

APPENDIX A TO THE STAFF REPORT

Appendix A

PROPOSED REGULATION ORDER

California Code of Regulations, Title 17, Division 3, Chapter 1,
Subchapter 7.7, Article 1

(Note: The entire text of sections 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, and 93410, set forth below is new language in “normal type” proposed to be added to title 17, California Code of Regulations, and contains regulations to implement Assembly Bill 617- Nonvehicular Air Pollution: Criteria Air Pollutants and Toxic Air Contaminants (stats. 2017; Chapter 136; Health and Safety Code section 39607.1).

Adopt new Article 1, and sections 93400, 93401, 93402, 93403, 93404, 93405, 93406, 93407, 93408, 93409, and 93410, title 17, California Code of Regulations, to read as follows:

Subchapter 7.7: Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants

Article 1. General Requirements for Criteria and Toxics Reporting

§ 93400. Purpose and Scope

The purpose of this article is to establish a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for specified facilities. This article also requires owners or operators of specified facilities to report to the state board annual emissions of criteria air pollutants and toxic air contaminants using the uniform statewide system of annual reporting. This article implements the requirements of section 39607.1 of the California Health and Safety Code (H&SC) by identifying facilities subject to annual reporting, data to be reported, mechanisms for reporting, requirements for quantifying emissions data, and the timing and phase-in of specified data reporting requirements. It is also designed to support implementation and tracking of the requirements outlined in sections 42705.5 and 44391.2 of the H&SC.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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§ 93401. Applicability

(a) *General Applicability*

Except as provided in section 93401(b), this article applies to the owners or operators of any facility described in sections 93401(a)(1), (2), (3), or (4), that is located in California:

- (1) A facility that is required to report to the state board the facility's greenhouse gas emissions pursuant to H&SC section 38530 at the beginning of the data year. For determining applicability under section 93401(a)(1), a "facility" includes any onshore oil and gas production or processing facility as defined in California Code of Regulations (CCR), title 17, section 95102.
- (2) A facility that is located in an air district for which any portion of the air district has been designated as nonattainment with respect to either the National Ambient Air Quality Standards (NAAQS) or the California Ambient Air Quality Standards (CAAQS), and that is authorized by one or more permit(s) issued by an air district to emit 250 or more tons per year (tpy) of any applicable nonattainment pollutant or its precursors, as specified in (A) through (D) below, at the beginning of the data year. Emissions from non-permitted sources are not included in the applicability determination.

If a facility is located within an air district for which any portion of the air district has been designated as nonattainment, the facility is subject to this article if the facility is authorized by one or more permit(s) issued by the air district to emit any of the following:

- (A) 250 or more tpy of all nitrogen oxides, except N₂O.
 - (B) 250 or more tpy of all reactive organic gases or all volatile organic compounds.
 - (C) 250 or more tpy of particulate matter.
 - (D) 250 or more tpy of carbon monoxide, or lead, or sulfur oxides, or ammonia.
- (3) A facility that is categorized by the air district as high priority for toxic emissions at the beginning of the data year, based on cancer or noncancer health impacts pursuant to H&SC section 44360.
 - (4) A facility that has one or more permit(s) to operate issued by an air district, emits any criteria pollutant or toxic air contaminant as defined in this article, and is located within the boundary of a community selected by CARB pursuant to H&SC sections 42705.5 or 44391.2.

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(b) *Exclusions*

- (1) For facilities identified in section 93401(a)(1), this article does not apply to, and emissions reporting is not required for, the following facilities or entities that are subject to reporting their greenhouse gas emissions pursuant to CCR, title 17, section 95101:
 - (A) Suppliers of transportation fuels (CCR, title 17, section 95121), suppliers of natural gas, natural gas liquids, and liquefied petroleum gas (CCR, title 17, section 95122), and suppliers of carbon dioxide (CCR, title 17, section 95123), that do not report any facility combustion emission sources under the requirements of CCR, title 17, sections 95100 through 95158.
 - (B) Electric power entities as defined in CCR, title 17, section 95101(a).
 - (C) Natural gas distribution facilities as defined in CCR, title 17, section 95101(a), that do not report facility combustion emission sources under the requirements of CCR, title 17, sections 95100 through 95158.

(c) *Cessation of Reporting for Facilities*

- (1) Cessation of Reporting for Facilities Subject to Applicability Criteria under section 93401(a)(1) or (2)
 - (A) The owner or operator of a facility subject to reporting pursuant to the applicability criteria in either section 93401(a)(1) or (2), and that no longer meets any of the applicability criteria in sections 93401(a)(1), (2), (3), and (4) at the beginning of a data year, may cease reporting.
 - (B) An owner or operator of a facility that meets the cessation criteria in section 93401(c)(1)(A) must notify CARB and the local air district, in writing, that the facility is ceasing to report, pursuant to this subdivision. The owner or operator of the facility must provide in the notification the reason(s) for cessation of reporting, and the designated representative for the facility must certify that no other applicability criteria apply to the facility pursuant to this article. The notification must be submitted no later than May 1, or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which a report would be due in the absence of cessation. Facility owners or operators must provide the cessation notification to the mail address or email address indicated in section 93403(f) of this article.
 - (C) The owner or operator of a facility subject to this article that ceases reporting pursuant to this subdivision must maintain the corresponding records required under section 93405 and retain such records for five years following the submission of the final emissions data report to CARB.

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- (2) Cessation of Reporting for Facilities Subject to Applicability Criteria under section 93401(a)(3)
- (A) The owner or operator of a facility that meets the applicability criteria of section 93401(a)(3), and that is not otherwise subject to reporting under sections 93401(a)(1), (2), or (4), may cease reporting if all of the following requirements are met.
1. The facility has completed an air district-approved health risk assessment (HRA) in accordance with the Office of Environmental Health Hazard Assessment's (OEHHA), Air Toxics Hot Spots Program – Risk Assessment Guidelines – The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (“the OEHHA Guidelines”) (February 2015), which is incorporated by reference herein, or has completed a similar risk assessment method approved by the Executive Officer. HRAs prepared in accordance with previous editions of the OEHHA Guidelines are not considered valid for the purposes of determining cessation under this article.
 2. The results of the facility’s most recent HRA indicate a risk level for cancer and noncancer health impacts, summed across all pathways of exposure and all contaminants for cancer impacts, and summarized by toxicological endpoint for noncancer impacts, that does not exceed the air district’s established public notification threshold, pursuant to H&SC section 44362(b).
 3. For a facility that is subject to an air district-required risk reduction audit and plan pursuant to H&SC section 44391(a), the air district determines that the risk associated with the facility’s actual reported emissions from the most recent annual emissions data report do not exceed the air district’s established public notification threshold, pursuant to H&SC section 44362(b).
- (B) A facility owner or operator that meets the cessation requirements for reporting pursuant to this subdivision must notify CARB and the local air district, in writing, that the facility is ceasing to report, pursuant to this subdivision. The owner or operator of the facility must provide in the notification the reason(s) for cessation of reporting, and the designated representative for the facility must certify both that the facility meets the cessation requirements in section 93401(c)(2)(A), and certify that no other applicability criteria apply to the facility pursuant to this article. The facility owner or operator must also, upon request, provide the HRA report to CARB within 60 days of the request. The notification must be submitted no later than May 1, or by the local air district’s data reporting deadline if it is earlier than May 1, of the year in which the emissions data

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report was due in the absence of meeting the cessation requirements. Facility owners or operators must provide the cessation notification to the mail address or email address indicated in section 93403(f) of this article.

- (3) Cessation of Reporting for Shutdown Facilities. The requirements to cease reporting for the owner or operator of a facility that indefinitely ceases to operate or permanently shuts down as defined in this subdivision are as follows.
 - (A) If the operations of a facility are changed such that all applicable greenhouse gas, criteria pollutant, and toxic air contaminant-emitting processes and operations cease to operate or are permanently shut down, the owner or operator must submit an emissions data report for the year in which the facility's emitting processes and operations ceased to operate, and for the first full year of non-operation that follows, showing zero emissions. In cases in which the business no longer exists, and its former owners or operators are not available to submit a final report, cancelled air permits or other documentation from the air district or other government or business sources are sufficient to document that the facility has zero emissions, and a report showing zero emissions is not required.
 - (B) The owner or operator must submit a notification to CARB and the local air district that announces the cessation of reporting and certifies to the cessation of all greenhouse gas, criteria pollutant, and toxic air contaminant-emitting processes and operations. The notification must be submitted no later than May 1 or by the local air district's data reporting deadline if it is earlier than May 1, of the year in which the report would be due in the absence of the shutdown. The facility owner or operator, or the designated representative, must provide the cessation notification to the mail address or email address indicated in section 93403(f) of this article.
 - (C) For the purposes of this provision, "cease to operate" means the facility did not operate greenhouse gas, criteria pollutant, or toxic-emitting processes for an entire calendar year. Continued operation of space heaters and water heaters as necessary until operations are restarted in a subsequent year does not preclude a facility from meeting the definition of "cease to operate." The owner or operator must resume reporting for any future calendar year during which any of the criteria pollutant or toxic-emitting processes or operations resume operation and are subject to reporting.
 - (D) For the purposes of this provision, permanently "shut down" means the owner or operator has objective evidence that the industrial operations have permanently ceased. Such evidence includes but is not limited to, evidence of decommissioning and the cancellation of air district permits. For this provision, the continued operation of space heaters and water heaters as necessary to support decommissioning activities are not considered indicia of continued industrial operation.

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- (E) Section 93401(c)(3) does not apply to seasonal or other temporary shutdowns of operations, of less than one year duration.
 - (F) The owner or operator must resume reporting for any future calendar year during which any of the criteria pollutant or toxic air contaminant-emitting processes or operations resume operation and are subject to reporting under the applicability provisions of this article.
- (4) Reinstatement of Reporting Requirements. Any facility that ceases reporting is again subject to reporting under the full requirements of this article if in the future it meets any of the applicability criteria in sections 93401(a)(1) through (4).

(d) *Demonstration of Nonapplicability*

The Executive Officer or local air district may request a demonstration from any facility owner or operator that the facility does not meet one or more of the applicability criteria specified in this article. Such a demonstration must be provided to the Executive Officer or local air district within 30 days of receipt of a written request.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

§ 93402. Definitions

- (a) For the purposes of this article, the following definitions apply:

“Activity level” or “activity value” means the amount of process activity undertaken over a finite period of time (e.g. one year), quantified in units relevant to that process.

“Actual emissions” or “actual air emissions” means the mass of a criteria air pollutant or toxic air contaminant measured, observed, or estimated to have been actually released by a process into the atmosphere during an associated data year, except in the case of radionuclide emissions, where the actual emissions is quantified in units of radioactivity instead of mass.

“Air district” or “air quality management district” or “air pollution control district” means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with section 40000) of Division 26 of the H&SC.

“Annual” means with a frequency of once each year; unless otherwise noted, annual events such as reporting requirements will be based on the calendar year.

“Applicable nonattainment pollutant or its precursors” means:

- 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 under 42 U.S.C section 7407(d) and the precursors of such pollutants identified in the applicable State Implementation Plan, including local

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attainment plans, approved by the U.S. Environmental Protection Agency;

- A pollutant for which any portion of the air district in which the facility is located has been identified as nonattainment with respect to a CAAQS under H&SC section 39608 and the precursors of such pollutants listed in CCR, title 17, section 70700.

"Best available data and methods" means, in CARB's judgment, technically justifiable, air district-approved or CARB-approved, quantification methods and emission factors used in conjunction with technically justifiable and documented measurement, throughput, or other activity level data, for accurately calculating annual criteria pollutant and toxic air contaminant emissions. The maximum "potential" for a facility or device to emit criteria pollutants or toxic air contaminants, based on an air district-issued permit or other information or permitted maximum emissions levels, are not considered best available data. "Best available data and methods" requires the use of actual emissions and other data, and not the maximum "potential" to emit or permitted maximum emissions information.

"Boundary of a community" means the established geographical extent of a community selected and approved by CARB, pursuant to H&SC section 42705.5 or 44391.2.

"Calendar year" means the time period from January 1 through December 31 of the same year.

"California Ambient Air Quality Standard" or "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 and codified in CCR, title 17, section 70200, Table of Standards.

"CARB" means the California Air Resources Board.

"Community" means a defined geographic area selected and approved by CARB, pursuant to H&SC section 42705.5 or 44391.2.

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

"Community Air Monitoring System" is as defined in H&SC section 42705.5(a)(1), and means advanced sensing monitoring equipment that measures and records air pollutant concentrations in the ambient air at or near sensitive receptor locations and in disadvantaged communities and that may be useful for estimating associated pollutant exposures and health risks, determining trends in air pollutant levels over time, and in supporting enforcement efforts.

"Community Emissions Reduction Program" means a program of selected emissions reduction measures, approved by CARB, and implemented pursuant to H&SC section 44391.2.

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“Continuous Emissions Monitoring System” or “CEMS” means the total equipment required to obtain a continuous measurement of an emissions concentration or emission rate from combustion or industrial processes, which meets local air district or U.S. EPA certification standards.

“Criteria air pollutant” or “criteria pollutant” means emissions of 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_{2.5}, PM₁₀), lead (Pb), and ammonia (NH₃).

“Data year” means the calendar year in which emissions occurred.

“Designated representative” means the person responsible for certifying and submitting the emissions data report.

“Device” means a piece of equipment that has a process associated with it (e.g., internal combustion engine, boiler, tank, spray paint booth, etc.).

“Direct emissions” means emissions released directly from a stack, vent, chimney, or other functionally equivalent opening.

“Emission calculation method” means describing how the emissions for a pollutant were calculated (e.g., by stack test, continuous emissions monitor, emission factor, etc.).

“Emission factor” means the ratio relating emissions of a specific pollutant to an activity level.

“Emissions” means the release of criteria air pollutants or toxic air contaminants into the atmosphere from any sources and processes within a facility, and may include direct emissions or fugitive emissions.

“Emissions data report” or “report” means the report prepared by the owner or operator of a facility subject to this article, or an air district, each year and submitted to CARB that provides the information required by this article. The emissions data report is for the submission of required data for the calendar year prior to the year in which the report is due. For example, a 2019 emissions data report would include data for emissions that occurred during the 2019 calendar year (i.e., data year) and would be reported in 2020.

“Enforceable” means legally required, and subject to enforcement actions under the authority of CARB or local air districts to hold a particular party liable and to take appropriate action if any of the provisions or requirements are violated.

“Engineering estimate” means an estimate of emissions based on engineering principles applied to measured and/or approximated physical parameters such as fuel use, hours of operation, production, throughputs, flow rates, or other data.

“Equipment” means any stationary article, machine, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants.

“Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.

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“Geospatial coordinates” means the latitude and longitude values identifying a physical location, without considering elevation, under the North American Datum of 1983, National Oceanic and Atmospheric Administration, December 1989, incorporated by reference herein, available at https://www.ngs.noaa.gov/PUBS_LIB/NADof1983.pdf.

“Facility” means any physical property, plant, building, structure, or stationary equipment, having one or more sources, 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.

- Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.
- For the purposes of this article “facility” does not include electric power entities, suppliers of transportation fuels, suppliers of natural gas, natural gas liquids, and liquefied petroleum gas, and suppliers of carbon dioxide, that are solely required to report greenhouse gas emissions and data under the provisions of CCR, title 17, sections 95111, 95121, 95122, and 95123, respectively.

“Fugitive emissions” means those emissions from a source that typically do not pass through a stack, chimney, vent, or other functionally-equivalent opening.

“Health risk assessment”, or “HRA” means a detailed comprehensive analysis prepared pursuant to H&SC section 44360 to evaluate and predict the dispersion of hazardous substances in the environment and the potential for exposure of human populations and to assess and quantify both the individual and population wide health risks associated with those levels of exposure.

“Lead (Pb)” means emissions of Pb which occur as elemental Pb or as a chemical compound containing Pb.

“Local distribution company” or “LDC,” for purposes of this article, means a company that owns or operates distribution pipelines, not interstate pipelines, that physically deliver natural gas to end users and includes public utility gas corporations, publicly-owned natural gas utilities and intrastate pipelines that are delivering natural gas to end users.

“National Ambient Air Quality Standards” means those pollutants and associated standards identified in the Code of Federal Regulations, Title 40, Part 50, as it existed October 23, 2018.

“Natural gas distribution” means the distribution pipelines and metering and regulating equipment at metering-regulating stations that are operated by a Local Distribution Company (LDC) within California that is regulated by a public utility commission or that is operated as an independent municipally-owned distribution system. This segment also excludes customer meters and regulators, infrastructure, and pipelines (both interstate and intrastate) delivering natural gas directly to major industrial users and farm taps upstream of the local distribution company inlet. Major leaks from pipelines or well casings, or other distribution

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sources are not considered part of “natural gas distribution” for the purposes of this regulation.

“Nitrogen oxides (NO_x)” means all oxides of nitrogen except N₂O.

“Nonattainment pollutant” means a criteria pollutant for which a district is classified as a nonattainment area pursuant to the CAAQS and/or the NAAQS.

“North American Datum of 1983” or “NAD83”, means the coordinate system, and a set of reference points, used to locate places on the Earth used to define the geodetic network in North America.

“North American Industry Classification System (NAICS) code(s)” means the six-digit code(s) that represent the products, activities, and/or services at a facility as defined in North American Industry Classification System Manual, 2017, United States Office of Management and Budget, retrieved from https://www.census.gov/eos/www/naics/2017NAICS/2017_NAICS_Manual.pdf, which is incorporated by reference herein.

“Onshore petroleum and natural gas production facility” means all petroleum or natural gas equipment on a well pad, or associated with a well pad or to which emulsion is transferred and CO₂ enhanced oil recovery operations that are under common ownership or common control including leased, rented, or contracted activities by an onshore petroleum or natural gas production owner or operator that are located in a single basin as defined in the Code of Federal Regulations, title 40, section 98.238, last amended October 22, 2015.

“Operational control” for a facility subject to this article means the authority to introduce and implement operating, environmental, health and safety policies. In any circumstance where this authority is shared among multiple entities, the entity holding the permit to operate from the local air pollution control district or air quality management district is considered to have operational control for purposes of this article.

“Operator” means the entity, including an owner or leaseholder, having operational control of a facility. For onshore petroleum and natural gas production, the operator is the operating entity listed on the state well drilling permit, or a state operating permit for wells where no drilling permit is issued by the state.

“Particulate matter (PM)” means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

- “PM_{2.5}” means PM with an aerodynamic diameter equal to or less than 2.5 micrometers.
- “PM₁₀” means PM with an aerodynamic diameter equal to or less than 10 micrometers. Emissions of PM₁₀ will include emissions of PM_{2.5}.
- “Condensable PM” means 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. All condensable PM is in the PM_{2.5} size fraction.
- “Filterable PM” means particles that are directly emitted by a source as a solid

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or liquid at stack or release conditions such that they could be captured on the filter of a stack test train. Filterable PM can be in the PM_{2.5} or PM₁₀ size fraction.

- "PM precursors" means emissions of NO_x, SO_x, NH₃, and ROG.

"Permit" or "Air District Permit" means 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, including, but not limited to, criteria air pollutants and toxic air contaminants. Permits may establish numeric limits on activity levels for devices or processes, or the amount of emissions a facility is legally authorized to emit over a specified period of time.

"Physical address," with respect to a United States parent company as defined in this section, means the street address, city, state and zip code of that company's actual physical location. For facilities, the physical address serves to locate one or more emission sources rather than to locate a corporate office or as a mailing address.

"Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:

- The engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or
- The engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or
- The engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.

"Process" means a type of activity that produces emissions (e.g. flaring, internal combustion, heating, painting, gravel screening, breathing loss, vehicle fueling, spillage, solvent cleaning, etc.).

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“Primary release location” means 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.

“Reactive organic gases (ROG)” means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and excluding the following:

- methane;
- methylene chloride (dichloromethane);
- 1,1,1-trichloroethane (methyl chloroform);
- trichlorofluoromethane (CFC-11);
- dichlorodifluoromethane (CFC-12);
- 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);
- chloropentafluoroethane (CFC-115);
- chlorodifluoromethane (HCFC-22);
- 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);
- 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- 1,1-dichloro-1-fluoroethane (HCFC-141b);
- 1-chloro-1,1-difluoroethane (HCFC-142b);
- trifluoromethane (HFC-23);
- pentafluoroethane (HFC-125);
- 1,1,2,2-tetrafluoroethane (HFC-134);
- 1,1,1,2-tetrafluoroethane (HFC-134a);
- 1,1,1-trifluoroethane (HFC-143a); [420-46-2] 1,1-difluoroethane (HFC-152a);
- cyclic, branched, or linear completely methylated siloxanes;
- the following classes of perfluorocarbons:
 - cyclic, branched, or linear, completely fluorinated alkanes;
 - cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds only to carbon and fluorine; and
- acetone;
- ethane;
- methyl acetate;
- perchloroethylene; and
- parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).

“Release location” or “Release location exit” means the location at which a gas stream enters the ambient air.

“Release location exit gas flow rate” means the numeric value of the volumetric flow rate of a stack gas stream as measured in the stack or at the release point exit, in units of actual cubic feet per minute, or ACFM. Exit gas flow rate should represent,

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to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas flow rate may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location exit gas temperature” means the numeric value of the temperature of an exit gas stream as measured in the stack or at the release point exit, in units of degrees Fahrenheit. Exit gas temperature should represent, to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas temperature may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location exit gas velocity” means the numeric value of the velocity of an exit gas stream as measured in the stack or at the release point exit, in units of feet per minute. Exit gas velocity should represent, to the extent feasible, the typical, or the most common or generally used, annual operating conditions. Exit gas velocity may be based on, in order of preference: direct measurements (including measurements recorded during source testing), engineering evaluation, engineering specifications, or other science-based methods.

“Release location height above ground” means the physical height of a release point above the immediate surrounding terrain, in units of feet.

“Release location stack diameter” means the inner physical diameter of a circular stack or the equivalent diameter of a rectangular stack, in units of feet.

“Reporting entity” means a facility owner or operator subject to the requirements of this article.

“Short ton” means a common international measurement for mass, equivalent to 2,000 pounds.

“Shutdown” means the permanent or indefinite cessation of operation of an emission source for any purpose.

“Source” means any physical unit, process, or other use or activity that releases a criteria air pollutant or toxic air contaminant into the atmosphere.

“Source Classification Code(s)” or “SCCs” means the eight-digit code(s) that represent distinct stationary source processes, as listed in Appendix C to the “Staff Report: Initial Statement of Reasons” published by the California Air Resources Control Board on October 23, 2018, which is incorporated by reference herein.

“Stack” or “release point” means any opening or passage designed to emit gases, solids, or liquids from a source into the air, including a chimney, vent, pipe, or duct.

“Stationary” means neither portable nor self-propelled, and operated at a single facility.

“Sulfur oxides (SO_x)” means all oxides of sulfur.

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“Throughput” means a measurable factor or parameter that relates directly or indirectly to the emissions of an air pollution source during the period for which emissions are reported. For example, throughput may refer to the amount of fuel combusted, product manufactured, or material handled or processed. It may also refer to population, employment, or number of units. Throughput is typically used to represent an activity level.

“Toxic air contaminant” means, for the purpose of this article, those substances identified in Appendix A-1 of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, version effective September 26, 2007, as issued by CARB, which is incorporated by reference herein.

“Unit Type Code” means the three-digit numeric code that represents the broad category or type of a device, from the “UnitTypeCode” value list defined in the U.S. EPA Data Element Registry Service (DERS, Accessed August 20, 2018), which is incorporated by reference herein, and can be found at this website:
https://iaspub.epa.gov/sor_internet/registry/datareg/searchandretrieve/valuelist/search.do?details=displayDetails&id=12300&verNr=1

“U.S. EPA” means the United States Environmental Protection Agency.

“Volatile Organic Compounds (VOC or VOCs)” means, for the purpose of this article the same as Reactive Organic Gases.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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§ 93403. Emission Reporting Requirements

Owners or operators of the facilities subject to this article must submit complete emissions data reports according to the requirements specified in sections 93403 and 93404, for criteria air pollutants and toxic air contaminants. The owner or operator must submit reports that meet all requirements of this article for 2018 data and subsequent data years, except as specified in sections 93403(a)(2) and (3).

(a) *Initial Year of Reporting for Facilities*

- (1) Beginning with 2018 data, if a facility meets any of the applicability criteria outlined in sections 93401(a)(1) through(3) within a calendar year, the owner or operator of a facility must report emissions data pursuant to this article for emissions that occur during that calendar year and each subsequent year. Emissions data must be reported annually, unless and until the cessation requirements described in section 93401(c) are met.
- (2) For facilities subject to reporting based on criteria pollutant emissions as identified in section 93401(a)(2), submittal of emissions reports in 2019 and 2020, for 2018 and 2019 emissions data, respectively, is optional for a facility that meets both the criteria in (A) and (B) below. Starting with 2020 data reported in 2021, and for subsequent years, the owner or operator of such a facility must submit an annual emissions report as required by this article.
 - (A) The facility meets the criteria specified in section 93401(a)(2) for nonattainment pollutants or precursors, but does not trigger any of the applicability criteria in sections 93401(a)(1), (a)(3), or (a)(4); and
 - (B) The facility emits less than 250 tons per calendar year of any applicable nonattainment pollutant or its precursors specified in section 93401(a)(2)(A) through (D), notwithstanding the authorization to do so pursuant to a permit issued by a district.
- (3) For the owner or operator of a facility subject to 93401(a)(4) only, the initial data year subject to reporting is the second calendar year after a community is selected for a community air monitoring program or a community emissions reduction program. For example, for a facility located in a region selected for a community air monitoring program in 2018, the initial report must include calendar year 2020 emissions data and be submitted in 2021. For a community selected in 2019, initial emissions data reports for a facility would include 2021 data, submitted in 2022.
 - (A) For a facility subject to section 93401(a)(4) only, a facility owner or operator must report annual emissions for five consecutive years. After the first five years, reporting is only required every third year, unless specifically notified by the Executive Officer that an alternate reporting schedule is required.

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(b) *Submittal of Emissions Reports to Air Districts*

- (1) For emissions data reports submitted pursuant to these requirements, facilities subject to this article shall submit annual emissions data and/or activity data, as applicable, to the local air district in which the facility is located, to allow air district staff to quantify total annual facility criteria pollutant and toxic emissions using existing air district methods. If a quantification method is not available from the air district, use best available data and methods. Air district or best available data and methods must be used to quantify emissions data until uniform methods are added to Article 2 of this Subchapter 7.7. Facility owners or operators shall provide annual emissions or activity data to the air district by May 1 (or by the local air district's reporting deadline if earlier than May 1) of the year immediately following the calendar year in which the emissions occurred. District rules may specify an earlier submittal date, which supersedes the May 1 due date. The facility owner or operator shall maintain liability for any late submittals and inaccuracies in data submitted to the local air district. For 2020 emissions data reports submitted in 2021, and for subsequent years, all emissions and activity data must be submitted in an electronic format, if such a system is available at that time, unless the local air district provides approval for data submissions or revisions in other formats.

(c) *Submittal of Emissions Reports to CARB*

- (1) CARB will make available a database for electronically submitting criteria pollutant and toxic air contaminant emissions data. Between May 1 and August 1 of each year, air districts with jurisdiction over a facility subject to this article may quantify and submit emissions data to this CARB database on behalf of the facility. After August 1 of each year, if CARB determines that data required from any facility subject to this article is found to be missing, incomplete, or incorrect, CARB will contact the air district and the facility designated representative in an effort to resolve the data deficiency.
 - (A) If an air district does not submit data (on behalf of a facility subject to this article) to CARB by August 1, CARB, after consultation with the air district, will require that the facility designated representative provide the emissions and activity data that was provided, or should have been provided, to the air district, as required pursuant to 93403(b), within 30 days. The facility data shall be submitted to both the local air district and to CARB. The submitted emissions data reports shall represent the actual emissions from the entire previous calendar year.
- (2) Beginning with 2020 data reported in 2021, and for subsequent years, a facility owner or operator may, with approval from the local air district, report facility activity or emissions data directly to a state administered electronic data system, if such a system is available at that time. If this

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option is chosen by an air district, the requirements in section 93403(c)(1)(A) do not apply.

- (d) *New Facilities.* Any owner or operator of a facility identified in section 93401(a) that commences operations after January 1, 2019 shall submit an initial emissions data report to the air district in which the facility resides, as specified in this article for that facility based on emissions produced during the first full calendar year of operation. This paragraph does not apply to changes in ownership, management, or operations at existing facilities.
- (e) *Reporting Responsibilities During Changes in Ownership.* The owner or operator at the time of a reporting deadline specified in this article has the responsibility for complying with the requirements of this article, including ensuring that the emissions data report is accurate and complete.
 - (1) The owner or operator at the time of a reporting deadline is responsible for submitting the emissions data report covering the complete calendar year data.
 - (2) If an ownership change takes place during the calendar year, reported data must not be split or subdivided for the year, based on ownership. The current owner or operator must submit a single annual emissions data report for the facility. This report must represent required data for the entire calendar year.
 - (3) Previous owners or operators are required to provide data and records to new owners or operators that are necessary and required for preparing annual emissions data reports required by this article.
- (f) *Addresses.* The following address shall be used for any necessary notifications or materials that are not submitted by other means as described in this article:

Manager, Criteria Pollutant and Air Toxics Reporting Section
Greenhouse Gas and Toxics Emission Inventory Branch
Air Quality Planning & Science Division
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Emailed notifications or materials shall be submitted to: ctr-report@arb.ca.gov

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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§ 93404. Emissions Report Contents

The owner or operator of a facility subject to this article must develop and submit criteria pollutant and toxic air contaminant emissions data to the air district in which the facility is located in accordance with the following requirements, in a format determined by the local air district.

- (a) *General Contents.* Each submitted facility emissions data report must include the following information:
- (1) Facility name and facility identification number established by the local air district.
 - (2) Data year being reported.
 - (3) Owner or Operator. The owner or operator of each facility subject to this article must provide legal name(s), and physical and mailing addresses of the owner or operator responsible for preparing and submitting the required emissions data report.
 - (4) NAICS Codes. The owner or operator of each facility subject to this article must report the following NAICS code(s) that apply to the facility:
 - (A) Primary NAICS code. Report the NAICS code that most accurately describes the facility's primary product, activity, or service. The primary product, activity, or service is the principal source of revenue for the facility. A facility that has two or more distinct products, activities, or services may report additional primary NAICS code(s)
 - (B) Additional NAICS code(s). Report all additional NAICS codes that describe all products, activities, or services at the facility that are not related to the principal source of revenue
 - (5) The air basin, air district, and county in which the facility is located.
 - (6) The facility physical address and mailing address.
 - (7) Geographic location (latitude and longitude, in decimal degrees, of the approximate center (or centroid) of the facility, or the location's street address).
 - (8) For each primary release location at the facility:
 - (A) Release location identifier
 - (B) Geospatial coordinates for primary release locations. Coordinates for fugitive or non-ducted sources shall be estimated to represent the typical or average location(s) of the majority of emissions into the environment
 - (C) Release location type ("fugitive" or "stack")
 - (D) Release location height above ground, if applicable
 - (E) Release location exit gas flow rate, if applicable
 - (F) Release location exit gas temperature, if applicable
 - (G) If the release location type is "stack" then:
 1. Release location stack cross sectional area in square feet
 2. Release location exit gas velocity in feet per minute

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3. Flow rate in actual cubic feet per minute
 4. The presence or absence of a rain cap on the stack
- (H) For data items listed in this section 93404(a)(8) only, for release point information, the data must be collected and reported to the district no later than May 1, 2021, or by the local air district's reporting deadline, if it is earlier than May 1, for facilities subject to this article under the provisions of sections 93401(a)(1), (2), and (3). For facilities subject to this article under the provisions of section 93401(a)(4), the data items listed in this subsection (8) must be reported to the district no later than May 1 (or by the local air districts reporting deadline, if it is earlier than May 1) of the third year of reporting subject to this article. The data must be updated in the next required emissions data report, when there are physical changes to the facility structure or emissions release locations, or if there are substantive changes to emissions sources or operations, such as those requiring the addition, modification, or removal of district air permits.
- (9) For each device at the facility:
- (A) Device identifier
 - (B) Description of the device
 - (C) Unit Type Code
- (10) For each process associated with a device at the facility:
- (A) Process identifier
 - (B) Identifier of the singular associated device
 - (C) Identifier of the singular associated release point, as applicable
 - (D) SCC
 - (E) Activity level
 - (F) Activity level unit of measure
- (11) For each criteria air pollutant and toxic air contaminant emitted by a process at the facility:
- (A) Identifier of the singular associated process
 - (B) Identifier of the singular associated device
 - (C) Pollutant code
 - (D) Actual emissions
 - (E) Actual emissions unit of measure
 - (F) Emission factor
 - (G) Source of the emission factor (e.g., source test, air district provided, U.S. EPA, etc.)
 - (H) Emission factor unit of measure
 - (I) Emission calculation method
- (12) For facility operators subject to this article pursuant to section 93401(a)(1) based on greenhouse gas (GHG) emissions, who report aggregated facility GHG emissions under CCR, title 17, sections 95100-95163, including but not limited to onshore petroleum and natural gas production facilities and geothermal electricity generation facilities, criteria pollutant and toxic air

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contaminant emissions shall be quantified and reported for individual facilities as identified by local air districts.

- (b) *Emissions.* Annual emissions reports shall include the direct, and fugitive emissions for permitted processes and devices at the facility. Emissions from unpermitted sources, including fugitive emissions, that are currently reported to or quantified by the air district, shall also be quantified and reported, but are not included in the applicability determination for criteria pollutant emissions. Emissions from permitted portable equipment operated at a facility shall also be reported, except for portable equipment registered and reported under the Statewide Portable Equipment Registration Program Regulation (CCR, title 13, section 2450 et seq.). The annual emissions of the following air pollutants shall be reported:
- (1) Criteria air pollutants. Owners or operators of a facility subject to this article shall report the actual annual facility criteria air pollutant emissions in short tons per year, or sufficient activity data to calculate such emissions, for each criteria pollutant as defined in this article using best available data and methods. However, for lead (Pb), and ammonia (NH₃) the emissions shall be reported in units of pounds per year.
 - (2) Toxic air contaminants. Owners or operators of a facility subject to this article shall report the actual annual facility emissions of toxic air contaminants in pounds per year, or sufficient activity data to calculate such emissions, beginning with 2018 data reported in 2019. Beginning with the 2020 data year (reported in 2021), facilities must report toxic air contaminants as specified in the CARB Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, Appendix A-1, September 26, 2007, using best available data and methods. For data years prior to 2020, in cases where a subset of the toxic air contaminants has been historically reported, owners or operators of a facility subject to this article must report, at a minimum, the same subset of toxic air contaminants, or sufficient activity data to calculate such emissions. For data years prior to 2020, for facilities that have not previously reported emissions of toxic air contaminants, the owners or operators must report the toxic air contaminants, or the activity data to calculate such emissions, according to existing air district practices for the facility type.
 - (3) In addition to total facility emissions, facility owners or operators shall also, to the extent feasible, estimate and report actual air emissions of criteria pollutants and toxic air contaminants at the emissions process and/or device level. In the absence of calculated emissions data, facility owners or operators shall, to the extent feasible, provide other activity data such as fuel use, hours of operation, or throughput data, sufficient to quantify emissions at the permitted process and/or device level. This requirement does not preempt any more stringent requirements imposed by any air district.
- (c) *Methods.* Owners or operators of a facility subject to this article shall provide general information describing the methods and data used to estimate emissions, when the emissions are directly calculated by the facility owners or operators. Calculation methods used by owners or operators to quantify emissions must be

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best available data and methods. If an air district elects to quantify emissions and submit emissions data reports to CARB on behalf of one or more facilities located in the district, the air district will use existing air district methods to quantify emissions, and provide information on the methods to CARB via the emissions data report.

In cases where a facility has not previously submitted criteria pollutant or toxic air contaminant emissions, or the activity data used to calculate such emissions, facilities and districts will use best available data and methods to quantify the emissions. If an air district elects to quantify emissions for a facility, the facility is not required to provide the data elements identified in sections 93404(a)(11)(C) through (I), as the air district will determine those data elements. The methods and data used to estimate emissions may include, but are not limited to: 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 subject to this article shall provide sufficient information to determine if air district or CARB approved methods were used in estimating emissions.

- (d) *Attestation.* With the submitted annual report, the designated representative for a facility subject to this article must provide an attestation to the local air district or to CARB that he or she is authorized by the owner or operator of the facility to submit the emissions data report, and that to the best of his or her knowledge, all information submitted pursuant to this article is true, complete, and correct.
- (e) *Emission Report Audits.* At the discretion of the Executive Officer, and upon his or her request, CARB may require facility owners or operators to submit emissions data reports with supporting data for auditing and review. The facility owner or operator shall make available appropriate records, data, and personnel for either in-person on-site audits, or remotely implemented audit activities, so that CARB may review and verify the completeness and accuracy of submitted emissions data. The Executive Officer, at his or her discretion, may engage the services of third parties to perform the emissions report auditing activities on CARB's behalf.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

§ 93405. Document Retention and Record Keeping Requirements

- (a) The owner or operator of a facility subject to this article must retain records and documentation necessary to validate the data in the emissions data report for a period of five years from the date that the emissions report is submitted to CARB.
- (b) *CARB Inspection of and Requests for Records.* All records must be retained at the facility and made available to CARB or air district staff for onsite inspection at the time of inspection. Copies of any records or other materials maintained under the requirements of this article must be made available to the Executive Officer, or his or her designee upon request, within 30 days of receipt of such request to the

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designated representative of the reporting entity, unless a different schedule is agreed to by CARB. Retained records include but are not limited to, information used to quantify or report emissions data in the emissions data report, underlying monitoring and metering data, invoices of receipts or deliveries, sales transaction data, calculation methods, protocols used, analysis results, calibration records, and other relevant information.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

§ 93406. Confidentiality

- (a) Emissions data submitted to CARB under this article are public information and shall not be designated as confidential.
- (b) Any entity submitting information to the Executive Officer or local districts pursuant to this article may claim such information as “confidential” by clearly identifying such information as “confidential.” Claims of confidentiality may be made at the individual source or facility level, excluding any facility-level emissions data. Any claim of confidentiality by an entity submitting information must be based on the entity’s belief that the information identified as confidential is either trade secret or otherwise exempt from public disclosure under the California Public Records Act (Government Code section 6250 et seq.). The designated representative shall attest that the claim of confidentiality is true, correct, and complete. All such requests for confidentiality shall be handled in accordance with the procedures specified in CCR, title 17 sections 91000 to 91022.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

§ 93407. Enforcement

- (a) Owners or operators of facilities subject to this article are subject to enforcement by CARB as specified:
 - (1) Failure to comply with the requirements of this article constitutes a violation of this article. Penalties may be assessed for any violation of this article pursuant to H&SC section 42400. In seeking any penalty amount, CARB shall consider all relevant circumstances, including any pattern of violation, the size and complexity of the reporting entity’s operations, and the other criteria in H&SC section 42400.8.
 - (2) Any report, data, or documentation submittal required by this article that is not submitted, or is submitted late shall be a violation of this article.
 - (3) Submitting or producing inaccurate information required by this article shall be a violation of this article.

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- (4) Falsifying any information or record required to be submitted or retained by this article, shall be a violation of this article.
- (5) Failure to retain and failure to produce any record that this article requires to be retained or produced shall each constitute a violation of this article.
- (6) Any violation of this article may be enjoined pursuant to H&SC section 41513.
- (7) These enforcement provisions do not preempt any local air district enforcement authority.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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

This regulation does not preempt any more stringent requirements imposed by any air district. Compliance with this article does not excuse noncompliance with any Federal regulation. The Executive Officer retains authority to determine whether an air district requirement is more stringent than any requirement of this article.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

§ 93409. Severability

Each part of this article is deemed severable, and in the event that any part of this article is held to be invalid, the remainder of the article shall continue in full force and effect.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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

- (a) Implementation by CARB and by the Local Air Districts
 - (1) The requirements of this article are provisions of state law and are enforceable by both CARB and the local air districts where facilities covered by this article are located. Local air districts may incorporate the terms of this article into local air district rules. An owner or operator of a facility subject to this article must pay any fees assessed by a local air district for the purposes of recovering the district's cost of implementing and enforcing the requirements of this article. Any penalties secured by a local air district as the result of an enforcement action that it undertakes to enforce the provisions of this article may be retained by the local air district.

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- (2) Implementation and enforcement of the requirements of this article by a local air district may in no instance result in a standard, requirement, or prohibition less stringent than provided for by this article, as determined by the Executive Officer. The terms of any local air district permit or rule relating to this article do not alter the terms of this article, which remain as separate requirements for all sources subject to this article.
- (3) Implementation and enforcement of the requirements of this article by a local air district, including inclusion or exclusion of any of its terms within any local air district permit, or within a local air district rule, or registration of a facility with a local air district or CARB, does not in any way waive or limit CARB's authority to implement and enforce upon the requirements of this article. A facility's permitting or registration status also in no way limits the ability of a local air district to enforce the requirements of this article.

NOTE: Authority cited: 39600, 39601, 39605, 39607, 39607.1, 39701, 41511, 42700, 42705, 42705.5, 42705.6, and 44391.2, Health and Safety Code. Reference: 39607.1, 42705.5, and 44391.2 Health and Safety Code.

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**Article 2. Requirements for Calculating and Reporting
Criteria Pollutant and Toxic Air Contaminant Emissions**

*Article 2 is reserved for future revisions to the
Criteria Pollutant and Toxic Air Contaminant Reporting Program
to include Uniform Statewide Methods*