CALIFORNIA ASSOCIATION of SANITATION AGENCIES
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Mr. Greg Harris, Branch Chief
Greenhouse Gas and Toxics Emissions Inventory Branch
Air Quality Planning and Science Division
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Transmitted online via:
CTR https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=ctr2020&comm_period=A
EICG https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=hotspots2020&comm_period=A

Re: California Association of Sanitation Agencies Comments on the Proposed Amendments to the Air Toxics "Hot Spots" Program Emission Inventory Criteria and Guidelines (EICG) and to the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Regulation (CTR)

Dear Mr. Harris:

The California Association of Sanitation Agencies (CASA) appreciates this opportunity to comment on the proposed amendments to both the EICG and CTR posted by the California Air Resources Board (CARB), in support of harmonizing these efforts and developing a strategy through which the wastewater sector can respond.

First, some background on CASA – CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, as well as the generation and use of renewable energy, biosolids, and other valuable resources. Through these efforts we help create a clean and sustainable environment for Californians. Our members are focused on helping the State achieve its 2030 mandates and goals for greenhouse gas emissions reductions, which include:

- Reducing short-lived climate pollutant (SLCP) emissions
- Effectively diverting organic waste from landfills
- Providing 60 percent of the State's energy needs from renewable sources
- Reducing carbon intensity of transportation fuel used in the State
- Increasing soil carbon and carbon sequestration under the Healthy Soils Initiative, Forest Carbon Plan, and Natural and Working Lands Climate Change Implementation Plan

As fellow dedicated environmental stewards, CASA members provide reliable wastewater treatment to protect public health and the environment, as well as strive to exceed air district requirements. We also recognize and support the need to manage criteria air pollutants and toxic air contaminants while accomplishing greenhouse gas emissions reduction targets.

CASA greatly appreciates CARB's continued engagement and willingness to consider the wastewater sector's perspective on and interpretation of the proposed amendments to the CTR and EICG regulations (as outlined below). In the remainder of this letter, we:

- Summarize our concerns regarding the unintended consequences of these complex regulations to the wastewater sector should they be adopted as written prior to addressing key provisions (including the determination of the actual existence and toxicity of the growing number of potentially toxic air contaminant compounds being added to the Appendix A-1 list).

- Provide our interpretation of the regulatory language (for CARB staff to confirm) that allows for status quo reporting of Appendix A-1 compounds while executing an approved two-step process.

Unintended Consequences to the Wastewater Sector

Essential public services, such as wastewater treatment facilities, have unique characteristics that must be considered in any inventory and impact program. These facilities have the unique challenge of operating in compliance with regulations spanning multiple media, as well as those that address community health and welfare issues, while providing essential services. The following are key concerns the wastewater sector has regarding next steps should these complex regulations be adopted as written.

Estimating Prioritization Scores and Health Risks Before Final Toxicity Data are Published

We discussed during our July 29, 2020, and subsequent meetings that toxicity data are not available for the majority of the existing or proposed Appendix A-1 compounds. CASA agrees with CARB staff that it is not appropriate for air districts or others to calculate facility prioritization scores or estimate health risks for such compounds until the Office of Environmental Health Hazard Assessment (OEHHA) publishes final, *not* provisional, toxicity data. With provisional toxicity values likely being conservative for a growing number of potential compounds and emission measurement methods still evolving, CASA recommends excluding the use of provisional values to minimize the potential for the many low risk facilities (that would otherwise be exempt) from being inadvertently captured by this provision. A first step would be a review by the state or an authoritative body designated under Health and Safety Code section 44321.

In addition to concerns about whether staff could meaningfully assess the potential health effects of such a large number of substances in the prescribed timeframe, we are concerned that provisional values would be misused for risk screening, facility prioritization, risk assessment, or as a mechanism to drive emission reductions. Regardless of their intended use, such provisional values are likely to impact the operations of reporting facilities.

CASA recommends a sector-by-sector phase-in approach, where a sector currently able to estimate emissions would commence reporting, followed by other sectors, which would establish a listing of compounds potentially present in the waste stream. For example, some sources can use Safety Data Sheets to estimate emissions of Appendix A-1 compounds that currently do not have approved sampling or laboratory methods. Such facilities should report use of these compounds before the wastewater sector (and waste sector at large), because we cannot reliably estimate emissions of these emerging compounds at this time. In turn, this sector-by-sector process would provide the time needed by air districts to develop methods and programs to accommodate such a radical expansion of the reporting program. Once such an 'emerging chemical' list can be compiled, the wastewater sector and regulators would be in a position to identify potentially toxic compounds for source control or establishing pretreatment programs. Such a list could then be used to help focus the pooled statewide sector-specific two-step testing efforts, as we have proposed for the wastewater sector. This overall approach should be carefully prioritized and phased by sector, beginning with applicable manufacturers and ending with receivers including the wastewater sector.

Lack of Guidance for Navigating Complex (CTR and EICG) Regulations

Harmonization and guidance for the proposed amendments to the CTR and EICG regulations, as well as risk assessment guidelines and local air district regulations implementing these and risk management requirements, are critical. The interaction of these programs is so complex that **CASA requests that CARB work with CAPCOA on comprehensive implementation guidance before adoption of the final CTR and EICG regulations**. Items that need to be addressed and clarified include, but are not limited to:

- What process will the local air districts use to develop a prioritization process taking into account the continuing flux of Appendix A-1 compounds, lack of final toxicity factors, lack of test methods and

proposed new elements of the EICG, such as "population-wide" assessments, and inclusion of less than 10 tpy facilities?

- How can a facility report usage of portable equipment that is not under their direct control (i.e., construction contractors)? Portable equipment should be excluded from these regulations, with any new requirements for portable equipment being addressed by a revision to the PERP regulation.
- Will local air districts have adequate staff to fairly implement these programs, and where will the funding come from in light of the burdens local districts face in implementing CTR?
- Do concepts, such as "population-wide" assessments, signal a change in risk assessment methodology that will require changes in OEHHA methodology?
- How will the local air districts incorporate the changes to their existing regulations, such as BAAQMD Rule 11-18 and SCAQMD Rules 1401 and 1402? Will a guidance document be developed?
- The comprehensive new programs established in the CTR and corresponding updates to AB 2588's Air Toxics Program and other programs signal a new paradigm in dealing with TACs. How will these translate into risk management programs?

Wastewater Sector's Interpretation of How the Proposed Amended CTR and EICG Regulations Allow Status Quo Reporting during the Two-Step Process

CASA appreciates CARB's engagement and willingness to consider the wastewater sector's perspective on and interpretation of the proposed amendments to the CTR and EICG regulations. CASA has met extensively with CARB staff, but still has implementation concerns in the following areas:

1. Having enough time to complete a statewide pooled emissions study (coordinating amongst CASA members statewide, obtaining approval from CARB, CAPCOA and/or air districts to perform the complex study that could take 5 years).
2. The ability to continue reporting annual emissions without the inclusion of new air toxics as the statewide pooled emissions study is executed (i.e., business as usual, BAU).

In previous discussions, CARB staff indicated that EICG Sections II.H, IX.G and IX.H provide both 1) a mechanism for all sources to be captured by the sector-specific pooled emissions study and 2) the basis for alternative reporting deadlines through the duration of the pooled emissions study. However, while we appreciate the discussion, we believe modifications to the existing regulatory language are merited to improve the clarity and intent of the sections.

We have identified and copied excerpts of the applicable provisions within Sections II.H, IX.G, and IX.H in the amended EICG and Section 93404(c)(1)(B) in the amended CTR and provide CASA's interpretation of those provisions following each excerpt:

EICG: Section II.H. Updates to the List of Substances, and Phase-In Provisions

(5) Availability of Emission Quantification Methods
If no emission quantification method exists to quantify emissions of a substance at the time of its "Effective Phase", the facility operator only needs to report the presence, use, or production of the substance and the amounts present, used, or produced within the facility, using the Appendix B "Supplemental Use and Production Reporting Form" (S-UP) or the equivalent information in a format required by the air district.
The availability of an emission quantification method shall be re-evaluated for these chemicals at the time of the next facility update reporting cycle. If a method is then available, emission quantification is required pursuant to the provisions in section VIII.E.(3).

This provision is applicable to the waste sector (wastewater, composting, recycling, and landfilling) since there are no emission quantification methods that exist for most of the existing and proposed

compounds listed in Appendix A-1. Additionally, the waste sector has no ability to determine the presence (or lack thereof) of a compound as suggested by the use of Appendix B (S-UP) from an onsite source (open, combustion or other reportable sources) without executing the two-step process as proposed in EICG Section IX.H. It is our interpretation that this provision allows for the determination of the tentative presence of compounds and to subsequently quantify their emissions based upon guidance provided by CAPCOA or the relevant air district and in accordance with EICG Section IX.H.

EICG: Section IX.G. Specifications for Acceptable Estimation Methods and Emission Factors.

(1) Where emissions of substances are required to be quantified but where measurement is not required under section IX.A., the emission inventory plan may propose an estimation method to quantify such emissions at all primary locations of release to the degree of accuracy required by section VIII.E. The district may approve a proposed method only if all of the following criteria are met:
   (a) The district determines that the method is effective and reflects the best available methods and data, and will produce an accurate representation of the types and quantities of air releases at a facility;
   (b) The proposed method accounts for all facets of the applicable emitting process and is based on sufficient data about the air toxics emission characteristics under the full range of relevant conditions to characterize the emissions to the degree of accuracy required by section VIII.E.; and
   (c) Standard calculations for mass balance, emission factor application, and engineering calculations and models comply with the following requirements: (i) - (iii).

This provision is applicable to the waste sector because these facilities cannot control or estimate the amount of Appendix A-1 compounds received for treatment. As a result, waste facilities look to EICG Section IX.G to propose emissions and quantification plans needed to estimate emissions at primary locations of release. We interpret this section to allow an air district to approve these alternatives, which would 1) allow facilities to participate in an extensive, statewide two-step process (per Section IX.H) that uses a pooled emissions study (for example) to identify and explain the best available methods approved by CAPCOA or relevant air district that are being used to estimate emissions under §93404(c)(1)(B) of the CTR and 2) include additional time needed to perform such an extensive study continuing status quo reporting in the meantime. In other words, compounds being characterized in the wastewater sector's statewide pooled emissions study would not be reported in response to the CTR until the completion of the two-step process. The two-step process represents the best available data and methods available for the waste sector.

EICG: Section IX.H. Two-Step Process and Protocol for Specified Open Sources at Waste-Handling Facilities.

Appendix D requires a two-step process and protocol for qualitative screening followed by quantitative testing, for specified open sources at waste-handling facilities.

(1) The two-step process applies to open sources at the following types of facilities for which waste-handling is the primary function:
   (a) Wastewater treatment at wastewater treatment facilities, including publicly owned treatment works (included in SIC 4952 or NAICS 221320);
   (b) Collection and disposal of refuse at landfills (included in SIC 4953 or NAICS 5622xx, 562920);
   (c) Composting of organic waste at composting facilities (included in SIC 2875, 4953 or NAICS 325314, 562212, 562219);

(d) Recycling facilities, and material recovery facilities that separate organic waste from recyclable materials (included in SIC 4953 or NAICS 562212, 562920);
(e) Scrap and waste wholesale handling and recycling, including but not limited to junk metals, shredding operations, and auto dismantling (included in SIC 5093 or NAICS 423930).

(2) In the first step, the facility operator shall submit an initial emission inventory plan that includes proposed testing protocols for qualitative testing of representative open sources and can include other sources at all relevant emitting processes, devices, or activities at the facility. The testing protocols shall be designed to identify all listed substances of concern for the facility for purposes of emission quantification in the second step.

This provision acknowledges the need for and allows waste sector facilities (wastewater, composting, recycling and landfilling) to perform a two-step process on all identified potential sources because:

1. The waste sector facilities cannot control the amount of Appendix A-1 compounds they receive.
2. Unlike most other industry sectors, the material entering these facilities do not have Safety Data Sheets to estimate emissions of Appendix A-1 compounds.
3. There are no emission quantification methods that exist for most of the Appendix A-1 compounds for any identified potential source.

We interpret this section to allow waste sector facilities (as identified in Section IX.H.1) to work collectively to perform a statewide pooled emissions study that is defined by an approved emissions inventory plan identifying the proposed source testing protocols (based on guidance from CAPCOA or relevant air district) for qualitative testing of emissions from any identified potential sources (open, combustion or other reportable sources). CARB recognizes the benefit of performing a single statewide wastewater sector pooled emissions study to identify and then quantify (as part of step two) Appendix A-1 emissions from all potential sources.

Since a study of this nature (statewide) cannot be complete in time to comply with reporting deadlines as currently outlined in Sections IX.H6 and IX.H.11, we understand that Section IX.G enables the air district to approve the time necessary to perform the scope of the statewide two-step pooled emissions study in full.

CTR: § 93404(c)(1)(B). Emissions Report Contents. Emissions and Sources.

(c) Emissions and Sources. Annual emissions reports for a facility must include the emissions and sources as specified in 93404(c)(1) and (2).

(1) Emissions. For permitted processes and devices (and unpermitted processes and devices, if emissions reporting is required pursuant to district rules or policies), the annual direct and fugitive emissions of the following air pollutants must be reported. Alternatively, at the discretion of the local air district, sufficient activity-level data must be submitted for the air district to calculate such emissions.

(A)…

(B) Toxic air contaminants in units of pounds per year, except for radionuclides which must be reported in units of curies per year. The list of reported toxic air contaminants must include those chemicals that are actually emitted by the facility, based on existing quantification methods. If a toxic air contaminant substance is present or is used or produced at a facility in a way that may result in airborne emissions, one of the alternatives identified as “best available data and methods,” as defined in this article, must be used to quantify the emissions, as applicable. If an air district determines that none of the alternatives listed would provide a reasonable, technically justified emissions estimate, and no other method can be determined that will provide such an estimate, then the presence

> of the toxic air contaminant and the amount used or produced at the facility during the data year must be reported without an estimated quantitative emissions value.

This provision is applicable to the waste sector (wastewater, composting, recycling and landfilling) since these facilities cannot control or estimate the amount of Appendix A-1 compounds received for treatment. This provision acknowledges that only those compounds that are "actually emitted by the facility" with established quantification methods are to be reported. As noted above, the wastewater sector is unable to quantify additional Appendix A-1 compounds until the completion of the statewide two-step process and must rely upon the two-step process as the "best available data and methods." CASA interprets this section to allow the wastewater sector to continue status quo reporting until the completion of the statewide pooled emissions study. In other words, compounds being characterized in the statewide study would not be reported in response to the CTR until the completion of the two-step process.

CASA requests that CARB address the above issues and interpretations as part of the 15-day change process by adding language into EICG and CTR. We request that this confirmation be published to clearly memorialize the requirements pertaining to this unique situation to avoid potential confusion in the future.

While we continue to have many questions and concerns about issues, such as the proposed two-step process and the utility of this information without final toxicity data, we want to thank CARB for engaging in discussions on the EICG, the CTR, as well as steps needed to identify a wastewater sector-specific list of Appendix A-1 compounds. We look forward to working collaboratively with CARB and CAPCOA to establish a formal approach that can quantify actual emissions from our member facilities.

We appreciate the opportunity to comment on the proposed amendments to the EICG and CTR, and further appreciate your willingness to consider our recommendations. Please contact David Rothbart at drothbart@lacsd.org or me at sdeslauriers@carollo.com if you have any questions.

Sincerely,

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