does not meet any of the applicability criteria, then CARB may require additional documentation or information to confirm that that none of the applicability criteria apply. This is needed to allow CARB a mechanism for confirming that a facility is not subject to the rule.

Section 93402. Definitions

Summary and Purpose of Section 93402. Definitions

This section defines all key terms used within the regulation that may not be in common usage or which may potentially be ambiguous without a regulatory definition to provide clarity and specificity in the proposed regulation.

Rationale for Section 93402. Definitions

This section is necessary to ensure that those subject to the regulation are able to understand and interpret the regulation correctly, and to avoid ambiguity and improve compliance with the regulation. CARB staff has attempted to include all key terms used in the regulation.

Summary and Purpose of Definition “Activity level” or “activity value”

Under the proposed regulation, reporters will be required to report data such as hours of operation, fuel consumed, production data, or other parameters. This “activity level” or “activity value” definition acts as a general surrogate for the many types of data that may be collected, and specifies that the activity is measured over a finite period. An activity value may be multiplied by an emission factor, or used in other ways, to generate an emissions estimate.

Rationale for Definition

The reason for this definition is two-fold. First, it provides a short-hand when referring to certain types of collected data, so a full list does not need to be repetitively enumerated. Second, the definition provides clarity for those subject to the regulation, establishing that specified data are to be measured, and over a finite time period.

Summary and Purpose of Definition “Actual emissions” or “actual air emissions”

This definition specifies that “actual emissions” are those emissions that are actually emitted to the air during a data year and is provided to distinguish actual emissions from terms such as “permitted emissions,” or “potential to emit emissions,” or “theoretical emissions.”

Rationale for Definition

Within the regulation, facility operators are required to report their “actual emissions.” This definition is necessary to provide explicit clarity to reporters regarding the type of emissions data that must be reported, so they can most effectively comply with the requirements and to avoid confusion with other emissions metrics such as permitted, potential, or theoretical emissions.

Summary and Purpose of Definition “Air district” or “air quality management district” or “air pollution control district”

Air districts are referred to throughout the regulation and this definition states that the terms “air district,” “air quality management district,” and “air pollution control district” mean any district created or continued in existence pursuant to the provisions of Part 3 (commencing with section 40000) of Division 26 of the Health and Safety Code.

Rationale for Definition

Because CARB and the local air districts will both play roles in implementing the regulation, and the term “air district” is used within the regulation, the term was defined to identify the agencies being referred to in the regulation.

Summary and Purpose of Definition “Annual”

This definition specifies that “annual” means with a frequency of once each year and also states that, unless otherwise noted, annual events such as reporting requirements will be based on the calendar year.

Rationale for Definition

The regulation requires annual reporting. Therefore, it is necessary to be clear that reporting will be done once per year and will be based on a calendar year.

Summary and Purpose of Definition “Applicable nonattainment pollutant or its precursors”

This definition states that an applicable nonattainment pollutant is a pollutant for which any portion of the air district in which the facility is located has been designated as nonattainment with respect to NAAQS or CAAQS under the relevant federal or state code, and also specifies where to find a list of precursors of such pollutants.

Rationale for Definition

One of the definitions of “stationary source” listed in AB 617 is “a facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant or its precursors.” Since the specific pollutants and precursors that make this regulation applicable to any particular facility will vary depending on the facility’s location and the district’s air quality standard attainment status, it is necessary to define which pollutants and precursors trigger the applicability criteria for any given facility. The two components of the definition are needed to identify the relevant nonattainment pollutants for both the federal (NAAQS) and state (CAAQS) nonattainment criteria.

Summary and Purpose of Definition “Best available data and methods”

In preparing emissions data reports, facility operators are required to use “best available data and methods,” which in itself is a general term, so staff included a specific definition to provide clarity to reporters. The term establishes the basic principles that must be complied with in calculating emissions data.

Rationale for Definition

The proposed regulation does not contain specific data collection and quantification methodologies for computing emissions levels. However, it is important that high quality data be collected and reported. Therefore, within the regulation, staff has established the term “best available data and methods” to provide the overarching principles and requirements to be used for emissions calculations. This includes the use of air district or CARB approved methods, using technically justifiable protocols and data. To provide clarity in terms, within the definition staff also clarified that “best available data and methods” does not include the use of potential emissions or permitted emissions, but must include “actual emissions.”

Summary and Purpose of Definition “Boundary of a community”

The boundary of a community, which is needed to determine which facilities are located within the community, is defined as the geographical extent of a community selected and approved by the CARB Governing Board, pursuant to H&SC 42705.5 or 44391.2.

Rationale for Definition

One criterion that makes this regulation applicable to certain facilities is having one or more permit(s) to emit any criteria pollutant or toxic air contaminant and being located within the boundary of a selected community. Therefore, the boundary of a community must be clearly defined. The actual boundaries for communities are not identified or established as part of this rulemaking.

Summary and Purpose of Definition “Calendar year”

This definition states that a calendar year, which is the time period that reporting is based on, is the time period from January 1 through December 31 of the same year.

Rationale for Definition

The regulation uses a calendar year as the increment of time for which emissions are to be reported in each data report. Calendar year must be defined to ensure that data submitted in required emissions reports addresses the correct time period.

Summary and Purpose of Definition “California Ambient Air Quality Standard” or “CAAQS”

The CAAQS means the maximum amount of a pollutant averaged over a specified period of time that can be present in outdoor air without any harmful effects on people or the environment, as determined by CARB. CAAQS is used to determine air district attainment status.

Rationale for Definition

The CAAQS, along with NAAQS, are used to determine whether a district is in attainment for particular pollutants. For each air district, the district attainment status is then used to identify which criteria pollutants or precursors are subject to evaluation in determining applicability per the requirements of 93401(a)(2) of the regulation. Therefore, it is necessary to define CAAQS to provide clarity in identifying districts that are in nonattainment status under the CAAQS. See also the definition for “applicable nonattainment pollutant or precursor” above for additional discussion.

Summary and Purpose of Definition “CARB”

CARB is defined as the California Air Resources Board, the agency developing this regulation.

Rationale for Definition

As the agency developing this regulation, CARB is mentioned in the regulation many times. Including the abbreviation CARB avoids the need to write out the full name California Air Resources Board every time.

Summary and Purpose of Definition “Community”

The term “community” is used in the sections on applicability, definitions, and emission reporting requirements, and means a defined geographic area selected and approved by the CARB Governing board, pursuant to H&SC 42705.5 or 44391.2.

Rationale for Definition

Community air monitoring systems and community emission reduction programs are important parts of AB 617, so use of the term “community” in this regulation must be clear. Being located within a selected community and having one or more permit(s) to emit any criteria pollutant or toxic air contaminant is also one of the facility applicability criteria (i.e., section 93401(a)(4)), so it is important to establish what is meant by “community.”

Summary and Purpose of Definition “Community Air Monitoring Program”

A Community Air Monitoring Program is a program of air quality monitoring, which may include a community air monitoring system, established and implemented by a district, CARB, and/or one or more community groups, pursuant to H&SC 42705.5.

Rationale for Definition

This definition is needed because being located within the boundary of a community selected by the CARB Governing Board for a Community Emissions Reduction Program or a Community Air Monitoring Program is one of the facility applicability criteria (i.e., section 93401(a)(4)), so it is important to establish what is meant by “community air monitoring program.”

Summary and Purpose of Definition “Community Air Monitoring System”

“Community air monitoring system” is defined exactly as in AB 617, H&SC section 92405.5(a)(1).

Rationale for Definition

The definition of “community air monitoring system” is included for clarity because it is used in the definition of “community air monitoring program.”

Summary and Purpose of Definition “Community Emissions Reduction Program”

A Community Emissions Reduction Program is a program of selected emissions reduction measures, approved by the CARB Governing Board, and implemented pursuant to H&SC 44391.2.

Rationale for Definition

This definition is needed because being located within the boundary of a community selected by the CARB Governing Board for a Community Emissions Reduction Program or a Community Air Monitoring Program is one of the facility applicability criteria (i.e., section 93401(a)(4)), so it is important to establish what is meant by “community emissions reduction program.”

Summary and Purpose of Definition “Continuous emissions monitoring system” or “CEMS”

A continuous emissions monitoring system (CEMS) is the total equipment required to obtain a continuous measurement of an emissions concentration or emission rate from combustion or industrial processes, and must meet local air district or U.S. EPA certification standards.

Rationale for Definition

“Continuous emissions monitoring system” must be defined to establish clarity because it is listed in the regulation as one of the methods that may be used to estimate emissions.

Summary and Purpose of Definition “Criteria air pollutant” or “criteria pollutant”

This definition lists the specific pollutants that are considered criteria pollutants for emissions reporting purposes under this regulation. These include total volatile organic

compounds (VOCs) or total reactive organic gases (ROG), nitrogen oxides (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), particulate matter (PM, PM_{2.5}, PM₁₀), lead (Pb), and ammonia (NH₃).

Rationale for Definition

The regulation requires annual reporting of criteria air pollutants. Therefore, it is necessary to specifically define which pollutants are criteria pollutants so that facility operators are clear about which pollutants need to be reported. Although ozone is considered a criteria air pollutant in other federal and state laws and regulations, it is not directly emitted by facilities, so it is not considered a criteria pollutant by definition for this reporting regulation. Ozone is formed through a chemical reaction of precursor chemicals, and the precursors of ozone are included in this regulatory definition.

Summary and Purpose of Definition “Data year”

Data year defines the time period for data reporting as the calendar year in which emissions occurred.

Rationale for Definition

The regulation requires emissions data to be reported each year. The emissions data are reported in the year following the year in which the emissions actually occurred. The term “data year” is included to reduce ambiguity and provide consistency within the regulation, so it is clear that the “data year” is the year that emissions actually occurred, and not the year in which the emissions must be reported.

Summary and Purpose of Definition “Designated representative”

Designated representative is defined as the person responsible for certifying and submitting the emissions data report required by this regulation.

Rationale for Definition

This definition is included because the regulation requires certain responsibilities to be carried out by the designated representative, and not providing a definition would introduce ambiguity regarding the responsible party for complying with the reporting requirements of the regulation.

Summary and Purpose of Definition “Device”

This definition states that a device is a piece of equipment that has a process associated with it, and gives examples of several types of devices.

Rationale for Definition

Device is defined because the regulation provides for reporting emissions at the process or device level, so a definition provides clarity regarding what the term means.

Summary and Purpose of Definition “Direct emissions”

Direct emissions are defined as emissions released directly from a stack, vent, chimney, or other functionally equivalent opening.

Rationale for Definition

The definition of direct emissions is included to distinguish direct emissions from fugitive emissions. This definition is consistent with previous definitions of direct emissions included in prior CARB emissions reporting regulations.

Summary and Purpose of Definition “Emission calculation method”

This definition states that “emission calculation method” means describing how the emissions for a pollutant were calculated. The definition also provides several examples of emission calculation methods.

Rationale for Definition

Emission calculation method is defined because it is required to be reported to ensure that the method used to calculate emissions is reliable and approved by an air district or CARB, which increases the accuracy and transparency of the emissions data.

Summary and Purpose of Definition “Emission factor”

An emission factor is the ratio relating emissions of a specific pollutant to an activity level, and is used in calculating emissions.

Rationale for Definition

There are several ways to determine emissions, one of which is to multiply a known activity level by an emission factor. The definition of emission factor is provided for cases in which this method is used. Under the proposed regulation the emission factors used must also be reported. The definition clarifies what CARB means by the term.

Summary and Purpose of Definition “Emissions”

The definition of emissions specifies that emissions include the release of criteria air pollutants or toxic air contaminants into the atmosphere, that emissions may come from any sources and processes within a facility, and that emissions include both direct emissions and fugitive emissions.

Rationale for Definition

Because the purpose of this regulation is to require annual reporting of emissions of criteria air pollutants and toxic air contaminants, it is very important to identify what exactly is meant by “emissions” so those subject to the regulation understand what to report. Specifically, that the reported emissions are to the atmosphere (versus water or soil), and under the regulation, emissions include criteria and toxic emissions (and not greenhouse gas emissions), and that both direct and fugitive emissions are reportable.

Summary and Purpose of Definition “Emissions data report” or “report”

The “emissions data report” or “report” is the report submitted to CARB each year that provides the information required by this regulation. The definition specifies that the report may be prepared by the owner or operator of a facility or by an air district, explains the time period covered by each report, and gives an example of the time period covered by a report.

Rationale for Definition

“Emissions data report” must be defined because the terms “report” and “emissions data report” are used throughout the regulation when specifying reporting requirements. Therefore, the definition describes what is meant by an “emissions data report,” and also provides clarification regarding the use of terms, including the term “data year.”

Summary and Purpose of Definition “Enforceable”

The definition of “enforceable” specifies that CARB and local air districts both have the authority to hold a particular party liable and to take appropriate action if any of the provisions or requirements are violated.

Rationale for Definition

This definition is to clarify what is meant by “enforceable” in the context of the regulation, and to identify that both CARB or districts may take action to enforce the provisions of the regulation.

Summary and Purpose of Definition “Engineering estimate”

Engineering estimates may be used to estimate emissions. This definition specifies that engineering estimates must be based on engineering principles applied to measured and/or approximated physical parameters.

Rationale for Definition

Because engineering estimates may be used to estimate emissions, “engineering estimate” must be defined to ensure that appropriate estimation methods are used to help ensure that emissions data are accurate, and appropriate scientific methods are used in estimating emissions.

Summary and Purpose of Definition “Equipment”

Equipment is defined to include any stationary article, machine, or other contrivance, or combination thereof, which may cause or control the issuance of air contaminants.

Rationale for Definition

The regulation makes many requirements related to equipment. Therefore, equipment must be clearly defined so those subject to the regulation have clarity regarding what is subject to reporting.

Summary and Purpose of Definition “Executive Officer”

Executive Officer is defined to mean the Executive Officer of the California Air Resources Board, or his or her delegate.

Rationale for Definition

The regulation establishes certain authority for the CARB Executive Officer and requires information to be submitted to the Executive Officer. Therefore, the regulation must clearly define the meaning of “Executive Officer,” so it is clear who is being referred to in the regulation.

Summary and Purpose of Definition “Geospatial coordinates”

Geospatial coordinates are used to identify the location(s) of facilities, devices, release points or other physical parameters, and are defined as the latitude and longitude values identifying a physical location, without considering elevation, under the North American Datum of 1983

Rationale for Definition

Geospatial coordinates are required to be reported for each primary release location at a facility. Therefore, the term must be defined to clarify exactly what must be reported.

Summary and Purpose of Definition “Facility”

As stated in this definition, a “facility” is any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control. Military installations may be classified as more than a single facility based on distinct and independent functional groupings within contiguous military properties. The definition also lists several types of operations that are not considered facilities for the purposes of this regulation.

Rationale for Definition

It is necessary to clearly define a facility because the regulation places requirements on facilities and the term “facility” is used in many places throughout the regulation. Without the definition, there would be ambiguity regarding which entities are subject to reporting. In addition, the definition includes language to address unique emission sources such as military installations or natural gas suppliers, to provide clarity regarding the scope of reporting for a “facility.” For military bases, the clarification is provided because some bases are spread over many thousands of acres and encompass a wide variety of activities such as employee housing, medical facilities, airfield operations, aircraft repair, ship construction and repair, and other operations. Each of these operations could also be under the operational control of different branches of the military, or military contractors within the confines of a base. CARB staff has thus provided the option for a military base to subdivide the base for reporting purposes into independent functional groupings, based on the types of operations performed on the bases. Through this mechanism, each base would not necessarily have to report as a single facility, but could subdivide based on “operational control” (defined in the regulation), and on major functional groupings such as aircraft repair and overhaul, or ship construction and repair operations. The exclusions for certain entities that are subject to MRR reporting are included because they are not specifically identifiable stationary sources of emissions, and cannot be quantified as such, so they are beyond the scope of the proposed regulation.

Summary and Purpose of Definition “Fugitive emissions”

Fugitive emissions are defined as those emissions from a source that typically do not pass through a stack, chimney, vent, or other functionally-equivalent opening.

Rationale for Definition

The definition of fugitive emissions is included to distinguish fugitive emissions from direct emissions, and because there is a requirement to include fugitive emissions in data reports, so it is necessary to clearly define the emissions type.

Summary and Purpose of Definition “Health risk assessment” or “HRA”

This definition specifies that a health risk assessment must be a detailed comprehensive analysis prepared pursuant to Health and Safety Code section 44360. An HRA must evaluate and predict the dispersion of hazardous substances and the potential for human exposure, and must quantify the individual and population-wide health risks.

Rationale for Definition

The results of a health risk assessment may be used in determining whether a facility may cease reporting, so the meaning of health risk assessment must be clearly defined so that affected facility operators are aware of the data needed to cease reporting.

Summary and Purpose of Definition “Lead (Pb)”

Lead (Pb) is defined to mean emissions of Pb that occur as either elemental Pb or as a chemical compound containing Pb.

Rationale for Definition

Lead (Pb) is one of the pollutants required to be reported under this regulation, and this definition is needed to make it clear that both elemental lead and chemical compounds containing lead must be reported as lead.

Summary and Purpose of Definition “Local distribution company” or “LDC”

The definition of local distribution company identifies the types of natural gas delivery operations to which this regulation does not apply.

Rationale for Definition

Local distribution company must be defined because the applicability of this regulation excludes natural gas distribution pipelines and metering-regulating stations that are operated by a local distribution company (LDC) within the State of California that is regulated as a separate operating company by a public utility commission or that are operated as an independent municipally-owned distribution system. Without the definition, there would be ambiguity regarding if LDCs are subject to reporting or not. This is because they are subject to reporting under the MRR, which could potentially trigger applicability under the proposed regulation. But, due to the nature of their geospatial footprint, which expands over large areas and overlaps with other facilities, they are not “facilities” with respect to this regulation, so therefore they have been excluded from the reporting requirements.

Summary and Purpose of Definition “National Ambient Air Quality Standards” or “NAAQS”

The NAAQS are the pollutants and associated standards identified in the Code of Federal Regulations, Title 40, Part 50. The NAAQS are used to determine air district attainment status.

Rationale for Definition

The NAAQS, along with the CAAQS, are used to determine whether a district is in attainment for particular pollutants. For each air district, the district attainment status is then used to identify which criteria pollutants or precursors are subject to evaluation in determining applicability per the requirements of 93401(a)(2) of the regulation. Therefore, it is necessary to define NAAQS to provide clarity in identifying districts that are in nonattainment status under those standards. See also the definition for “applicable nonattainment pollutant or precursor” above for additional discussion.

Summary and Purpose of Definition “Natural gas distribution”

The definition of natural gas distribution identifies the portions of natural gas distribution systems that are excluded from the regulation. The definition also states that major leaks from pipelines, well casings, or other distribution sources are not considered part of “natural gas distribution” for the purposes of this regulation.

Rationale for Definition

Natural gas distribution must be defined because the applicability of this regulation excludes natural gas distribution pipelines and metering-regulating stations that are operated by a local distribution company (LDC) within the State of California that is regulated as a separate operating company by a public utility commission or that are operated as an independent municipally-owned distribution system. Without the definition, there would be ambiguity regarding if natural gas distribution systems are subject to reporting or not. This is because they are subject to reporting under MRR, which could potentially trigger applicability under the proposed regulation. However, such facilities have expansive geospatial footprints and overlap with other facility locations. Such pipeline networks also are not associated with a specific location with regard to emissions. Therefore they have been excluded from the reporting requirements.

Summary and Purpose of Definition “Nitrogen oxides (NO_x)”

The term “nitrogen oxides (NO_x)” is defined to mean all oxides of nitrogen except N₂O.

Rationale for Definition

NO_x is one of the criteria pollutants required to be reported under this regulation, and this definition is needed to make it clear that all oxides of nitrogen except N₂O must be reported as NO_x.

Summary and Purpose of Definition “Nonattainment pollutant”

This definition states that a nonattainment pollutant is a pollutant for which a district is classified as a nonattainment area pursuant to the CAAQS and/or the NAAQS.

Rationale for Definition

Having a district permit to emit 250 or more tons per year of any applicable nonattainment pollutant or its precursors is one of the facility applicability criteria (i.e., section 93401(a)(2)). The relevant pollutants and precursors will vary depending on a facility's location and the district's air quality standard attainment status, so it is important to establish which pollutants are "nonattainment pollutants" for any given facility.

Summary and Purpose of Definition "North American Datum of 1983" of NAD 83"

The North American Datum of 1983 is a source of reference data establishing a coordinate system and a set of reference points used to locate places on the earth and used to define the geodetic network in North America.

Rationale for Definition

The term is used in the regulation with regard to documenting the geospatial locations or boundaries that are to be documented through the regulation requirements. The definition is needed to establish the reference of the source data system used to consistently document location data.

Summary and Purpose of Definition "North American Industry Classification System (NAICS) code(s)"

NAICS codes are defined as the six-digit codes that represent the products, activities, and/or services at a facility, as defined in the North American Industrial Classification System Manual 2017 (OMB, 2017).

Rationale for Definition

The owner or operator of each facility subject to this regulation must report a primary NAICS code and any additional NAICS code(s) that describe all products, activities, and/or services at the facility, to appropriately categorize facilities in terms of industrial activities. The definition of NAICS code is needed to clearly identify the reference to be used in determining the NAICS codes to report.

Summary and Purpose of Definition "Onshore petroleum and natural gas production facility"

This definition identifies onshore petroleum and natural gas production facilities as including equipment on or associated with a well pad or to which emulsion is transferred and CO₂ enhanced oil recovery operations that are under common ownership or control.

Rationale for Definition

Section 93404 of the proposed regulation (Emissions Report Contents) states that criteria and toxics emissions from certain facilities, including onshore petroleum and natural gas production facilities, shall be quantified and reported for individual facilities as identified by local air districts, and that the emissions shall not be aggregated to the geologic basin level as is done when reporting emissions of greenhouse gases under MRR. The definition of onshore petroleum and natural gas production facility is included to emphasize the need for disaggregation at this type of facility.

Summary and Purpose of Definition “Operational control”

Operational control for a facility is the authority to introduce and implement operating, environmental, and health and safety policies, and is generally maintained by the entity holding the permit to operate from the local air district.

Rationale for Definition

“Operational control” is used in the definition of “operator,” a term which is used many times throughout the regulation. The definition of “operational control” is included so that the meaning of “operator” will be clear. For consistency between reporting programs, “operational control” is the same as defined the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR, 17 CCR section 95102) (CARB, 2017).

Summary and Purpose of Definition “Operator”

The term “operator” is used frequently throughout the regulation and means the entity, including an owner or leaseholder, having operational control of a facility.

Rationale for Definition

This definition is included because the regulation requires certain responsibilities to be carried out by the operator of a facility, and providing a definition clarifies the party responsible for complying with the requirements. For consistency between reporting programs, “operator” is the same as defined the California Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR, 17 CCR section 95102), except that leaseholder was added to the definition because there may be cases in which leaseholders may be acting as the facility operator, and would therefore be subject to the “operator” reporting requirements.

Summary and Purpose of Definition “Particulate matter (PM)”

Particulate matter (PM) is defined to mean any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers. Also listed under particulate matter are separate definitions for “PM_{2.5}” (PM with an aerodynamic diameter equal to or less than 2.5 micrometers), “PM₁₀” (PM with an aerodynamic diameter equal to or less than 10 micrometers), “condensable PM” (material that exists in vapor phase at stack conditions, but which condenses or reacts upon cooling or dilution in the ambient air to form solid or liquid PM after discharge from the stack), “filterable PM” (particles that are directly emitted by a source as a solid or liquid at stack or release conditions such that they could be captured on the filter of a stack test train), and “PM precursors” (emissions of NO_x, SO_x, NH₃, and ROG).

Rationale for Definition

PM is one of the criteria pollutants required to be reported under this regulation, and this definition is needed to make it clear that any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers must be reported as particulate matter.

Summary and Purpose of Definition “Permit” or “Air District Permit”

The definition of “permit” or “air district permit” states that a permit is a document issued by a district that authorizes a facility to construct or operate a device, process, or facility that emits substances into the air, and lists several examples of limits that permits may include.

Rationale for Definition

The term “permit” or “air district permit” must be clearly defined because it is used in regulation sections on applicability, emission reporting requirements, emissions report contents, and implementation by CARB and by the local air districts, as well as elsewhere in the definitions section. Defining “permit” provides clarity when the term is used in these sections of the regulation.

Summary and Purpose of Definition “Physical address”

A facility’s physical address is its street address, city, state, and zip code. The physical address may be different from the mailing address.

Rationale for Definition

Physical address must be included in a facility’s emissions data report to identify the location of emission sources. This definition is provided to distinguish the physical address from the mailing address and to provide clarity to reporters regarding the address information that must be reported.

Summary and Purpose of Definition “Portable”

This definition applies to equipment that is mobile within a facility, and defines an object as portable if it has the capability of being transported from one place to another. The definition gives examples of mobility characteristics like wheels, dolly, handles, trailers etc. that make a piece of equipment portable, and also indicates that equipment attached to a permanent fixture, equipment that does not relocate to another location, and seasonal equipment are not considered portable.

Rationale for Definition

The regulation requires emissions from permitted portable equipment operated at a facility to be reported, except for portable equipment registered and reported under the Statewide Portable Equipment Registration Program Regulation (PERP), CCR, title 13 §2450 et seq.). This definition provides clarity to data reporters by defining “portable” and giving examples of characteristics that make equipment portable and criteria that make equipment not portable. For consistency, the definition is the same as used in the PERP regulation, CCR, title 13 section 2452.

Summary and Purpose of Definition “Process”

This definition states that a process is a type of activity that produces emissions, and gives examples of several types of processes.

Rationale for Definition

Process is defined because the regulation requires reporting emissions at the process or device level, so a definition provides clarity regarding what the term means. The

specific examples shown are common activities or processes that may produce emissions to the air.

Summary and Purpose of Definition “Primary release location”

For the purposes of this regulation, primary release location is defined as the release location or (locations) from which the majority of the facility emissions enter the atmosphere, including any stack, vent, chimney, or pipe known to emit materials to the atmosphere, and any location from which fugitive emissions are released, if such a release point for fugitives can be identified and is known to the owner or operator of the facility.

Rationale for Definition

This definition is included because the regulation requires reporting of location and other data for “primary release locations.” It is not possible, practical, or cost effective to require reporting of every possible facility emissions release location, so the regulation focuses on primary release locations. This definition is included to clarify which release locations are considered primary release locations. The definition includes common points for the intentional release of substances to the atmosphere, such as stacks, but also includes, if known to the operator, locations where fugitive emissions may be released. Including fugitive release points, if known, provides additional information regarding the location of emission points, to evaluate the potential impact on human receptors and the environment.

Summary and Purpose of Definition “Reactive organic gases (ROG)”

The term “reactive organic gases (ROG)” is defined to mean any compound of carbon except those specifically listed in this definition as being excluded.

Rationale for Definition

ROG is one of the criteria pollutants required to be reported under this regulation, and this definition is needed to make it clear that any compound of carbon except those specifically listed in this definition as being excluded must be reported as ROG. ROG is as defined in the CARB document, “Definitions of VOC and ROG,” January 2009, available here: https://www.arb.ca.gov/ei/speciate/voc_rog_dfn_1_09.pdf.

Note: For the following “Release” definitions, this section of the document only discusses the definitions. Within this document, refer to the descriptions in section 93404 of the regulation for the rationale for including the defined parameters in the proposed reporting requirements.

Summary and Purpose of Definition “Release location” or “Release location exit”

“Release location” or “release location exit” is defined as the location at which a gas stream enters the ambient air, and is the location at which several physical parameters are required to be measured.

Rationale for Definition

The regulation requires several physical parameters to be reported at the release location. Therefore, “release location” is defined to make it clear that the regulation is

referring to a specific location, and to a gas stream entering ambient air, versus internal releases within a structure, non-gaseous releases, etc.

Summary and Purpose of Definition “Release location exit gas flow rate”

This definition explains the meaning of the term “release location exit gas flow rate” and specifies the units to be used for reporting.

Rationale for Definition

The regulation requires the release location exit gas flow rate to be reported, if applicable, for each primary release location. To provide clarity, this definition identifies what must be reported and the measurement units (actual cubic feet per minute) to use in reporting. The definition also explains what specifically must be quantified, and how it must be measured, to provide certainty to reporters about what is expected under the requirements.

Summary and Purpose of Definition “Release location exit gas temperature”

This definition explains the meaning of the term “release location exit gas temperature” and specifies the units to be used for reporting.

Rationale for Definition

The regulation requires the release location exit gas temperature to be reported for each primary release location, therefore, this definition is necessary to clarify what must be reported and the units to use in reporting (degrees Fahrenheit). The definition also explains what specifically must be quantified, and how it must be measured, to provide certainty to reporters about what is expected under the requirements.

Summary and Purpose of Definition “Release location exit gas velocity”

This definition explains the meaning of the term “release location exit gas velocity” and specifies the units to be used for reporting.

Rationale for Definition

The regulation requires the release location exit gas velocity to be reported for each stack, therefore this definition is needed to identify what must be reported and the units to use in reporting (feet per minute). The definition also explains what specifically must be quantified, and how it must be measured, to provide certainty to reporters about what is expected under the requirements.

Summary and Purpose of Definition “Release location height above ground”

This definition explains the meaning of the term “release location height above ground” and specifies the units to be used for reporting.

Rationale for Definition

The regulation requires the release location height above ground to be reported for each primary release location, therefore this definition clarifies what must be reported and the units to use in reporting (feet).

Summary and Purpose of Definition “Release location stack diameter”

This definition explains the meaning of the term “release location stack diameter” and specifies the units to be used for reporting.

Rationale for Definition

The regulation requires the release location stack diameter to be reported for each circular stack, therefore this definition clarifies what must be reported and the units to use in reporting (feet).

Summary and Purpose of Definition “Reporting entity”

A reporting entity is defined as a facility owner or operator subject to the requirements of this article, and is responsible for the regulation’s recordkeeping and reporting requirements.

Rationale for Definition

This term is used in section 93405 of the proposed regulation for document retention and record keeping. Therefore the definition is necessary to clearly define who is responsible for complying with the requirements.

Summary and Purpose of Definition “Short ton”

A short ton is a unit of mass equivalent to 2,000 pounds, and is used to report emissions of criteria pollutants.

Rationale for Definition

The regulation requires most criteria pollutants to be reported in short tons. The definition is included to clarify the unit to be used and to distinguish it from a metric ton or tonne.

Summary and Purpose of Definition “Shutdown”

As used in this regulation, “shutdown” means the permanent or indefinite cessation of operation of an emission source for any purpose.

Rationale for Definition

The definition of “shutdown” is included to clarify which facilities are addressed in section 93401(c)(3), Cessation of Reporting for Shutdown Facilities. It is important to provide a definition to distinguish between different types of potential shutdown operations such as temporary closures or seasonal variations in activities.

Summary and Purpose of Definition “Source”

The term “source” is used in many places throughout the regulation, and means any physical unit, process, or other use or activity that releases a criteria air pollutant or toxic air contaminant into the atmosphere.

Rationale for Definition

This definition is needed to clarify the meaning of “source” as it is used in this regulation to apply to emissions of criteria air pollutants and toxic air contaminants, and not to the emissions of greenhouse gases.

Summary and Purpose of Definition “Source Classification Code(s) (SCC)”

Source Classification Code(s) (SCC) (USEPA, 2016)¹¹, which must be reported for each process associated with a device at a facility, are the eight-digit code(s) that represent distinct stationary source processes, as defined by the U.S. EPA. CARB has incorporated by reference Appendix C to this ISOR into the regulatory text.

Rationale for Definition

Under the proposed regulation, the SCC must be reported for each process associated with a device at a facility. This definition is provided to clarify what must be reported and avoid any ambiguity about what the letters “SCC” stand for in this regulation. The U.S. EPA SCCs were selected for reporting under this regulation to be consistent with historical reporting practices. To comply with CCR title 1, section 20(c)(3), CARB has compiled a .pdf document of the SCC, as accessed October 1, 2018; that .pdf is identified as Appendix C to this ISOR which is incorporated into the regulatory text by reference.

Summary and Purpose of Definition “Stack” or “release point”

A “stack” or “release point” is any opening or passage designed to emit solids, liquids, or gases from a source into the air. Examples of stacks or release points include chimneys, vents, pipes, and ducts.

Rationale for Definition

The term “stack” is used in many of the other definitions in this regulation as well as in the requirements for emissions report contents, and this definition is provided to clarify the meaning of the term.

Summary and Purpose of Definition “Stationary”

This regulation applies to specified stationary sources, and “stationary” is defined to mean neither portable nor self-propelled, and operated at a single facility.

Rationale for Definition

It is important to clearly define “stationary” because the purpose of the regulation is to establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for specified stationary sources, so having a definition helps to establish uniformity. In addition, the term “stationary” is used in several of the other definitions.

Summary and Purpose of Definition “Stationary source”

A stationary source is any building, structure, facility, or installation that emits any air contaminant, including all pollutant emitting activities under the same ownership or operation, or owned or operated by entities under common control, belonging to the same industrial grouping, and located on one or more contiguous or adjacent properties.

¹¹ An introduction and summary of the Source Classification Codes can be found at: <https://ofmpub.epa.gov/sccwebservices/sccsearch/docs/SCC-IntroToSCCs.pdf>

Rationale for Definition

This regulation addresses reporting of emissions from stationary sources, and the definition is needed to clarify the meaning of the term “stationary source.” “Stationary source” is different from “source,” and this definition clarifies which groupings of sources are considered a single stationary source. For consistency, the definition is the same as used in the PERP regulation, CCR, title 13 section 2452.

Summary and Purpose of Definition “Sulfur oxides (SO_x)”

The term “sulfur oxides (SO_x)” is defined to mean all oxides of sulfur.

Rationale for Definition

SO_x is one of the criteria pollutants required to be reported under this regulation, and this definition is needed to make it clear that all oxides of sulfur must be reported as SO_x.

Summary and Purpose of Definition “Throughput”

Throughput is a measurable factor or parameter that relates to the emissions of an air pollution source during the period for which emissions are reported, and is typically used to represent an activity level. The definition lists several examples of parameters that may be used as throughputs.

Rationale for Definition

Throughput is often used in calculating emissions. The definition and examples are included to provide clarity when using throughput with an emission factor to calculate emissions, as one of the options provided within the proposed regulation.

Summary and Purpose of Definition “Toxic air contaminant”

This definition identifies toxic air contaminants as the substances listed in Appendix A-1 of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program (CARB, 2007). The definition also identifies the specific version of the Guidelines document to be used (September 26, 2007).

Rationale for Definition

The regulation requires annual reporting of emissions of toxic air contaminants. However, there are many lists of substances that can be classified as air toxics. This definition is included to clarify which substances are considered toxic air contaminants and must be reported under this regulation. This specific list of toxics was selected because it is in typical and ongoing use by facility operators and local air districts for reporting toxics emissions under the Hot Spots program. It also strikes an effective balance of being comprehensive, but also having some limits in focusing on those toxics that are typically of most concern when evaluating potential health impacts, so that resources can be efficiently applied where they are most beneficial.

Summary and Purpose of Definition “Unit Type Code”

The unit type code is a three-digit numeric code that represents the broad category or type of a device, and must be included in annual data reports. This definition specifies that the unit type code is found in the “UnitTypeCode” value list defined in the U.S. EPA

Data Element Registry Service (DERS) (US EPA, 2018). The DERS website with the codes is available here:

https://iaspub.epa.gov/sor_internet/registry/datareg/searchandretrieve/valuelist/search.do?details=displayDetails&id=12300&verNr=1

Rationale for Definition

The unit type code must be reported for each device at a facility. This definition is needed to clearly identify the types of sources that are reported, such as boilers, grinders, open burning, etc., which helps to categorize and identify the emission sources that may have the most significant impacts on community members.

Summary and Purpose of Definition “U.S. EPA”

“U.S. EPA” is an abbreviation that means the United States Environmental Protection Agency.

Rationale for Definition

The term “U.S. EPA” is used several times in the regulation in reference to certification standards, codes, and emission factors. Including the abbreviation avoids the need to write out the full name United States Environmental Protection Agency every time.

Summary and Purpose of Definition “Volatile Organic Compounds (VOC or VOCs)”

As used in this regulation, the term Volatile Organic Compounds (VOC or VOCs) is a synonym for “reactive organic gases (ROG),” and is defined to mean any compound of carbon except those specifically listed in the definition of ROG as being excluded. ROG is as defined in the CARB document, “Definitions of VOC and ROG,” January 2009 (CARB, Definitions of VOC and ROG, 2009), available here:

https://www.arb.ca.gov/ei/speciate/voc_rog_dfn_1_09.pdf. For the purposes of this regulation, VOC specifically does not mean VOC as defined under U.S. EPA 40 CFR Part 51, Section 51.100 (40 CFR 51.100, 2012).

Rationale for Definition

The terms “volatile organic compounds” and “reactive organic gases” are used interchangeably in this regulation, so it is necessary to state that they have the same meaning.

Section 93403. Emission Reporting Requirements

Summary and Purpose of Section 93403

This section identifies those subject to reporting (owners or operators) and specifies what they must do, in general terms, to comply with the reporting requirements of the regulation, i.e., submit a complete data report as specified in sections 93403 and 93404, which detail the reporting, data submission, and report content requirements.

Rationale for Section 93403

The purpose of this initial section is to introduce the overall emission reporting requirements and reporting schedule, so reporters will know what must be done to comply with the requirements of the proposed regulation. The initial data year of 2018

was selected based on the anticipated effective date of the regulation, to provide time for reporters to collect required data, and to begin collecting data as soon as feasibly possible. Certain facilities are provided different start years, as is described in the sections that follow.

Summary and Purpose of Section 93403(a)(1)

This section specifies that a facility that meets any of the specified applicability requirements is initially subject to reporting 2018 data in 2019 for operations occurring during the initial calendar year and annually for each year, until the eligibility criteria for cessation are met.

Rationale for Section 93403(a)(1)

The 2018 data year was selected as the first data year based on the anticipated regulation effective date to provide time for facility operators to implement the requirement, while also collecting data as soon as possible. Emissions must be reported annually, as is required by AB 617, and because annual data updates are needed to effectively evaluate emissions changes over time.

Summary and Purpose of Section 93403(a)(2)

Under AB 617, H&SC section 39607.1(a)(2)(B), one of the reporting applicability requirements is for a “facility that is authorized by a permit issued by a district to emit 250 or more tons per year of any nonattainment pollutant for its precursors.” For facilities that may meet this criteria, reporting would not be required until 2020 data submitted in 2021, if their actual nonattainment pollutant and precursor emissions are less than 250 tons per year, and if they are not subject to any of the other applicability categories.

Rationale for Section 93403(a)(2)

This section was necessary because the information needed to make the determination regarding which facilities are “authorized by a permit issued by a district to emit 250 or more tons per year...,” cannot be collected in time to meet the 2018 data reporting requirements. Therefore, as a surrogate for the “authorized to permit” applicability criterion, the initial data year applicability is based on actual criteria pollutant or precursor emissions to the atmosphere. If the criteria specified in the next two subsections are met, then facility operators are not required to submit a 2018 or 2019 data year report, even if they are “authorized to emit” more than 250 tons per year.

Summary and Purpose of Section 93403(a)(2)(A)-(B)

Subsections (A) and (B) provide the specific criteria that must be met for a facility that is authorized to emit more than 250 tons per year of a nonattainment pollutant or precursors to delay reporting to the 2020 data year. These criteria include not being subject to any other applicability, specifically as identified in sections 93401(a)(1), (a)(3) and (a)(4), and not emitting more than 250 tons per year of a nonattainment pollutant or its precursors.

Rationale for Section 93403(a)(2)(A)-(B)

It is not reasonably possible to identify specific facilities subject to the applicability criteria prior to the 2020 data year, so an initial reporting delay was provided in the proposed regulation. The first criteria that must be met to allow the delay is not meeting any of the other applicability criteria, because if other criteria are met, then they supersede the nonattainment pollutant emissions criteria. The emissions-based second criteria that must be met was included, because if a facility does emit more than 250 tons per year of a nonattainment pollutant or its precursors, then the facility either has district authorization to emit above the AB 617 statutory threshold of 250 tons, or, based on the threshold established in AB 617, staff has determined that they should be subject to the reporting requirements, even in the absence of district authorization, in order to provide equitable treatment for both permitted and non-permitted emissions sources.

Summary and Purpose of Section 93403(a)(3)

This section applies only to facilities located in an AB 617, H&SC section 44391.2, selected community for a community air monitoring program or a community emissions reduction program, that do not meet other applicability requirements. Under the proposed regulation, these facilities would be subject to the reporting requirements beginning with 2020 data reported in 2021.

Rationale for Section 93403(a)(3)

Three applicability criteria are specified in AB 617, as required in sections 93401(a)(1), (2), and (3) of the proposed regulation. This provision only applies to facilities subject to 93401(a)(4) applicability. For these facilities, the provision establishes the initial data year to be two years after the year in which a community is selected under AB 617. This delay is necessary because, for example, even though a community may be selected in 2018, the specific boundaries of that community may not be fully established until sometime in 2019. Without knowing the exact boundaries, identifying the facilities subject to reporting is not possible, which would make it difficult for facility operators in determining if they are subject to the reporting requirements. By providing a two year delay, boundaries in the example would be fully defined in 2019, and CARB and districts could notify operators of the reporting regulation and reporting requirements during 2019-2020, which then provides the owners/operators time to collect any necessary data and report the data during 2021.

Summary and Purpose of Section 93403(a)(3)(A)

Facility emissions data reports for facilities subject to the applicability criteria in sections 93401(a)(1), (2) and (3) must be submitted annually, and indefinitely, unless cessation criteria are met. This subsection provides an alternate duration of annual reporting, and alternate reporting frequencies, for facilities in selected communities subject to the applicability criteria in section 93401(a)(4).

Rationale for Section 93403(a)(3)(A)

The “selected community” facilities are treated differently than other facilities, because they are typically small, and their actual air quality impacts are not fully understood. Recognizing this uncertainty, under the proposed regulation, annual data would be required for the first five years of reporting, to establish a clear baseline for the

magnitude of the emissions from the facility. Following that five-year baseline period, in order to reduce the cost and the reporting burden for these generally small facilities, reporting would only be required once every three years. However, again because of the uncertainty of the impact or lack of impact of these facilities, the proposal includes provisions for the Executive Officer to require an alternate facility reporting schedule for facilities within individual selected communities. It is envisioned that this could include options such as an ongoing requirement for annual reporting, the cessation of reporting, or possibly a mixture of requirements, or requiring ongoing reporting for some sectors that are significant, and cessation of reporting for those that have been evaluated and determined to be not significant. The options for an alternative schedule after the first five years of reporting would likely be based on the recommendations to the Executive Officer from the community steering committees.

Summary and Purpose of Section 93403(b)(1)

All facilities subject to reporting must follow these requirements: A facility must submit annual emissions/activity data to the air district. The air district staff will quantify reported emissions data based on their established calculation methods. In the case no calculation method has been established, best available data and methods must be used until otherwise established pursuant to Subarticle 2 of this regulation. These annual emissions reports must be submitted by May 1 each year, reporting emissions from the preceding year. If the district establishes a reporting deadline earlier than May 1, the district reporting deadline supersedes the May 1 date. Beginning in 2021 all emissions data reports must be electronically submitted if an electronic system is made available, unless an alternate submittal format is otherwise approved by the district.

Rationale for Section 93403(b)(1)

Annual reporting is required by statute for all facilities that meet one or more of the applicability requirements. This section explains what data must be reported by a facility owner or operator to the local air district, and determines a date by which data must be submitted annually. These details provide owners or operators of facilities, as well as districts, the information necessary to provide data consistently to CARB, in a timely enough manner to allow prudent evaluation of the data. This section also provides flexibility to the districts for quantifying emissions, because current procedures may allow for variable emission quantification methods. CARB intends to update this proposed regulation in the future, to provide a more uniform scheme for applying quantification methods to improve the accuracy and consistency of the emissions inventory data.

Summary and Purpose of Section 93403(c)(1)

CARB will provide a database format so that districts may upload criteria pollutant and toxic air contaminant emissions data electronically on behalf of the facilities subject to the proposed regulation between May 1st and August 1st of each year. After August 1st, if CARB determines that data from a facility subject to the reporting requirements is missing, incomplete or incorrect, CARB will contact the district and/or the facility designated representative directly to work with them to correct the data.

Rationale for Section 93403(c)(1)

The period between May 1 and August 1 of each year is intended to allow time for air district personnel to quantify, format and review emissions data report information from facilities subject to the requirements. This section acknowledges CARB's expectation that districts will collect, quantify, format, review and submit to CARB the emissions data from facilities subject to the regulation, however the section does not place any enforceable requirements on the air districts. If CARB does not receive emissions data reports from air districts on behalf of applicable facilities by the August 1 date, CARB will contact districts and facilities to notify them that the data are missing or incomplete, so that corrective actions may be taken.

Summary and Purpose of Section 93403(c)(1)(A)

This section establishes that if CARB does not receive an emissions data report by August 1 from an air district on behalf of a facility that is subject to the requirements, CARB (after consultation with the district) will contact the facility owner or operator and require submittal directly to CARB of the data that was provided (or that should have been provided) to the district, within 30 days. Facilities must comply with CARB's request to submit annual emissions data.

Rationale for Section 93403(c)(1)(A)

CARB anticipates that districts will participate in the collection, review, formatting and reporting to CARB of emissions data reports required from facilities that are subject to the reporting requirements. District participation in this process will facilitate the identification and compliant reporting by facilities subject to the regulation, and will allow districts to apply their knowledge of facilities within their district boundaries to ensure complete and accurate data collecting and reporting. Such participation also allows districts to collect emissions data consistently pursuant to their current methods and practices. If, for reasons of resource allocation or other factors, a district is unable or unwilling to participate in the reporting process, this provisions allows CARB to directly approach the facilities within the district that are subject to the reporting requirements and request the emissions or activity data necessary to calculate emissions within 30 days. If a facility fails to comply, CARB may then consider taking enforcement action against the facility.

Summary and Purpose of Section 93403(c)(2)

Beginning with the 2020 data year (reported in 2021), and for subsequent data years, a facility owner or operator would have the option to report directly to a state-administered database, if such a database is available. This option is contingent based on approval by the air district within which the facility is located.

Rationale for Section 93403(c)(2)

This provision allows facilities that are subject to the regulation to provide emissions data reports directly to a CARB-administered database, if this practice is approved by the local air district. This option could potentially reduce the resource burden on local air districts, and facilitate regulatory compliance for facilities that are subject to the state reporting requirements, by allowing an option for direct reporting to CARB. It also

prevents the potential for a facility to have to report data twice, if an air district is unable to submit data by the August 1 deadline.

Summary and Purpose of Section 93403(d)

This section applies specifically to new facilities that begin operation after January 1, 2019. The section requires that an initial emissions data report is required to be reported from such facilities based on the first full calendar of operations. This section does not apply to facilities that change ownership or management during a calendar year.

Rationale for Section 93403(d)

It is beneficial for a regulation to clearly identify all sources that may be affected by the regulation, and when the regulatory requirements first apply. This section allows new facilities one full year of operation prior to the requirement to collect and report emissions data by the annual reporting deadline. Also, this section clearly applies to sources that begin operations after January 1, 2019.

Summary and Purpose of Section 93403(e)

If there is a change in ownership of a facility during a calendar year, the owner or operator at the time of the reporting deadline will be the responsible reporting party and must submit all required emissions data by the May 1st date.

Rationale for Section 93403(e)

This regulation must cover all responsibility changes that may occur during a year. In order to successfully achieve the goal of annual reporting for all facilities subject to this rule, it is beneficial to make clear who the responsible party is if a change in ownership occurred at a facility.

Summary and Purpose of Section 93403(e)(1)

In the event that a change of ownership occurs, it is the duty of the owner or operator at the time reporting is due to submit the emissions data report for the entire calendar year of operations.

Rationale for Section 93403(e)(1)

To clarify, CARB expects each facility to report the emissions data for the full calendar year by the deadline. This section is explicit in who has the responsibility to provide the facilities emissions data report to the air districts and/or CARB, in the event that ownership of a facility changes.

Summary and Purpose of Section 93403(e)(2)

In the event that a change of ownership occurs during the year, the proposed regulation requires that the emissions data report include all emissions for the entire data year, and that the emissions data do not represent a partial year.

Rationale for Section 93403(e)(2)

This reason for this section is to prevent missing or partial data from being reported. This information is pertinent in order to calculate a facility's actual annual emissions.

Summary and Purpose of Section 93403(e)(3)

The owners or operators transferring ownership are required to provide all data and records to the new owners or operators that are needed to prepare the annual emission data reports subject to this rule.

Rationale for Section 93403(e)(3)

For completeness, this section addresses the possibility that a change in ownership may result in an incomplete annual emissions data report. In order to prevent such an error, CARB clarifies that the previous owner of a facility that changes ownership must provide that new owner with data and records sufficient to prepare the required annual emissions data report.

Summary and Purpose of Section 93403(f)

This section provides the physical mailing address and the electronic mail address to which any necessary reports or documents can be submitted directly to the manager of this reporting program.

Rationale for Section 93403(f)

Providing the physical and electronic mailing addresses ensures clarity regarding how to communicate with CARB staff. In addition, it promotes transparency.

Section 93404. Emissions Report Contents

Summary and Purpose of Section 93404

Section 93404 details the requirements for the content of emissions reports submitted to the local air district. These requirements include the necessary facility and owner details, emissions data, the methods used to calculate the emissions, and a statement of attestation. Section 93404 also provides a method for CARB to audit emissions reports.

Rationale for Section 93404

This section is necessary to describe the information that facilities must include for a complete and accurate emissions data report. Each required element of information will help CARB analyze the emissions of pollutants, which, in overarching terms, will be used to identify and evaluate air pollution impacts in communities, and in developing mechanisms to reduce criteria pollutant and toxic air emissions.

Summary and Purpose of Section 93404(a)

This subsection includes the required general content of an emissions report.

Rationale for Section 93404(a)

This subsection identifies information that would need to be submitted under the proposed regulation as part of a complete emissions data report. Each requirement will be discussed individually below.

Summary and Purpose of Section 93404(a)(1)

This subsection requires reporting of the facility name and identification number, as established by the local air district.

Rationale for Section 93404(a)(1)

When developing a statewide regulation and requiring reporting by many hundreds (and potentially thousands) of facilities, it is critical to clearly and uniquely identify specific facilities. Therefore, those subject to the regulation are required to report facility name and ID number information to allow for the straightforward tracking and management of facility data for reporting purposes, and for data analysis and display purposes.

Summary and Purpose of Section 93404(a)(2)

This subsection requires the submission of “data year” in the emissions data report.

Rationale for Section 93404(a)(2)

The year for which emissions data is being reported is fundamental to an annual emissions reporting program. The data year identifies the calendar year in which the reported emissions occurred. Emissions will be reported on a calendar year basis. This will allow evaluation of year-over-year trends regarding increases or decreases in emissions.

Summary and Purpose of Section 93404(a)(3)

This subsection requires the submission of the legal name(s), and physical and mailing addresses of the owner or operator responsible for preparing and submitting the required emissions data report.

Rationale for Section 93404(a)(3)

Providing information regarding the owner or operator identifies the person(s) responsible for preparing and submitting the required emissions data report. If there are any questions or concerns regarding the submitted data, the physical and mailing addresses of the owner or operator responsible will allow for communication. This information will also provide data on ownership changes at a facility.

Summary and Purpose of Section 93404(a)(4)

This subsection requires the submission of the applicable North American Industry Classification System (NAICS) codes.

Rationale for Section 93404(a)(4)

Providing NAICS codes allows for the classification of facilities based on the facility’s primary product, activity, or service. It is a common system of classification and is generally easily provided. The NAICS code allows for emissions comparisons within and between industries (TRI Reporting & NAICS Industries, 2018).

Summary and Purpose of Section 93404(a)(5)

This subsection requires the submission of general location and jurisdiction information, specifically the air basin, air district, and county in which the facility is located.

Rationale for Section 93404(a)(5)

The specific combination of county, air basin, air district, and air district ID (i.e., CEIDARS FAC_ID) uniquely identifies a facility. Furthermore, this general information provides readily identifiable location information and local air district jurisdiction for the affected facility.

Summary and Purpose of Section 93404(a)(6)

This subsection requires reporting of the facility physical address and mailing address.

Rationale for Section 93404(a)(6)

The physical address assists with any enforcement activities and visiting the physical location of the facility. The mailing address will provide a channel for official communication to the owner or operator regarding the affected facility.

Summary and Purpose of Section 93404(a)(7)

This subsection requires reporting of the geographic location by latitude and longitude in decimal degrees.

Rationale for Section 93404(a)(7)

The geographic location will be used to map the facility for purposes of the CARB online visual mapping tool as required by other statutory and CARB regulatory programs (i.e. AB 197). In some instances where precise emissions source location data is not available, the geographic location may provide a reasonable approximation of the emissions source. Furthermore, the geographic location provides a quality assurance check in cases where ambiguous physical addresses are provided for a facility.

Summary and Purpose of Section 93404(a)(8)

This subsection requires reporting of specific information regarding each primary release location at the facility.

Rationale for Section 93404(a)(8)

Each data parameter listed under Section 93404(a)(8) provides critical information in characterizing and understanding each primary release location at the facility. Such data may be used for modeling the dispersion or movement of air pollutants after release, and the potential impact on nearby receptors.

Summary and Purpose of Section 93404(a)(8)(A)

This subsection requires reporting of a release location identifier for each primary release location.

Rationale for Section 93404(a)(8)(A)

The release location identifier provides easy and reliable identification information for each primary release location, and differentiates between multiple primary release locations at a facility.

Summary and Purpose of Section 93404(a)(8)(B)

This subsection requires the reporting of geospatial coordinates for each primary release location.

Rationale for Section 93404(a)(8)(B)

The geospatial coordinates will provide necessary information used in air dispersion modeling to estimate potential health risks.

Summary and Purpose of Section 93404(a)(8)(C)

This subsection requires the reporting of the release location type (i.e., whether fugitive or stack).

Rationale for Section 93404(a)(8)(C)

The type of release location provides fundamental release point characterization used in air dispersion modeling to estimate potential health risks.

Summary and Purpose of Section 93404(a)(8)(D)

This subsection requires the reporting of the release location height above ground (if applicable).

Rationale for Section 93404(a)(8)(D)

The release location height above ground provides necessary information used in air dispersion modeling to estimate potential health risks. The release location height for some fugitive emissions sources may be unknown and/or otherwise not applicable.

Summary and Purpose of Section 93404(a)(8)(E)

This subsection requires the reporting of the release location exit gas flow rate (if applicable).

Rationale for Section 93404(a)(8)(E)

The release location exit gas flow rate provides necessary information used in air dispersion modeling to estimate potential health risks. The release location exit gas flow rate for some fugitive sources may be unknown and/or otherwise not applicable.

Summary and Purpose of Section 93404(a)(8)(F)

This subsection requires the reporting of the release location exit gas temperature (if applicable).

Rationale for Section 93404(a)(8)(F)

The release location exit gas temperature provides necessary information used in air dispersion modeling to estimate potential health risks. The release location exit gas temperature for some sources may be unknown and/or otherwise not applicable.

Summary and Purpose of Section 93404(a)(8)(G)

This subsection requires the reporting of the release location stack diameter (if circular) in feet, the release location exit gas velocity in feet per minute, and the flow rate in actual cubic feet per minute for a "stack" release location type.

Rationale for Section 93404(a)(8)(G)

The additional data requested under the section provides necessary information for a “stack” release location type to allow dispersion modeling. This information is not applicable for “fugitive” release location types.

Summary and Purpose of Section 93404(a)(8)(G)(1)

This subsection requires the reporting of the stack diameter (if circular), in feet, if the release location type is “stack”.

Rationale for Section 93404(a)(8)(G)(1)

Reporting the stack diameter in feet will provide necessary information used in air dispersion modeling to estimate potential health risks for “stack” release point types.

Summary and Purpose of Section 93404(a)(8)(G)(2)

This subsection requires the reporting of the exit gas velocity, in feet per minute, if the release location type is “stack”.

Rationale for Section 93404(a)(8)(G)(2)

Reporting the exit gas velocity, in feet per minute, will provide necessary information used in air dispersion modeling to estimate potential health risks for “stack” release point types.

Summary and Purpose of Section 93404(a)(8)(G)(3)

This subsection requires the reporting of the flow rate, in cubic feet per minute, if the release location type is “stack”.

Rationale for Section 93404(a)(8)(G)(3)

Reporting the flow rate, in actual cubic feet per minute, will provide necessary information used in air dispersion modeling to estimate potential health risks for “stack” release point types.

Summary and Purpose of Section 93404(a)(8)(H)

This subsection requires that for facilities subject to reporting under sections 93401(a)(1), (2) and (3), for data items listed in subsection (8) only (for release point information), the data must be collected and reported no later than May 1, 2021, (or by the local air district’s deadline, if earlier than May, 1) and updated when there are physical changes or other substantive changes. For facilities that are subject to reporting under section 93401(a)(4), the data elements in subsection (8), must be reported by the third year of reporting subject to this article.

Rationale for Section 93404(a)(8)(H)

For facilities subject to reporting under sections 93401(a)(1), (2) and (3), the data items listed in subsection (8) may not have been collected and reported before in existing emissions inventories, and are therefore considered more difficult to collect and report. Allowing this data to be collected and reported by May 1, 2021 allows time to collect and report the information. This information is not expected to be updated on an annual basis; this information would only be updated when there are physical or substantive

changes. The situation is similar for facilities that will report under section 93401(a)(4), but these facilities will begin reporting based on a schedule determined by the selection of various communities for monitoring or emissions reductions plans.

Summary and Purpose of Section 93404(a)(9)

This subsection requires the reporting of a device identifier, a description of the device, and Unit Type Code for each device at the facility.

Rationale for Section 93404(a)(9)

The data requested under the section provides necessary information for each device at a facility. Devices and processes are linked to release points. The information is used to evaluate the relative contribution of each device to the total facility emissions, and allows comparison of emissions sources, and emissions from similar devices within and between facilities.

Summary and Purpose of Section 93404(a)(9)(A)

This subsection requires the reporting of a device identifier for each device at a facility.

Rationale for Section 93404(a)(9)(A)

A device identifier provides easy and reliable identification information and differentiates between multiple devices at a facility. Clear identification of devices is fundamental to an emissions inventory.

Summary and Purpose of Section 93404(a)(9)(B)

This subsection requires the reporting of a description for each device at a facility.

Rationale for Section 93404(a)(9)(B)

A description of each device allows for further identification and can provide device equipment ratings, make and model, potential maximum throughputs, and other information that may be relevant in calculating and verifying emissions calculations.

Summary and Purpose of Section 93404(a)(9)(C)

This subsection requires the reporting of the Unit Type Code for each device at a facility.

Rationale for Section 93404(a)(9)(C)

The Unit Type Code is used in classifying and identifying different device types and allows summation of emissions from different device types.

Summary and Purpose of Section 93404(a)(10)

This subsection requires the reporting of the process identifier, the identifier of the singular associated device, the identifier of the singular associated release point (as applicable), and the Source Classification Code (SCC) (Source Classification Codes (SCC), 2016) for each process associated with a device at a facility.

Rationale for Section 93404(a)(10)

The data requested under the section provides necessary information for each process associated with a device at a facility. Processes and devices are linked to release

points. The data allows for evaluation and analysis of emissions from among and between different processes.

Summary and Purpose of Section 93404(a)(10)(A)

This subsection requires the reporting of a process identifier for each process associated with a device at a facility.

Rationale for Section 93404(a)(10)(A)

The process identifier provides easy and reliable identification information and differentiates between multiple processes associated with a device at a facility. Clear identification of processes associated with a device is fundamental to an emissions inventory, and allows comparison of emissions from different processes.

Summary and Purpose of Section 93404(a)(10)(B)

This subsection requires the reporting of the identifier of the singular associated device for each process.

Rationale for Section 93404(a)(10)(B)

Reporting the identifier of the singular associated device will link a process with a specific device. This allows evaluation of emissions from a specific combination of a process and device.

Summary and Purpose of Section 93404(a)(10)(C)

This subsection requires the reporting of the identifier of the singular associated release point (as applicable) for each process associated with a device at a facility.

Rationale for Section 93404(a)(10)(C)

Reporting the identifier of the singular associated release point (as applicable) will link a process with a release point. This allows evaluation of the emissions associated from a specific process and device combination, at a specific release point location.

Summary and Purpose of Section 93404(a)(10)(D)

This subsection requires the reporting of the Source Classification Code (SCC) for each process associated with a device at a facility.

Rationale for Section 93404(a)(10)(D)

The SCC for each process associated with a device at a facility is used to classify a source based on the process. Many emissions factors are tied to a SCC, allowing for ease of identification of appropriate emissions factors.

Summary and Purpose of Section 93404(a)(11)

This subsection requires the reporting of the activity level and activity level unit of measure for each process at a facility.

Rationale for Section 93404(a)(11)

The activity level and activity level unit of measure generally provides a basis for calculating emissions from a process.

Summary and Purpose of Section 93404(a)(11)(A)

This subsection requires the reporting of the activity level for each process at a facility.

Rationale for Section 93404(a)(11)(A)

The activity level generally provides a basis for calculating emissions from a process.

Summary and Purpose of Section 93404(a)(11)(B)

This subsection requires the reporting of the activity level unit of measure for each process at a facility.

Rationale for Section 93404(a)(11)(B)

The activity level unit of measure provides information on the units of measure used to record the activity level. This parameter is necessary to confirm the accuracy of the calculated data based on activity and an associated emission factor, which will be based on a specific unit of measure.

Summary and Purpose of Section 93404(a)(12)

This subsection requires the reporting of the identifier of the singular associated process, the identifier of the singular associated device, pollutant code, actual emissions, actual emissions unit of measure, emission factor, source of the emission factor (e.g., source test, air district provided, U.S. EPA, etc.), emission factor unit of measure, and emission calculation method for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)

The information requested in this section provides detailed information on the criteria pollutant emissions emitted by a process at a facility.

Summary and Purpose of Section 93404(a)(12)(A)

This subsection requires the reporting of the identifier of the singular associated process for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(A)

The process identifier provides easy and reliable identification information and links the other information requested in section 93404(a)(12) to a singular associated process.

Summary and Purpose of Section 93404(a)(12)(B)

This subsection requires the reporting of the identifier of the singular associated device for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(B)

The process identifier provides easy and reliable identification information and links the other information requested in section 93404(a)(12) to a singular associated process.

Summary and Purpose of Section 93404(a)(12)(C)

This subsection requires the reporting of the pollutant code for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(C)

Reporting the pollutant code identifies the pollutant for which emissions are being reported.

Summary and Purpose of Section 93404(a)(12)(D)

This subsection requires the reporting of the actual emissions for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(D)

Reporting the actual emissions of a pollutant is a fundamental aspect of an emissions reporting program.

Summary and Purpose of Section 93404(a)(12)(E)

This subsection requires the reporting of the actual emissions unit of measure for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(E)

Emissions may be reported on many different bases (e.g., pounds per hour, tons per year, etc.). Identifying the unit of measure for the actual emissions is a fundamental aspect of an emissions reporting program.

Summary and Purpose of Section 93404(a)(12)(F)

This subsection requires the reporting of the emission factor for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(F)

Providing the emission factor used to estimate emissions from a process allows for quality assurance checks of the reported data.

Summary and Purpose of Section 93404(a)(12)(G)

This subsection requires the reporting of the source of the emission factor (e.g., source test, air district provided, U.S. EPA, etc.) for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(G)

The source of the emission factor allows a determination of the level of quality upon which the reported emissions are based. For example, in general, emission factors from source tests are considered more representative of actual emissions while default emission factors from sources such as EPA's AP-42 are considered to have a potentially higher level of uncertainty, and therefore may be less representative of actual emissions.

Summary and Purpose of Section 93404(a)(12)(H)

This subsection requires the reporting of the emission factor unit of measure for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(H)

Providing the emission factor unit of measure allows for quality assurance checks of the reported data.

Summary and Purpose of Section 93404(a)(12)(I)

This subsection requires the reporting of the emission calculation method for each criteria air pollutant emitted by a process at a facility.

Rationale for Section 93404(a)(12)(I)

Reporting the emission calculation method allows for evaluation and verification of the reported emissions. The emission calculation method may be straightforward (i.e., emission factor multiplied by an activity level) or more complicated. Identification of the calculation method also allows for a general evaluation of the uncertainty associated with the emissions data.

Summary and Purpose of Section 93404(a)(13)

This subsection requires that criteria pollutant and toxic air contaminant emissions be quantified and reported for individual facilities, as identified by local air districts.

Rationale for Section 93404(a)(13)

For facility operators subject to this article pursuant to section 93401(a)(1) based on greenhouse gas (GHG) emissions, reported emissions are aggregated. While this aggregation typically occurs with onshore petroleum and natural gas production facilities and geothermal electricity generation facilities, it is not exclusive of those facilities. In any case, criteria pollutant and toxic air contaminant emissions shall be disaggregated and reported for individual facilities as identified by local air districts.

Summary and Purpose of Section 93404(b)

This subsection specifies the emissions to be reported by a facility. The section outlines specific requirements for criteria air pollutants and toxic air contaminants, and specifies that emissions must be reported (to the extent feasible) to the process or device level. The subsection also states that districts will determine whether emissions from unpermitted sources will be included in the emissions data reports, based on current practices, and that emissions from portable equipment that is not registered under the Statewide Portable Equipment Registration Program Regulation must be reported by facilities.

Rationale for Section 93404(b)

There are many different types of emissions and to promote consistent and comparable emissions data across the state, this section outlines which are to be included in the emissions data reports. The annual emissions reports shall include direct and fugitive emissions for permitted processes and devices at a facility. Emissions from permitted portable equipment (or the activity data to allow such emissions to be quantified) must

also be reported by facilities, except for equipment under the Statewide Portable Equipment Registration Program Regulation (Title 13, California Code of Regulations, Section 2450 et seq.) (CCR, title 13, § 2450, 2011). The emissions from equipment under the statewide registration program is tracked separately, and should not be double-counted. Unpermitted sources will be quantified based on current air district practices, because there are not currently well-established methods or requirements for tracking and quantifying such sources. Unpermitted sources are not included in applicability determinations, because doing so would create a more inconsistent approach to determining applicability.

Summary and Purpose of Section 93404(b)(1)

This subsection requires owners or operators of a facility to report criteria air pollutant emissions (or activity data to calculate such emissions) in short tons per year for each criteria air pollutant using best available data and methods. Lead (Pb) and ammonia (NH₃) emissions shall be reported in pounds per year.

Rationale for Section 93404(b)(1)

In general, criteria air pollutants are reported in short tons while lead and ammonia are reported in pounds. The proposed regulation is consistent with that convention. If the actual emissions are not reported by the facility, activity levels are requested in order to calculate the actual emissions.

Summary and Purpose of Section 93404(b)(2)

This subsection requires owners or operators to report toxic air contaminant emissions (or activity level data to calculate such emissions) in pounds per year. Toxic air contaminants specified in the CARB Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, Appendix A-1, September 26, 2007 shall be reported, as specified in that document for 2020 data years and later. For data years prior to 2020, current district lists of toxic air contaminants must, at a minimum, be reported (or sufficient activity data to quantify such emissions). Facilities that have not previously reported toxic air contaminant emissions must report those contaminants as determined by current air district practices.

Rationale for Section 93404(b)(2)

In general, toxic air contaminants are reported in pounds. The proposed regulation is consistent with that convention. If the actual emissions are not reported by the facility, activity levels are required in order to calculate the actual emissions. The “Hot Spots” guidance document was chosen as the reference document to determine the toxic air contaminants that must be reported, so that the proposed regulation would harmonize with the reporting requirements of the “Hot Spots” program. Therefore, an emissions data report submitted pursuant to this article would comply with the “Hot Spots” reporting requirements. If a district currently quantifies and reports a subset of the “Hot Spots” program chemicals in Appendix A-1, the district may continue to report the same subset for data years prior to 2020; however, for 2020 and subsequent years, the emissions data reports must include air toxic contaminants determined consistent with the CARB Emission Inventory Criteria and Guidelines. For facilities that have not previously reported toxic air contaminants, the facility must report emissions or activity

data to quantify the emissions for contaminants as determined by current air district practices, to maintain a consistent approach.

Summary and Purpose of Section 93404(b)(3)

This subsection requires owners or operators to estimate and report actual air emissions of criteria air pollutants and toxic air contaminants at the emissions process and/or device level, to the extent feasible. A facility may report other activity data to quantify these emissions in the absence of calculated emissions data. This requirement does not preempt any more stringent requirements imposed by the local air district.

Rationale for Section 93404(b)(3)

Estimating and reporting emissions at the process or device level provides the resolution needed for performing health risk assessments and other analyses at the process or device level, rather than facility-level. If the facility does not have calculated emissions data at the process or device level, other activity data may suffice to calculate the emissions data.

Summary and Purpose of Section 93404(c)

This subsection requires owners or operators of a facility to provide general information describing the methods and data used to estimate emissions when emissions are directly calculated by the owners or operators of a facility. Such methods must be approved by the local air district. If the emissions are quantified by an air district, then the district uses existing air district methods to quantify the emissions, based on best available data and methods, as determined by the district. The methods include facility-specific source testing, continuous emissions monitoring systems, equipment manufacturer's emission factors, U.S. Environmental Protection Agency emission factors, engineering estimates, air district toxics emission factors and speciation profiles, fuel use and emission factors, etc. Facilities need to provide sufficient information to determine if air district or CARB approved methods are used for calculating emissions. The subsection also notes that if an air district quantifies emissions on behalf of a facility, then the facility is not required to report specified parameters associated with quantifying emissions based on activity data (e.g. emission factors).

Rationale for Section 93404(c)

Submitting this information allows CARB to determine the validity of the methods used to calculate the emissions and ensure that air district or CARB approved methods were used. There are a number of possible ways to calculate emissions, thus explanation is needed for CARB to understand how emissions were estimated for a facility. The subsection provides flexibility in methodology for districts, such that current methods may be used until specified methods are added to the proposed regulation via a future revision. This flexibility is needed now to allow time to confer with districts regarding methods, evaluate quantification methods for accuracy and consistency, and potentially establish updated and more consistent methodologies in the future. However, facilities must report data to allow emissions quantification using current air district methods, maintaining consistency with current reporting practices. The section also notes that when emissions are calculated by a district based on activity data, the facility does not

need to report certain parameters related to district quantification, such as emission factors, as these data will be reported by the district.

Summary and Purpose of Section 93404(d)

The designated representative of a facility must provide an attestation to the local air district or CARB that they are authorized by the owner or operator to submit the emissions data report and that all the including information is true, complete, and correct.

Rationale for Section 93404(d)

The submittal of an attestation by a designated representative ensures and documents that the owner or operator has approved of the report being submitted.

Summary and Purpose of Section 93404(e)

The CARB Executive Office may require facility owners or operators to submit emissions data reports with supporting data for auditing and review. The owner or operator shall make the data available for either in-person on-site audits or remotely implemented audit activities. Third-party services may be used to perform emissions report auditing activities on CARB's behalf.

Rationale for Section 93404(e)

The ability to audit and review emissions reports and supporting data will provide clarity in instances where there may be questions regarding the determination of emissions for a facility. The provision also allows for quality assurance checks of selected emissions data reports to ensure compliance with regulatory requirements, and the accuracy of the submitted data.

Section 93405. Document Retention and Record Keeping Requirements

Summary and Purpose of Section 93405(a)

The purpose of this section is to establish the duration that records and documentation must be retained for those subject to the regulatory requirements.

Rationale for Section 93405(a)

A record retention requirement is necessary so that the underlying data used to compute emissions and other information is retained to allow data validation and confirmation if there are issues or questions identified about data submitted to CARB. A period of five years was selected because it balances the need to allow validation of near-term historical data, while avoiding the administrative burdens of establishing a longer retention time.

Summary and Purpose of Section 93405(b)

This provision of the regulation specifies that specified records must be retained at the facility, and that they must be provided to CARB or air district staff during inspections. Additionally, it establishes that materials must be made available to CARB within a

specified time period, and enumerates some of the types of records that records that must be retained.

Rationale for Section 93405(b)

In order to provide transparency and reasonable access to records, this subsection requires that records be retained on-site. For the same reason, a 30 day requirement is established to provide requested records, so there is not an open-ended schedule for providing data to CARB (although CARB can provide flexibility under the regulation). Within the provision, staff listed some examples of the types or records that must be retained, to provide clarity to reporters regarding what CARB staff expects to be retained and maintained under the requirements.

Section 93406. Confidentiality

Summary and Purpose of Section 93406(a)

This subsection establishes that emissions data submitted to CARB is classified as public information.

Rationale for Section 93406(a)

This subsection is necessary to make it clear to reporters that their submitted emissions data cannot be classified as confidential data under the proposed regulation, and that such information will be publically available.

Summary and Purpose of Section 93406(b)

This provision establishes that certain data which meets certain criteria, as specified in the section, may be identified and claimed as confidential. The provision also describes how confidential data will be managed by CARB. The provision also establishes that facility-level emissions data cannot be claimed as confidential.

Rationale for Section 93406(b)

All data to be submitted under the proposed regulation is available to CARB program staff for analysis and review. However, there are legitimate reasons for companies to maintain submitted certain data as confidential, to prevent release to the public or other companies. For example, certain data may expose trade secret information, or details about specific processes which could provide competitors an advantage, or information that may have national security or other sensitivities. Therefore, this provision of the regulation provides the option and mechanism for facility owners or operators to designate data as confidential, and to potentially protect it from public release. Should CARB receive a public request for data claimed as confidential, staff would consult with the facility owner or operator to establish which specific data can be claimed as exempt from public disclosure. However, there are limits on what can be claimed as confidential by the reporting entity. For example, the California Public Records Act (California Government Code section 6250 et seq.) provides that all air pollution emissions data are public records (see California Government Code section 6254.7(e)). Accordingly, the proposed regulation specifies that facility-level emissions cannot be claimed as confidential, and are public information per the previous section 93405(a).

Section 93407. Enforcement

Summary of Section 93407

This section specifies the types of violations that may occur under this proposed regulation.

Rationale for Section 93407

This section is necessary to specify that failure to comply with any of the proposed requirements is subject to enforcement action. Each enforcement provision is clearly specified so the proposed regulation is not interpreted in such a way to mean that a regulated party is not subject to enforcement action. These provisions include penalties pursuant to Health & Safety Code section 42400.

Summary and Purpose of Section 93407(a)

This section establishes that owners or operators subject to the regulation are potentially subject to enforcement.

Rationale for Section 93407(a)

This section is necessary to identify those who are subject to enforcement, to provide clarity. The remaining subsections identify specific violations.

Summary and Purpose of Section 93407(a)(1)

This provision establishes the authority by which CARB may pursue enforcement actions, and factors that CARB shall take into consideration in evaluating enforcement penalties.

Rationale for Section 93407(a)(1)

This provision provides clarification as to the basis, processes and procedures that would apply in an enforcement proceeding. It is necessary to ensure compliance with the regulation and to deter the submission of incomplete or inaccurate reports and data, as well as to ensure the correction of mistakes as soon as possible.

Summary and Purpose of Section 93407(a)(2)

This provision establishes that the failure to submit a required report, including an emissions data report, or other record, or the submittal of a late, incomplete, or inaccurate report is considered a violation. Information or data that is submitted late is a violation of this article.

Rationale for Section 93407(a)(2)

The core requirements of the proposed regulation are the reporting of facility emissions data. Therefore, it is necessary to ensure that this, and any other required information are submitted on time. Late or unsubmitted data delay CARB's efforts to evaluate any submitted data, and delays providing data to the public as quickly as possible.

Summary and Purpose of Section 93407(a)(3)

This provision specifies that submitting or producing inaccurate information is in violation of this article.

Rationale for Section 93407(a)(3)

This provision is needed to make it clear to those subject to reporting that the identified actions are violations of the regulation. It is necessary because inaccurate information would undermine the legitimacy and usefulness of the collected data.

Summary and Purpose of Section 93407(a)(4)

This provision specifies that falsifying information or records that are submitted or retained is in violation of this article.

Rationale for Section 93407(a)(4)

This provision is needed to make it clear to those subject to reporting that the identified actions are violations of the regulation. It is necessary because false information would undermine the legitimacy and usefulness of collected data.

Summary and Purpose of Section 93407(a)(5)

This provision establishes that failure to retain or produce required records is a violation of the proposed regulation.

Rationale for Section 93407(a)(5)

This provision is necessary as a potential enforcement action because underlying records are necessary to evaluate the accuracy and completeness of submitted data. If appropriate records are not retained, then the process of validating submitted data (when needed) may be difficult or impossible.

Summary and Purpose of Section 93407(a)(6)

This provision merely restates existing law regarding injunctions.

Rationale for Section 93407(a)(6)

This provision provides clarification as to the basis, processes and procedures that would apply in an enforcement proceeding. This provision is necessary to inform the public of what the penalties will be for noncompliance with the regulation and to direct the public to the appropriate statute regarding injunctions.

Summary and Purpose of Section 93407(a)(7)

Local air district enforcement authority is not preempted by these enforcement provisions to allow for either CARB or air district enforcement, as appropriate.

Rationale for Section 93407(a)(7)

Air districts and CARB are partners in implementing certain provisions of the proposed regulation. As such, there are cases in which CARB may initiate enforcement actions, or there may be cases in which local air districts initiate enforcement actions. This provision is included to make it clear that the CARB enforcement actions within the proposed regulation do not preempt air districts from taking enforcement actions. However, it is CARB's intent that in implementing the proposed regulation, a facility will not be subject to enforcement by both CARB and an air district for the same violation(s) of the proposed regulatory requirements.

Section 93408. No Preemption of More Stringent Air District or Federal Requirements

Summary and Purpose of Section 93408

This provision establishes that the proposed regulation does not preempt more stringent requirements imposed by an air district. In addition, the regulation is independent of Federal regulations, therefore compliance with the CARB regulation does not meet, or excuse compliance with Federal regulations. This provision also establishes CARB Executive Officer has authority to determine if a local air district requirement is more stringent than requirements in this article.

Rationale for Section 93408

The proposed regulation establishes certain requirements upon reporting entities. Should local air districts currently have, or impose more stringent requirements to meet their needs, it is important that those district requirements remain in effect and are not preempted by the proposed CARB regulation. Should there be any question regarding which requirements (CARB or district) are more stringent relative to the proposed regulation, the regulation establishes the CARB Executive Officer as the party to make the determination, to provide certainty regarding authority, and because the regulation is a CARB regulation, it is logical to have the CARB Executive Officer make the decision. However, should such a case occur, air districts would be closely consulted regarding any decisions. Also, so reporters are clear that meeting the requirements of the CARB regulation does not meet Federal reporting or other Federal requirements, the language was included to specify that compliance with the CARB regulation does not excuse Federal non-compliance..

Section 93409. Severability

Summary and Purpose of Section 93409

This section ensures that if one provision of the regulations is declared invalid by a court or other authority, the remaining provisions will remain in full force and effect.

Rationale for Section 93409

This section is necessary to ensure that if CARB has enacted a provision in the proposed regulatory article that is illegal, invalid, or unconstitutional, the remaining regulatory provisions remain intact.

Section 93410. Implementation by CARB and by the Local Air Districts

Summary and Purpose of Section 93410(a)

The proposed regulation requires cooperation and coordination between CARB and local air districts. Particularly in the initial years of the regulation implementation, local air districts will directly collect required data from facility owners/operators, and then the

data will be provided to CARB. The following subsections describe some of the specific implementation elements.

Rationale for Section 93410(a)

This section is provided to describe some of the key CARB and air district implementation components of the regulation, to provide clarity to the reporting entities and the regulatory agencies regarding roles and responsibilities.

Summary and Purpose of Section 93410(a)(1)

Although the proposed regulation is a CARB rulemaking, local air districts will play a significant role in implementing the regulatory provisions. The provision establishes that both CARB and air districts have authority to enforce provisions of the CARB regulation. This provision was also included to, in summary, establish that local air districts retain their full autonomy regarding incorporating the CARB requirements into their local rules, collecting fees, and retaining collected fees or enforcement penalties. The provision also establishes the requirement for facility operators to pay any local air district fees for recovering district implementation or enforcement costs.

Rationale for Section 93410(a)(1)

Because of the combined CARB and air district implementation of the regulation, it was necessary to establish that both regulatory agencies have the authority to enforce the proposed regulation. In some cases, certain infractions may be best handled at the local government level, for ease and directness, because the districts have direct contact with the regulated facilities. In other cases, some enforcement issues may be best handled at the CARB, statewide level, which would vary based on the type of issue identified, available resources, and other factors. Any enforcement activities would be closely coordinated between CARB and the local air districts, to ensure that a facility owner or operator is not subject to duplicative enforcement actions by multiple jurisdictions for the same violation. Other elements of the provision were included to make it clear that air districts maintain their authority and independence in creating rules, incorporating rules, and assessing and retaining collected fees or enforcement penalties. Also, because local air districts will incur additional costs in implementing the regulation, the provision requires facility owners or operators to pay fees that are assessed by districts to recover costs.

Summary and Purpose of Section 93410(a)(2)

This provision establishes the stand-alone independence of the proposed CARB regulation, such that it is not affected by local air district rules or requirements. Specifically, district rules cannot create less stringent requirements than the proposed regulation, and district rules cannot alter the requirements of the proposed regulation.

Rationale for Section 93410(a)(2)

This provision is required in order to establish a uniform statewide system of emissions data reporting. Local air districts have different rules and requirements, based on the jurisdiction, therefore it would be antithetical to allow district rules to either reduce the proposed CARB requirements, or to otherwise alter the requirements. That said,

section 93408 of the proposal does allow for district requirements that are more stringent than the proposed CARB requirements.

Summary and Purpose of Section 93410(a)(3)

This provision establishes that implementation and enforcement of the proposed regulation by an air district does not waive or limit CARB's authority to enforce the requirements of this article. Also, a facility's permitting or registration status does not limit the local air districts ability to enforce the requirements of the article.

Rationale for Section 93410(a)(3)

The proposed regulation is a statewide CARB regulation, with CARB being the agency with overarching regulatory authority. Therefore, this provision is included to provide clarity that regardless of air district implementation or enforcement actions, CARB retains the ultimate responsibility, power, and authority for enforcement and implementation, as is necessary for a statewide emissions reporting regulation. In addition, the provision was included regarding permitting or registration to make it clear that the regulation applies to any source that meets applicability requirements, regardless of permitting or registration status, and that such a source is subject to enforcement requirements for noncompliance.

XII. REFERENCES

The following documents are the technical, theoretical, or empirical studies, reports, or similar documents relied upon in proposing these regulatory requirements, identified as required by Government Code, section 11346.2, subdivision (b)(3).

1. 40 CFR 51.100. (2012, July 1). Definitions. *Electronic Code of Federal Regulations*. Retrieved from <https://www.gpo.gov/fdsys/granule/CFR-2012-title40-vol2/CFR-2012-title40-vol2-sec51-100>
2. 40 CFR 372. (1996, July 1). Toxic Chemical Release Reporting: Community Right-to-Know. *Electronic Code of Federal Regulations*. Retrieved from <https://ecfr.io/Title-40/pt40.30.372>
3. 40 CFR 51 . (2012, July 1). Requirements for Preparation, Adoption, and Submittal of Implementation Plans. *Electronic Code of Federal Regulations*. Retrieved July 30, 2018, from <https://ecfr.io/Title-40/pt40.2.51>
4. 42 U.S.C. 116. (2011, January 7). Emergency Planning and Community Right-to-Know. *United States Code, 2011 Edition*. Retrieved from <https://www.govinfo.gov/content/pkg/USCODE-2011-title42/html/USCODE-2011-title42-chap116.htm>
5. CAPCOA. (2016). *Air Toxic "Hot Spots" Program Facility Prioritization Guidelines*. Sacramento, CA: California Air Pollution Control Officers Association.
6. CARB. (2007). *Emissions Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program*. State of California Air Resources Board. Retrieved from <https://www.arb.ca.gov/ab2588/final/reg.pdf>
7. CARB. (2009, January). Definitions of VOC and ROG. Retrieved from https://www.arb.ca.gov/ei/speciate/voc_rog_dfn_1_09.pdf
8. CARB. (2017, October). 17 CCR 95100-95163. *Mandatory Greenhouse Gas Emissions Reporting*. Retrieved from https://www.arb.ca.gov/cc/reporting/ghg-rep/regulation/mrr-2016-unofficial-2017-10-10.pdf?_ga=2.19545019.2011882723.1536854970-680078377.1532727140
9. CARB. (2017, June 12). Pollution Mapping Tool. Retrieved from https://www.arb.ca.gov/ei/tools/pollution_map/
10. CARB. (2018, September 7). Criteria and Toxics Regulation Comments. *Criteria and Toxics Reporting Regulation*. Retrieved from <https://www.arb.ca.gov/ei/ctr/ctr-regulation/ctr-regulation-comments.htm>

11. 13 CCR 2450. (2011). *Regulation to Establish a Statewide Portable Equipment*. California Air Resources Board. Retrieved from <https://www.arb.ca.gov/portable/perp/perpreg.pdf>
12. Connelly. (1987, September). Air Toxic Hot Spots Information and Assessment Act. Retrieved from <https://www.arb.ca.gov/ab2588/overview.htm>
13. Garcia, C. (2017, July 26). Assembly Bill 617. *Chapter 136*. California. Retrieved from https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB617
14. Government Code section 11346. (2016, September 14). Economic Impact Assessment: Small Business Definition. Eduardo Garcia. Retrieved from https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1033
15. OEHHA. (2015, March 6). Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments 2015. *Notice of Adoption*. Retrieved from <https://oehha.ca.gov/air/crn/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0>
16. OMB. (2017). *North American Industry Classification System*. Executive Office of the President. Retrieved from https://www.census.gov/eos/www/naics/2017NAICS/2017_NAICS_Manual.pdf
17. US EPA. (2017). Toxic Chemical Release Inventory Reporting (TRI). *Section 313 of the Emergency Planning and Community Right-to-Know Act*. Retrieved from https://ofmpub.epa.gov/apex/guideme_ext/guideme_ext/r/files/static/v3336/rfi/ry_2017_rfi.pdf
18. US EPA. (2018, August 20). DERS Unit Type Code. *System of Registeries*. Retrieved from https://ofmpub.epa.gov/sor_internet/registry/datareg/searchandretrieve/datadictionaries/browse.do
19. US EPA. (2018, March 19). TRI Reporting and NAICS Industries. Retrieved from <https://www.epa.gov/toxics-release-inventory-tri-program/my-facilitys-six-digit-naics-code-tri-covered-industry>
20. USEPA. (2016). Source Classification Codes (SCC). Retrieved from <https://ofmpub.epa.gov/sccwebservices/sccsearch/docs/SCC-IntroToSCCs.pdf>

XIII. APPENDICES – Provided as separate documents

Appendix A – Proposed Regulation Order For The Regulation For The Reporting Of Criteria Air Pollutants And Toxic Air Contaminants

Appendix B – Full Text of Assembly Bill 617

Appendix C – United States Environmental Protection Agency. *Source Classification Codes*, Accessed October 1, 2018.