

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT  
MEMORANDUM  
2/22/2021

TO: FRAQMD BOARD OF DIRECTORS

FROM: Christopher D. Brown AICP, APCO

SUBJECT: Update on the ARB Criteria and Toxics Reporting Regulation and summary of prior District comment letters.

---

**RECOMMENDATION:**

None, informational item only as there is no pending action at the State.

**BACKGROUND:**

Attached are several prior District comment letters to ARB on the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR), which was adopted by the Air Resources Board on 12/13/18 and amended on 11/19/20. The amendments in 2020 significantly expanded the applicability of the regulation, causing most gas stations, diesel back-up generators, automotive painting operations, and agricultural operations to report criteria and toxics emissions annually.

At the February 5<sup>th</sup>, 2021, Basin Control Council (BCC) Meeting, the BCC received a presentation from the Sacramento Metropolitan AQMD on the impacts of the CTR regulation on various industries the Sacramento area. Director Fletcher requested that staff agenize this topic for the February FRAQMD Board meeting.

**DISCUSSION:**

While the ARB Board of Directors adopted amendments to the CTR regulation, the actual text of the changes approved on 11/19/20, so called 15-day changes, are yet to be finalized. ARB staff are drafting the text of the regulation and will release it to the public this spring for a 15-day public review and comment period. There is no additional review or approval required from the ARB Board of Directors. The ARB staff have indicated that they expect to complete the 15-day public process and submit the amended regulation to the Office of Administrative Law in June 2021 with an effective date of January 1, 2022.

Information on the CTR Regulation is online at <https://ww2.arb.ca.gov/rulemaking/2020/proposed-amendments-reporting-criteria-air-pollutants-and-toxic-air-contaminants>

The District staff have participated in working groups and meetings with ARB staff throughout the proposal and adoption of the CTR regulation and will continue to monitor its development.

FISCAL IMPACT:

None, informational item only.

ATTACHMENTS:

- #1 CTR Comment letter December 2018
- #2 CTR Comment letter March 2019
- #3 CTR Comment letter June 2019
- #4 CTR Comment letter November 2020



*Serving Sutter and Yuba Counties*

541 Washington Avenue  
Yuba City, CA 95991  
(530) 634-7659  
FAX (530) 634-7660  
[www.fraqmd.org](http://www.fraqmd.org)

Christopher D. Brown, AICP  
Air Pollution Control Officer

December 10, 2018

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

Re: Regulation for the Reporting of Criteria and Toxic Air Contaminants (CTR2018)

Dear Chair Nichols and the Members of the Board,

The Feather River Air Quality Management District (District) appreciates the opportunity to provide comments on the proposed Regulation.

The District would like to ask that CARB make the Regulation effective upon adoption in Section 93403 and 93403 (a)(1) and not retroactive as currently written.

Section 93403 makes 2018 activity and emissions subject to the reporting and recordkeeping requirements. However, in the final days of 2018 the Regulation is still in draft form and neither adopted by CARB nor approved by the Office of Administrative Law. While most of the data requested in the Regulation should be maintained by the stationary sources and already reported to the District, it is conceivable that some equipment or operations may not be (especially portable equipment or seasonal operations that may not track precise locations on a facility footprint).

By making the Regulation effective after adoption and approval, the District would have an opportunity to update throughput collection forms and processes to accommodate the requirements of the Regulation. The District recommends making the effective date the first full year after the Regulation is approved (i.e. effective for 2020 activity if the Regulation is approved prior to December 31, 2019).

Thank you for your consideration,

Christopher D. Brown, AICP #018108  
Air Pollution Control Officer



*Serving Sutter and Yuba Counties*

541 Washington Avenue  
Yuba City, CA 95991  
(530) 634-7659  
FAX (530) 634-7660  
[www.fraqmd.org](http://www.fraqmd.org)

Christopher D. Brown, AICP  
Air Pollution Control Officer

March 27, 2019

Dave Edwards Ph.D., Chief  
Greenhouse Gas and Toxics Emission Inventory Branch  
Air Quality Planning and Science Division  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: Regulation for Criteria Air Pollutant and Toxic Air Contaminant Emissions Reporting

Dear Dr. Edwards,

The Feather River Air Quality Management District (District) appreciates the opportunity to provide comments on the proposed Regulation. Assembly Bill 617 directed the state board to establish, in consultation with air districts, a uniform system of annual reporting for certain categories of stationary sources. The bill defined these sources as facilities already required to report their greenhouse gas emissions, or those that emit 250 tons per year or more of any nonattainment pollutant, or the facility receives an elevated prioritization score pursuant to the AB 2588 Air Toxics Hot Spots Program.

The proposed applicability section 93401(a)(4) goes above and beyond AB 617 by:

- Lowering the threshold for criteria pollutants from 250 tons per year of a nonattainment pollutant to 4 tons per year regardless of attainment status, and
- Lowering the threshold for toxics air contaminants from an elevated priority as designated by the Hot Spots Program to (in most cases) a zero threshold.

We recommend that CARB adhere to the language of AB 617 and limit the reporting regulation to the stationary sources as defined in Health and Safety Code (HSC) 39607.1 (2) and to sources within areas that have been identified during the assessment of high cumulative exposure communities as provided in HSC 44391.2(b).

If the amendments to the regulation became effective as proposed, the District staff will be required to refocus our efforts away from grant programs, enforcement, planning, and identifying (and getting under permit) new sources, which will increase emissions in our community.

The FRAQMD recommends that the state board consider the proposed amendments under the normal 45 day rule making process to insure adequate public participation. The draft amendments to the regulation, specifically in the applicability section 93401(a)(4), are a substantial change and will increase the reporting frequency for around 80% or 500 of the facilities in our small, rural air district. Reducing the threshold to 4 tons per day of criteria pollutants will require seasonal sources like rice dryers, aggregate plants, and walnut hullers to submit enhanced emissions reports. The activity levels in Appendix A would bring in backup diesel generators used only a couple hours a year for maintenance and testing, most retail gas stations, and auto body paint shops. Many in the regulated community are unaware of these changes, and many of the newly applicable sources are small businesses.

The Air Toxics "Hot Spots" Information and Assessment Act was established in 1987 to report the types and quantities of toxics substances, ascertain health risks, to notify residents of significant risks, and to reduce significant risks. It is unclear why the reporting regulation amendments seek to erase all of the risk based data to replace it with mass emissions. **The change from Risk Based to Mass Emissions is a significant policy change by the Air Resources Board, the implications of which have not been fully discussed publicly.** The District strongly recommends against proceeding down this path, which is in many ways a step backwards from an extremely successful Hot Spots Program.

The regulation fails to address mobile emissions, which in many communities are the greatest source of greenhouse gases, criteria pollutants, and risk from toxic air contaminants. AB 617 identified mobile sources as a contributing source of elevated exposure to air pollution in impacted communities in HSC 44391.2(b)(2). By failing to include mobile sources, the regulation will not result in providing the public with a transparent portrayal of emissions in their community.

Thank you for your consideration,



Christopher D. Brown, AICP #018108  
Air Pollution Control Officer



*Serving Sutter and Yuba Counties*

541 Washington Avenue  
Yuba City, CA 95991  
(530) 634-7659  
FAX (530) 634-7660  
[www.fraqmd.org](http://www.fraqmd.org)

Christopher D. Brown, AICP  
Air Pollution Control Officer

June 5, 2019

Dave Edwards Ph.D., Chief  
Greenhouse Gas and Toxics Emission Inventory Branch  
Air Quality Planning and Science Division  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: Regulation for Criteria Air Pollutant and Toxic Air Contaminant Emissions Reporting  
(CTR Regulation)

Dear Dr. Edwards,

The Feather River Air Quality Management District (District) appreciates the opportunity to provide comments on the proposed Regulation for Criteria Air Pollutant and Toxic Air Contaminant Emissions Reporting (CTR Regulation). The District is submitting comments on the expanded applicability of the proposed amendments, the abbreviated reporting for select stationary sources under the expanded applicability, inconsistencies with the reporting year, and listing our previous comments that have not yet been addressed.

#### Comments on Expanded Applicability

Assembly Bill 617 directed the state board to establish, in consultation with air districts, a uniform system of annual reporting for certain categories of stationary sources. The bill defined these sources as facilities already required to report their greenhouse gas emissions, or those that emit 250 tons per year or more of any nonattainment pollutant, or the facility receives an elevated prioritization score pursuant to the AB 2588 Air Toxics Hot Spots Program.

The District provided consultation in the working group established by CARB to develop a statewide regulation for criteria pollutants and toxic air contaminants reporting. The version of the CTR Regulation proposed by CARB in October 2018 was consistent with the AB 617 legislation and would have provided a more detailed emissions inventory. That version of the CTR Regulation also reflected that resources should be focused where air quality and public health risk problems are greatest.

Unfortunately, after the CARB Board adopted the regulation in December 2018 directing staff to make changes to the AB 617 community applicability, in the District opinion CARB has

deviated significantly from the legislation and the intent of AB 617. The District does not support the changes made to the regulation in the applicability (Section 93401(a)(4)). The sources who would be newly applicable to the CTR Regulation are small sources and the data required of them is, in many cases, unreasonable. For example, CARB has every District rule on its webpage and can easily see every rule emission limit if it chooses. There is no need for sources to report the rule emission limit back to CARB when it already has the information.

If the goal is more detailed and accurate emissions data, the state board has available the existing and ongoing AB 197 District Emission Inventory Grants which are currently updating facilities emitting 10 tons per year or more of criteria air pollutants and facilities required to report toxic emission under the AB 2588 Air Toxics Program. The state board could increase the grants and lower the reporting threshold. The state board could also upgrade the CEIDARS and HARP EIM systems to accommodate easier data entry and transmittal which would also result in more detailed and accurate emissions data. The District believes these options are preferable to the proposed CTR Regulation amendments, which are confusing and will result in significant financial costs to small businesses while only achieving the additional reporting of a small percentage of the total emissions driving health risk and attainment issues in California.

The District recommends at the very least that CARB re-design the emission inventory submittal program (CEIDARS and HARP EIM) and have a new system in place prior to requiring emissions data be reported for the sources identified as Section 93401(a)(4) as the current system is not designed well to handle this magnitude of data submission each year.

#### Comments on Abbreviated Reporting

The inclusion of Abbreviated Reporting in Section 93403(c)(2) is an attempt to reduce the substantial burden of these amendments on small business and low-emitting/low-risk sources by transferring the emissions reporting requirements to air districts. The Section 93403(c)(2)(3) states that air districts (or CARB) will be required to prepare and submit the emission report for Abbreviated Reporting facilities. The proposed amendments to the CTR Regulation are misleading in trying to minimize the data submission required. Currently, in order to transmit emissions data to CARB, the CEIDARS 2.5 format requires many more data fields such as SIC, SCC, DEVICE, PROCESS, and STACK information. Unless a new submittal system is designed and implemented prior to the effective date of the reporting requirements, then these data fields will still need to be reported.

Table A-4 lists the data elements that Abbreviated Reporting sources would be required to submit, and the data is similar to the annual throughput data the District currently collects on permitted stationary sources. However, the data elements in Table A-4 (such as annual mmscf of natural gas of a boiler or total annual gasoline sales at a retail gasoline station) do not translate into actual emissions for Abbreviated Reporting sources, which is also required in section 93403(c)(3). To calculate emissions the emission factor for the relevant activity data for all criteria and toxic air contaminants must be known and any control or capture efficiencies. CARB staff cannot calculate emissions for the Abbreviated Reporting sources because it does not issue stationary source permits and does not have the information on those permits. Air districts have permit authority and thus have the information.

The requirement that the Executive Officer at CARB must approve the use of the emission estimation methods every three years for Abbreviated Reporting is a substantial burden for sources that CARB staff are acknowledging “can be estimated using general parameters and emission factors” in Attachment B Description and Rationale for Regulation Updates. The District previously recommended that CARB remove Section 93403(c)(4) because requiring an additional approval process above “Best available data and methods” was counter-productive for Abbreviated Reporting sources, however it appears that the section remains in this draft. There are serious concerns with this requirement such as: what is the process for CARB staff approving the methods? How will discrepancies be resolved between methods an air district uses for issuing permits and what CARB staff thinks is appropriate? When a discrepancy comes up, which method is chosen to use for inventories that are used for SIP modeling and which are presented to the public on the CARB website? What is the message given to the public when CARB staff and the local air district disagree on which data is more accurate? Will district inventories or CARB’s inventories be used for determining Reasonable Further Progress, Reasonable Available Control Measures, and Contingency Measures? These are a lot of issues for sources that, again “can be estimated using general parameters and emission factors.” The District recommends once again that CARB remove the requirement that only allows for CARB’s Executive Officer approval of emissions estimation methods.

#### Inconsistency with Reporting Years

In this draft of the proposed amendments to the CTR Regulation there is an inconsistency between section 93403(b)(A)2 and Table A-1 in regards to the year that District Group B data reports for sources subject to 93401(a)(4)(A) and (B) (2023 in 2024 vs 2022 in 2023).

#### Previous Comments That Remain Unresolved

The District provided comments and recommendations on March 27, 2019, and many of those have not been incorporated into the latest version of the regulation, including the following:

- 1. That CARB adhere to the language of AB 617 and limit the reporting regulation to the stationary sources as defined in Health and Safety Code (HSC) 39607.1 (2) and to sources within areas that have been identified during the assessment of high cumulative exposure communities as provided in HSC 44391.2(b).**  
The proposed applicability section 93401(a)(4) goes above and beyond AB 617 by:
  - Lowering the threshold for criteria pollutants from 250 tons per year of a nonattainment pollutant to 4 tons per year regardless of attainment status, and
  - Lowering the threshold for toxics air contaminants from an elevated priority as designated by the Hot Spots Program to (in most cases) a zero threshold.
- 2. The FRAQMD also recommended that the state board consider the proposed amendments under the normal 45 day rule making process to insure adequate public participation.** Many in the regulated community are unaware of these changes, and many of the newly applicable sources are small businesses.



3. **The change from Risk Based to Mass Emissions is a significant policy change by the Air Resources Board, the implications of which have not been fully discussed publicly.** The Air Toxics "Hot Spots" Information and Assessment Act was established in 1987 to report the types and quantities of toxics substances, ascertain health risks, to notify residents of significant risks, and to reduce significant risks. It is unclear why the reporting regulation amendments seek to erase all of the risk based data to replace it with mass emissions. The District strongly recommends against proceeding down this path, which is in many ways a step backwards from an extremely successful Hot Spots Program.
  
4. **The regulation fails to address mobile emissions, which in many communities are the greatest source of greenhouse gases, criteria pollutants, and risk from toxic air contaminants.** AB 617 identified mobile sources as a contributing source of elevated exposure to air pollution in impacted communities in HSC 44391.2(b)(2). By failing to include mobile sources, the regulation will not result in providing the public with a transparent portrayal of emissions in their community.

Air districts do not have infinite resources and staff time. The proposed amendments to the CTR Regulation will require diversion of resources from other important programs, resulting in an increase in emissions in our communities. If adopted in the current form, the District will have less staff available to respond to complaints of illegal burning, inspect each permitted source every year for compliance with permit conditions, or work with local planning agencies to design future development that will avoid adverse air quality impacts to our communities.

Sincerely,



Christopher D. Brown, AICP #018108  
Air Pollution Control Officer



Serving Sutter and Yuba Counties

541 Washington Avenue  
Yuba City, CA 95991  
(530) 634-7659  
FAX (530) 634-7660  
[www.fraqmd.org](http://www.fraqmd.org)

Christopher D. Brown, AICP  
Air Pollution Control Officer

November 16, 2020

Richard Corey, Executive Officer  
California Air Resources Board  
PO Box 2815  
Sacramento, CA 95812  
Electronic Submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Re: Comments on Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants and the Emission Inventory Criteria and Guidelines for the Air Toxics "Hot Spots" Program

Dear Mr. Corey,

The Feather River Air Quality Management District (FRAQMD or District) appreciates the opportunity to review and comment on the proposed amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR) and the AB 2588 Air Toxics "Hot Spots" Emission Inventory Criteria and Guidelines Regulation (EICG). The District is concerned that without first updating the current database and system of reporting facility data, the amendments to CTR will do nothing to solve the problem of making the emissions data publicly accessible. The District has reviewed and would like to declare our support and concurrence with letters submitted by other air districts such as Monterey Bay Air Resources District, the Mojave Desert Air Quality Management District, and the Shasta County Department of Resource Management. In addition, we would like to provide the comments below.

#### Rule Adoption Process

Many of the sources that will be affected by these amendments have not had an opportunity to participate in the rule making process due to the COVID-19 public health emergency. The District believes that CARB should follow the normal open and transparent rule adoption process instead of the abbreviated and closed "amendment" process that has been followed to date. The changes proposed to the EICG and in the amendments to the CTR are significant and the adoption should be delayed to allow sufficient time for regulated industries, the public, and air districts to comprehend the impacts and develop strategies for effective implementation. Rushing through this process to meet an artificial deadline undermines the success of the effort under AB 617 to develop a uniform system of emissions reporting and making the emissions data accessible to the public.

CTR/EICG amendments

### Cost of the Regulation Amendments

The rulemaking acknowledges that besides direct costs to the facilities to comply with the amended CTR there will also be increased permit fees from air districts, this is stated without reviewing the limits on District permit authority. Air Districts do not have blanket the legal authority to “just raise permit fees”, there are strict limits imposed in state law, by case law and in the state constitution (prop 26, 218 and 13). In addition, in most of the north state large sources have closed due to long term economic factors and smaller sources are currently closing due to COVID. Raising fees on closed sources simply will not generate revenue. Unlike CARB, Air Districts do not have the ability to access “general fund” (i.e. tax) dollars to support our programs, all costs must be paid through local permit revenue.

### Expansion of the Chemical List

Regarding the chemical list additions, the District agrees that it's vital to update the chemical list. It should probably be done on a regular basis, as HSC 39669.5 seems to explicitly require. It is also vital to evaluate new chemicals, determine their toxicity and risk to the public, and develop control measures to reduce the risk to less than significant levels. Adding these chemicals to the EICG will begin this work, however the public should not expect to know the risk from these new chemicals immediately, especially the ones with no emission factors or risk factors. It will be a long and detailed process of identifying the presence of the chemicals, developing emission factors, determining risk factors, and finally quantifying and reporting risk to the public. The creation of working groups with CARB staff, OEHHA staff, air districts, facilities, and the public could be valuable to this process, and we suggest the regulations prioritize the chemicals with known emission factors and health risks for review first.

### Sector Groups

The FRAQMD staff have not had sufficient time to review the rationale for inclusion of all of the sector groups, but it appears that most of the rationale is qualitative not quantitative. For example, in Sector 5: Fumigation of crops for market, several of these chemicals have not previously been required to report and/or risk values are not available, therefore it is unknown what impact they have on human health. The ISOR does not provide evidence that they have an acute health risk to humans. CARB should not include the use of a chemical with no health risk values in the Sector List when determining applicability in the CTR amendments as there is no off-ramp for facilities when the risk information is finalized and it is determined to have little or no risk. The air districts should not spend their limited staff time and resources quantifying emissions that are determined in the future to have little to no health risk.

### Comments on CTR Amendments

#### Lack of Supporting Technology

The District's overall comment regarding the CTR amendments is that without fixing the current database and system of reporting facility data, and adding mobile and other data not currently reported to CARB, the amendments to CTR will not result in emissions and risk data being made available to the public in a meaningful way.

CTR/EICG amendments

FRAQMD has commented before on the technical issues CARB must overcome before expanding the inventory program to the extent proposed in these amendments. The District recommends that CARB implement a new data management system, and provide properly resourced, statewide training for air districts and facilities, prior to adopting amendments to CTR. The only program currently provided by CARB to submit emissions inventory data is the HARP 2.0 Emissions Inventory Module and CARB is no longer providing training on this program to either the public or air district staff. In fact, CARB's reduction in all District training programs across the board remains concerning.

The CARB database CEIDARS has decades of stationary source emissions data, but only allows the public to view one facility at a time, and one year at a time on the website. The Pollution Mapping Tool was a huge improvement, but it has not been expanded to include all the reported facilities and emissions data that is already available to CARB through CEIDARS. Therefore, without first updating the current database and system of reporting facility data the amendments to CTR will do nothing to solve the problem of making the data publicly accessible. The expanded data will just go to sit with the other data that air districts have reported - in the CEIDARS database where the public can access it one facility at a time, one year at a time.

CARB staff believes it will develop a new emissions inventory data management system, transfer all of the existing facility data over, check the existing data for accuracy, and provide training statewide to all air districts and thousands of facilities before the expanded reporting requirements in the amendments go into effect. The development of a new system to take the place of CEIDARS will be complicated and difficult. The District suggests a better path forward may include implementing the first version on CTR that was adopted in 2018, developing a new database system and present it to the public with the existing data, and then assess where there are remaining gaps in the data.

The District is concerned that CARB is racing ahead to expand CTR reporting while failing to support the version of the regulation the Board has already adopted. The CTR regulation that was adopted in 2018 requires specific facilities to report expanded emissions data for 2020 operations. As of today, November 12, 2020, CARB has not provided the air districts with a tool to collect this information. Most Air Districts have already begun the process to collect data for 2020 operations. The District has repeatedly made this timeline clear to CARB staff starting in Spring 2020. As it currently stands the District is unable to provide assistance and outreach to affected sources or collect data for the current version of the regulation because of a lack of support for implementation from CARB staff. There is no reason to expect this to change with the proposed CTR expansion.

#### Lowered Applicability Threshold

The District does not support the lowered threshold for CTR enhanced criteria and toxics emissions reporting outside of the AB 617 communities. Facilities that have been analyzed under the AB 2588 Air Toxics Program and determined to be low or intermediate risk should not have to update their emissions every year and should stay with the reporting schedule in

AB 2588. Facilities that emit between 4 and 10 tons per year of a criteria pollutant should stay on the current 3-year reporting cycle.

Inaccurate View of Community Risk

The CTR amendments will not make emissions and health risk from most portable engines registered in PERP or mobile sources available to the public. Omitting these sources will create an inaccurate picture of risk and emissions.

The CTR amendments seek detailed information about stationary sources that is already available to the public rather than information on sources that are not available to public. The diesel engines that are registered in CARB's Portable Equipment Registration Program (PERP) can operate for thousands of hours per year next to sensitive receptors without the public notice required for district permitted equipment. There is no emissions record or risk assessment done on these PERP Registered engines. For mobile sources, CARB has determined that vehicles can be the greatest contributor in some communities to criteria, GHG, and toxic emissions, yet this data is not part of CTR.

The District recommends that CARB work on making emissions and risk data on these sources publicly accessible.

Rather than adopting these amendments at this time the District recommends CARB continue working to upload the existing stationary source emissions data in CEIDARS into the Pollution Mapping Tool or other database system to allow the public to access the existing data, including PERP and mobile source data, to give the public the most accurate emissions and risk information in their communities. Chemicals and sectors should be incorporated into the EICG once we have the tools to access risk from them.

If CARB wishes to adopt the Enhanced CTR program and amendments to the EICG it should do so only after conducting a full rule adoption process, including workshops and public meetings (virtual due to COVID) including a proper economic analysis. The District staff will continue to work with CARB staff on the regulations. Thank you for your consideration.

Regards,



Christopher D. Brown, AICP  
Air Pollution Control Officer