

Attachment B

DESCRIPTION AND RATIONALE FOR REGULATION UPDATES

Proposed Modifications to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants

This attachment provides a detailed description of the revisions to the originally proposed Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR Regulation), and why the changes were made. The specific edits to the text to the regulation are provided in Attachment A of this notice. All section references provided which follow are to title 17, California Code of Regulations, unless otherwise noted. The originally proposed regulation text is available at the following link: <https://ww2.arb.ca.gov/rulemaking/2018/proposed-regulation-reporting-criteria-air-pollutants-and-toxic-air-contaminants> (see Appendix A: Proposed Regulation Order for the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants).

This attachment addresses all of the substantive updates to the regulation. However, it does not discuss all modifications to correct typographical or grammatical errors, changing “shall” to “must” in the text, changes in numbering or formatting, nor does it include non-substantive revisions made to improve clarity. For identification of all modifications in the proposed regulatory amendments, refer to the underline and strikeout sections of the regulation in Attachment A of this notice.

A. Modifications to Section 93400. Purpose and Scope.

Section 93400 was modified to add the word “permitted” to more clearly identify that the requirements apply only to permitted facilities. The section was also modified to specify that under the regulation, in many cases data may be reported to the local air districts.

B. Modifications to Section 93401. Applicability.

Section 93401(a). General Applicability.

Section 93401(a) was modified to clarify that applicability based on criteria air pollutant emissions must include all permitted processes at the facility. But, unpermitted emissions (including unpermitted fugitive emissions) are not to be included in applicability determinations. This is not a new element, but it was relocated to this section from sections 93401(a)(2) and 94304(b), because it is more appropriate to include here.

Sections 93401(a)(1)-(4) were updated to add titles to the subsections, to simplify referencing the subsections in later sections of the regulation and to improve readability by providing named applicability categories, and not just numeric regulation citations.

Section 93401(a)(1). Greenhouse Gas (GHG) Reporter Applicability.

Section 93401(a)(1) was modified to remove the reference to CCR title 17. This is not needed because the definition of “Onshore petroleum and natural gas production facility” provides the necessary references, so the section was updated to remove the reference, use the facility descriptive term used in the definition, and to reference the definition in the regulation.

Section 93401(a)(2). Criteria Emissions Greater Than 250 Tons per Year (tpy) Applicability.

Section 93401(a)(2) was updated to strike the language associated with emissions from non-permitted sources, because the equivalent language is in section 93401(a). The references to subsections (A) through (D) were removed, and instead the reference is to the regulation definition of, “Nonattainment pollutant” as defined in the regulation. This change was made to reduce confusion and duplication of terms. Within this same section, staff deleted the text identifying the specific criteria pollutants and the tons that trigger applicability. This text is unnecessary because within the main paragraph for the section the 250 tpy limit is already established, and with the previously described edit, the definition of “Nonattainment pollutant” refers to the definition of “Criteria air pollutant” so it is not necessary to restate the list here. This update will also help to avoid potential inconsistencies that could have occurred by having a list of criteria pollutants in this section, and a separate list in the definitions section.

Section 93401(a)(3). Elevated Prioritization Toxics Applicability.

Section 93401(a)(3) was modified to include a title for the section, as mentioned previously, and to specify that the high priority designation is based on toxic “air contaminant” emissions and not “toxic emissions.”

Section 93401(a)(4). Additional Applicability.

Section 93401(a)(4) was modified to address health advocate concerns, and district and CARB priorities. For a review of the overall needs being addressed, and why the changes are necessary, please refer to the prior “Overview” and “Applicability – Statewide Facility Reporting” sections in the body of this notice. These sections discuss the general principles and motivations for including the revisions, which include an accelerated facility phase-in schedule to establish uniformity and equity in the reporting requirements throughout the state.

A primary update to the applicability provisions of 93401(a)(4) was removal of the reporting requirement for facilities that are “located within the boundary of a community

selected by CARB pursuant to H&SC sections 42705.5 or 44391.2.” The use of this “selected community” approach was not practical because of complications in determining specific community boundaries, and the inequities involved with providing enhanced emissions data only in limited areas of the state. The original “community-specific” applicability provision was replaced with updated statewide applicability criteria to accelerate the inclusion of facilities within the program, and to ensure that all communities within California equitably receive the benefits of having complete facility emissions data. While over time, the originally proposed “selected community” approach would have ultimately included a large number of facilities in the reporting program, that process would have taken longer (potentially over ten years), to realize benefits to the updated proposal, which is implemented over five years.

The updated applicability criteria provide the necessary emissions data to support direct actions statewide that identify and reduce the impacts of toxic emissions potentially causing harm to California communities. These improvements allow for assessment of both localized and cumulative emissions impacts, provide a mechanism to identify changes in emissions in communities over time, and can be used to definitively establish which facilities are, and are not, significant sources of harmful air pollution. The revised approach and associated applicability thresholds provide an expanded level of emissions data for all of California. This allows for the substantially improved analysis and assessment required to meet the core requirements of AB 617, AB 197, and other CARB, air district, community, and scientific analysis needs and priorities central to meeting their statutory mandates.

To implement these improvements, sections 93401(a)(4)(A) and (B) were added to the regulation to establish statewide criteria pollutant reporting thresholds for permitted sources at 4 tpy for criteria pollutants (except carbon monoxide), and 100 tpy for carbon monoxide. These thresholds are set to be health protective and to provide a robust and comprehensive stationary source emission inventory data set for all California communities.

Section 93401(a)(4)(C) was added to the regulation to establish statewide applicability for permitted processes that are known to produce toxic emissions in California. In order to establish and support the requirements of 93401(a)(4)(C), a new appendix was added to the regulation, Appendix A. Within Appendix A, Table A-3 identifies the permitted processes subject to reporting if they meet the specified criteria. Sources were included in Table A-3 based on their potential to produce toxic air emissions, and is modeled on sources included in Appendix E of the longstanding Air Toxics “Hot Spots” program and other evaluations. Additional information regarding the contents of Table A-3 are provided in the section of this attachment in which the table is discussed.

As provided in 93401(a)(4), the emissions and threshold-based limits were established to exclude the very smallest sources from reporting. This approach was used because subjecting all permitted sources to the reporting requirements would increase workload substantially for the air districts and facilities, with minimal community or other public benefits. Therefore, the emissions thresholds established in 93401(a)(4)(A) and (B)

allow for facilities with minimal criteria air pollutant emissions to be excluded from reporting.

In support of the inclusion of the toxics facilities and facilities subject to reporting based on their criteria pollutant emissions, section 93403(b) was also added to the regulation to provide a phase-in schedule for these sources, based on the permitted process and the air district in which the process occurs. This approach spreads the reporting and applicability schedule out over time for the revised provisions, so all data is not required to be reported at once, by all facilities, within all air districts. See the section 93403(b) discussion later in this attachment for more information regarding the phase-in schedule and why it was included as part of the regulation updates. See also the Appendix A discussion in this attachment for additional information about the schedule, district groupings, and the industry process phases established to help distribute the facility, district, and CARB resources required to implement the updated requirements over time.

Section 93401(a)(5). Optional District Facility Reporting.

Section 93401(a)(5) was added to the regulation to provide the option to air districts to submit facility data to CARB that they may collect from sources that do not meet the applicability provisions of the regulation. The provision also establishes that such sources that do not meet the CTR Regulation applicability provisions are not subject to the requirements of the regulation.

Section 93401(b). Exclusions.

Section 93401(b)(1)(C) was modified to clarify that natural gas distribution facilities are excluded from reporting. As originally proposed, reportable combustion emissions associated with compressor stations, flaring, and other sources could have potentially subjected the full distribution network to reporting, which was not the intent of the regulation. The modification to refer directly to the definition for “Natural gas distribution facilities” resolves this issue.

Section 93401(b)(2) was added to exclude irrigation pumps at agricultural operations from reporting. There are thousands of agricultural irrigation pumps throughout the state, and collecting the data necessary to estimate the emissions would be burdensome with limited community or other health benefits expected. Also, in most air districts, agricultural pumps are registered and are not permitted, so even if they were included under the regulation, they would not be subject to reporting because the applicability provisions only apply to “permitted” processes. If warranted in the future, other approaches may be used to quantify the localized emissions from agricultural pumps and their potential impacts.

Section 93401(b)(3) was added to exclude open burning of fields, or agricultural waste or residue burning, from reporting, because these emissions do not occur as specific facility locations, and are outside the intended scope of the regulation.

Section 93401(c). Cessation of Reporting

CARB staff significantly modified the text for the cessation provisions. The majority of the updates seek to improve organization, reduce redundancy, and provide a more direct flow of the text. To implement these updates, the original section 93401(c)(1) was removed, and is replaced with 93401(c) which was expanded to include all sources subject to the regulation (i.e., sections 93401(a)(1)-(4)). Text was added stating that reporting may cease following notification to CARB and the air district, certifying that no applicability criteria apply to the facility. The notification requirement was then consolidated to the updated section 93401(c)(1), which applies to any reporters seeking cessation.

A key element of the reorganization was to remove separate cessation provisions for facility operators based on their applicability criteria. Instead, the same applicability is applied to all facilities subject to reporting. The original provisions were essentially identical for all sources, so it was unnecessary to include repetitive provisions. This change is reflected in much of the text shown as ~~strikeout~~ for the previous sections 93401(c)(1)(A)-(C), with much of the revised text following the deleted text, as the new section 93401(c).

A more substantial update is the removal of the cessation provisions under the original section 93401(c)(2)(A)1.-3., which applied to facilities subject to reporting per section 93401(a)(3) for elevated toxics prioritization scores. Under these provisions, these facilities would have been able to cease reporting if they met several criteria as were specified. However, with the updated applicability provisions added to 93401(a)(4), it is expected that all, or nearly all facilities subject to the 93401(a)(3) provisions will now be subject to the 93401(a)(4)(C) provisions for specified toxics producing permitted processes. For this reason, the cessation option was removed to avoid having a facility report for a year or two, then ceasing reporting, and then being subject to reporting again just a year or two later, creating a lack of continuity and potential confusion. However, the facility operators subject to 93401(a)(3) toxics applicability can still cease reporting if they meet the overall cessation criteria such as for a facility shutdown, or if the facility no longer meets any applicability criteria.

As mentioned previously, sections 93401(c)(1)-(2) were updated to specify the uniform requirements for providing a cessation notification. These requirements apply to any facility seeking to cease reporting.

Section 93401(c)(3) was deleted because it is unnecessary. A facility that shuts down will no longer meet the applicability provisions for the regulation, so they can follow the overall general cessation provisions under the updated section 93401(c). Therefore unique provisions are not needed specifically for shutdown facilities.

C. Modifications to Section 93402. Definitions.

The definition for “activity level” was modified to include a list with some examples of activity levels and the alternative of “activity value” was removed. “Activity value” was removed to standardize language, and avoid use of duplicative terms. Based on comments received, examples of activity levels were provided to help reporters better understand the data to be submitted. The definition was also updated to specify the reporting units (e.g., gallons for liquids) for fuel use, to provide uniformity in the data reported, and clear specifications for the reporters.

The new definition for “agricultural operation” was added to support the phase-in provisions of 93403(b). Within these provisions, “agricultural operations” have a slightly modified reporting schedule, so it was necessary to define these operations to make it clear which sources the provisions apply to.

The definition for “Air district” or “air quality management district” or “air pollution control district” was modified to add “district” as an alternative, to reflect common usage.

The definition for “Air District Group” or “District Group” was added to provide the capability to assign air districts to two groups used to determine the initial data year that must be reported for facilities subject to reporting per 93401(a)(4)(C), and as specified in the phase-in schedule in 93403(b).

The definition for “best available data and methods” was modified to include a list of examples of potential best available data and methods, based on the specific source and conditions. Updates were also included to establish that maximum permitted values should not necessarily be used for emissions estimates, unless they are the most accurate estimates available. The term, “in CARB’s judgment” was also deleted from the definition because of the subjective nature of the term, and it would be problematical to implement or enforce.

The definitions for “boundary of a community,” “community,” “Community Air Monitoring Program,” “Community Air Monitoring System,” and “Community Emissions Reduction Program” were removed as a result of modifications to the applicability provisions of section 93401(a)(4), which made the definitions unnecessary because they the terms are no longer used in the regulation or in the applicability provisions.

The definition for “construction aggregate processing” was added to allow identification of the permitted process source to allow for abbreviated reporting under the regulation.

The definition for “criteria air pollutant” or “criteria pollutant” was modified to specify that the criteria pollutants have an established California Ambient Air Quality standard or National Ambient Air Quality Standard. The references to particulate matter were simplified, with a reference to the PM definition of the regulation. The definition was also modified to establish that vinyl chloride, hydrogen sulfide, and sulfates are considered toxic air contaminants under the regulation, and not “criteria pollutants,” and must be considered and reported as such.

The new definition for “design capacity” was added to specify the types of data that are expected to be reported for “Design capacity of device” under the new reporting requirements identified in section 93404(a)(3)(E).

The definition for “direct-drive emergency standby fire pump engines” was added to allow identification of the permitted process source to allow for abbreviated reporting under the regulation.

The definition for “emergency standby engine” was added to allow identification of the permitted process source to allow for abbreviated reporting under the regulation.

The definition for “emission calculation method” was modified to clarify that the emission calculation method required to be reported under section 93404(a)(5)(I) should include a description and reference. The prior definition was too vague and non-specific.

The definition for “emission factor” was revised to remove the specification that the factor is a “ratio” and instead the more general term of “value” was used to avoid limiting the data provided. Also, “quantity of” emissions was added, because that is a key element of an emissions factor, not just the “emissions.” Examples of how emission factors are derived were also added to assist reporters in understanding the data that is expected under the requirements of the regulation.

The definition for “emissions” was updated to remove the wording “and may” for direct and fugitive emissions, because it could imply that including these emissions is somehow optional. The update was included to remove the ambiguity.

The entry for “emissions data report” or “report” was revised to “emissions report” or “report” because the term “data” was unnecessary. The definition was slightly reorganized to move the “each year” description to the beginning of the definition. The “owner or operator,” “air district,” and “submitted to CARB” language was also removed to reflect the reality that reports may be prepared by someone other than the owner or operator, and that emissions data reports may be prepared by air districts, and reports may be submitted to either CARB or districts, based on circumstances.

The definition for “emittent ID” was added to clarify that the emittent IDs required to be reported for toxic air contaminants under section 93404(a)(5)(C) refer to the emittent IDs identified in Appendix A-1, Substances for which Emissions Must Be Quantified, of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, and to incorporate that document by reference.

The definition for “equipment” was removed, because it in general within the regulation, have standardized on the term “process” where appropriate, to avoid using potentially duplicative terms.

The entry for “geospatial coordinates” was moved to facilitate an alphabetical listing of definitions within section 93402. The definition was also modified to specify the required reporting of geospatial coordinates for fugitive or non-ducted sources under section 93404(a)(6)(B)

The definition for “facility” was modified to remove the text related to the exclusion of electric power entities, suppliers of transportation fuels, suppliers of natural gas, natural gas liquids and liquefied petroleum gas, because they are already excluded in the applicability under section 93401(b)(1) and the repetition is unnecessary. A reference was also added to the definition for “onshore petroleum and natural gas production facility” to make it clear that there is a separate facility definition that applies to these operations.

The definition for “fugitive emissions” was modified to align with EPA’s definition of fugitive emissions by using the language “could not reasonably” pass through a stack, chimney, vent, or other functionally equivalent opening.

As mentioned, the definition for “geospatial coordinates” is not new, but was moved for alphabetization. See the entry above for the definition for additional updates.

The definition for “hazardous waste treatment, storage, disposal, and recycling facility” was added in support of addition of the new Table A-3 in Appendix A of the regulation. The definition was added to clearly specify the source category that is subject to reporting under 93401(a)(4)(C) of the regulation.

The definition for “health risk assessment” or “HRA” was deleted because the term is no longer used in the regulation.

The definition for “industrial sources” was added to identify which facilities must submit data regarding permit or rule emissions limits in their annual emissions reports. The term was added consistent with the understanding of the definition of an “industrial source” in AB 617.

The definition for “lead (Pb)” was modified to clarify that lead includes lead and lead compounds measured as elemental lead and it should be reported as the mass of the Pb atoms only.

The definition for “natural gas distribution” was revised to “natural gas distribution facility,” and the definition was modified to provide consistency with the definition used in the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. For customer meters, etc., the term “excludes” was revised to “includes.” This was necessary because the intent of the regulation is to not require emissions reporting from these small dispersed sources. If these sources were included from the definition, then they would have been subject to reporting. We also removed the sentence pertaining to “major leaks.” This was necessary because “major leaks” is not defined, and major leaks not permitted processes, so as such would not be subject to the applicability

requirements of the regulation. Therefore, it is not necessary to mention major leaks in the definition.

The definition for “nonattainment pollutant” was modified to clarify that it applies only to air pollutants.

The definition for “onshore petroleum and natural gas production facility” was modified to specify how cogeneration plants are to be included for the purposes of the regulation, because the CTR Regulation requirements may differ from the requirements under the GHG Mandatory Reporting Regulation. We also added text to complete the administrative step of incorporating by reference CFR Title 40, section 98.238 which includes the definition of “basin.” Finally, the majority of these facilities will be subject to reporting under the GHG Mandatory Reporting Regulation, which requires all sources with a single “basin” to be aggregated and reported under a single data report. With the added text, under the CTR Regulation, emissions from petroleum and natural gas facilities may be disaggregated to the “facility” levels or groupings reported to air districts or CARB, and the associated emissions can be submitted under individual CTR Regulation emissions reports. This is to provide consistency with existing air district practices for organizing and classifying oil and gas facilities.

The definition for “particulate matter (PM)” was modified to limit PM to the PM₁₀ and PM_{2.5} size fractions, which are the specified criteria pollutants that are reportable. For this reason, the mention of the 100 micrometers size specification was removed. Based on comments received, we also added clarifying text to indicate that PM₁₀ and PM_{2.5} include both filterable and condensable PM, and that PM_{2.5} is a subset of PM₁₀. The term “PM precursors” was removed because the pollutants shown are not reported as precursors, but as the compounds themselves, so it is unnecessary and potentially confusing to apply a qualifying label to the compounds.

The definition for “permit” or “air district permit” was modified to replace “that” by “which” to adjust the language.

The new definition for “Permit ID” or “Air District Permit ID” was added to support the new requirement to report the Air District Permit ID for a device at a facility under section 93404(a)(3)(D). The term identifies what is to be reported.

The definition for “permit or rule emissions limit” was added to support the new requirement to report the data for criteria air pollutants and toxic air contaminants emitted by a process specified under section 93404(a)(5)(J). The term specifies what is to be reported.

The definition for “physical address” was modified to clarify the requirements for reporting address information for rural or dispersed sites under section 93404(a)(2)(F). Previously, it was unclear what data should be reported for locations without distinct street or other addresses.

The definition for “pollutant code” was added to specify the pollutant codes required to be reported for criteria air pollutants under section 93404(a)(5)(C). Previously, the term was undefined, which could potentially lead to confusion. The codes are from the established CARB and air district codes that have been historically used for the pollutants identified.

The definition for “portable” was modified to standardize on using the term “device”, instead of “equipment unit”. The word “stationary” is removed from this definition because “stationary source” is not defined in the regulation, and it is not necessary for the clarity of the definition.

The definition for “primary release location” was removed because the definition is no longer used in the regulation. The definition is no longer necessary because the updated text in 93404(a)(6) now specifies that the emissions are associated with a “release location associated with a process,” which will typically be a permitted process. Therefore, it is no longer necessary to attempt to perform the challenging, and likely impracticable exercise of determining the primary release location under the previous definition provided because the location will normally be focused on permitted processes.

The definition for “reactive organic gases” was modified to include ethoxy-nonafluorobutane (HFE 7200), and trans-1,3,3,3-tetrafluoropropene (HFO-1234ze), which reflect the most recent specifications. A synonym was also added for perchloroethylene, to better assist in identifying the reactive gases.

The definition for “release location type” was added because it was inadvertently not included in the original version of the regulation and is provided to specify the data to be reported.

The definition for “release point type” is a new term that was added to support the new requirement in section 93404(a)(6)(C) to report this information.

The definition for “reporting entity” was removed because of the modification of section 93405(c) where “reporting entity” was replaced by “owner or operator of the facility subject to this article”. This definition is no longer used elsewhere in this regulation.

The definition for “sector phase” was added to describe the industry sector groups used to identify the initial data year that must be reported for facilities subject to reporting per 93401(a)(4)(C), under the schedule in 93403(b).

The definition for “Source Classification Code(s)” or “SCCs” was modified to remove the word “stationary”, because “stationary source” is not defined in the regulation, and it is unnecessary in the definition of SCCs.

The definition for “standard cubic foot” or “scf” is added to specify the temperature and pressure conditions to which the measurement must be standardized to for the

purposes of reporting. This provides uniformity between reporters, so gaseous fuel use is reported on a comparable basis.

The definition for “Standard Industrial Classification Codes” or “SIC” was added to clarify the SIC codes required to be reported under section 93404(a)(2)(D). In the original draft, the SICs were not subject to reporting but have been added for historical continuity with air district, CARB, and U.S. EPA emissions reporting.

The definition for “total organic gases (TOG)” was added to provide identification of the gaseous compounds that must be reported under the appropriate pollutant code.

The definition for “throughput” was removed, because it duplicates “activity level” under section 93402(a), so it is not necessary.

The definition for “toxic air contaminant” was modified to remove the incorporation by reference of Appendix A-1 of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program, because it has now been incorporated under the earlier new definition for “emitter ID.”

The definition for “wastewater treatment plant” was added in support of addition of the new Table A-3 in Appendix A of the regulation. The definition was added to clearly specify the source category that is subject to reporting under 93401(a)(4)(C) of the regulation.

D. Modifications to Section 93403. Emission Reporting Requirements.

Section 93403 was modified to remove the requirement to report 2018 data, and to include a reporting phase-in schedule based on applicability criteria as specified within the section. Certain other elements related to reporting schedules were also moved from section 93404 to 93403, to increase cohesion of the timing elements, such as for “release location data.” New provisions were also added to provide reporting schedules for “Additional Applicability Facilities” and to allow simplified “abbreviated” reporting for facilities that perform certain industrial processes. These elements are discussed individually below.

Section 93403(a). GHG, Criteria and Elevated Toxics Facilities Emissions Reporting: Phase-In Schedule

Titles were added to section 93403(a) and other sections to more easily identify which provisions apply to which sources. Section 93403(a) applies to those sources subject to reporting per sections 93401(a)(1), (2), and (3), for GHG, Criteria, and Elevated Toxics Facilities.

Section 93403(a)(1) was modified to remove the requirement for 2018 data reported in 2019, because the regulation will not be effective in time for facilities to comply with this schedule. The section also establishes that certain facilities (i.e., those subject to reporting due to GHG, Criteria, or Elevated Toxics emissions), may perform “business

as usual” air district reporting for specified data years to allow for a transitional period before full reporting is required. This section also requires that, consistent with current district practices (where full toxics reporting may not be required), toxics emissions data must be reported for the 2019 and 2020 data year, to again allow for a transitional period, and to help reduce initial program resource impacts.

Section 93403(a)(1)(A), was included to specify the existing methods “business as usual” reporting applicability schedule for the 2019 data year. Under this provision, GHG, Criteria, and Elevated toxics facilities may report following existing air district requirements, and are not subject to reporting the full data specified within the CTR Regulation. This provides time for districts and facilities to prepare for the complete data reporting requirements.

Section 93403(a)(1)(A)1., is a replacement of the previous section 93403(a)(2), rewritten to simplify and streamline the language. There is no change in the requirement. This specifies that for facilities that may be subject to reporting based on their Criteria emissions, for the first reporting year (i.e., 2019 data reported in 2020), applicability for reporting is determined based on actual emissions. Following this year, applicability is based on air district permitted levels. This provision is included to allow additional time to compile permitted emissions data needed for applicability determinations.

Section 93403(a)(1)(B), is added as part of the expanded phase-in schedule, which for Elevated Toxics Facilities, allows for use of existing “best available” methods for 2020 data reported in 2021. This update allows additional time to prepare for the full CTR Regulation reporting requirements for toxics.

Section 93403(a)(2) establishes that following the initial phase-in of the “business as usual” periods specified, facility owners and operators must meet the full reporting requirements of 93404. This section is included to specify what is required following the phase-in period.

Section 93403(b). Additional Applicability Facilities Emissions Reporting: Phase-In Schedule

Section 93403(b) is new text, to establish the timing of for Additional Applicability Facilities specified in 93401(a)(4). This section replaces 93403(a)(3) of the originally proposed text. For these facilities, the reporting schedule is based on both the air district a facility is located in, and the industrial activities they perform. This section is a companion to the information in Appendix A of the regulation, which provides tables of the phase-in schedule as well as the source categories subject to the schedule.

Throughout this section, the schedule phasing is provided to: 1) allow more time to provide outreach and training to the smaller Additional Applicability sources to help them effectively comply with the requirements, 2) defer the reporting requirements for medium sized and smaller districts (based on number of facilities, not geographic size)

so they have additional time to identify sources, and put mechanisms in place to implement the requirements, and 3) distribute workload over multiple years to address air district and CARB priorities and resource limitations.

Section 93403(b)(1). Annual Emissions Reporting

Section 93403(b)(1) establishes that Additional Applicability Facilities that are subject to the specified schedules are required to submit reports that meet the requirements of section 93404 for Emissions Report Contents. This section establishes that the initial year of reporting these facilities for the first subset of facilities is for 2021 data reported in 2022 (however, data reports may be submitted earlier), with the final phase-in of facilities completing with 2025 data reported in 2026. Section 93403(b)(1) also introduces that certain facilities may qualify for abbreviated reporting. Section 93403(b)(1) is subdivided into subsections (A) and (B), to provide a clear delineation between the reporting schedule for sources that are agricultural operations and those that are not. The overall timing is summarized in Appendix A, Table A-1 of the revised regulation.

Section 93403(b)(1)(A) applies to non-agricultural operations. As indicated in subsections 1-4, these Additional Applicability Facilities are subject to reporting based on Air District Group and Permitted Process Sector Phase. District Group A leads off the reporting schedule for each of the reporting categories, which include facilities subject to the specified criteria pollutant threshold, and those within Sector Phase 1, 2, or 3 in Table A-3. Each year, more Additional Applicability sources become subject to reporting, over a six year period, finishing with Phase 3 sources in District Group B completing the phase-in with 2025 data reported in 2026.

In developing Table A-2 of Appendix A and the phase-in schedule, CARB staff considered which districts include the largest number of sources, which tend to have the majority of communities disproportionately affected by air pollution, and which typically have more established emission inventory programs and systems in place. Through this evaluation, District Groups A and B were established, to distribute when sources are subject to reporting. Group A includes districts with first-year (2018) communities selected under AB 617. Group B includes the rest of the districts.

In developing the industry Sector Phase groupings for the regulation phase-in scheduling, staff considered the potential for permitted processes to produce toxic air contaminants and potentially pose a health risk, the number of facilities within the process category, the complexity of computing emissions from the source or processes, and air district, facility, and CARB resource needs. In considering these criteria, staff divided the sources into three Sector Phases, as identified in Table A-3 of Appendix A.

The three permitted process phases are brought in over time, with Sector Phase 1 reporting first, if they are located in District Group A, followed by Phase 2 the following year for Group A (at which time Sector Phase 1 reporting begins for District Group B, and so on). Sector Phase 1 includes sources such as metal plating, which have been of

historical concern and may be located near neighborhoods and other receptors. Phase 2 includes some of the more numerous sources, including retail sale of gasoline, medical services, and printing, which is why the additional time is provided to include these sources under the regulation. Sector Phase 3 includes the remaining sources, which may require more time to establish uniform quantification methods, or which are not prevalent in California.

Section 93403(b)(1)(B) applies to permitted agricultural operations subject to any of the 93401(a)(4) applicability categories. Agricultural operations were put on a slightly deferred time schedule to provide additional time to incorporate the sources, which tend to be in rural areas, and which may require extra time to effectively determine potential toxics emissions. As with the non-agricultural sources, reporting is phased-in; therefore refer to the previous discussion under section 93403(b)(2)(A) regarding the reasons for using this approach.

Subsections 1-2 of section 93403(b)(1)(B) provides the reporting schedule for the Agricultural Operations Additional Applicability sources, with sources in District Group A subject to reporting for 2023 data in 2024, and District Group B reporting starting with 2024 data reported in 2025.

Section 93403(c). Abbreviated Reporting

Section 93403(c) establishes the criteria and requirements for “abbreviated reporting” for identified sources. Section 93403(c)(1) addresses abbreviated reporting for “agricultural operations” as defined within in the regulation, for any agricultural operations subject per section 93401(a). These sources are provided the option for abbreviated reporting because typically the emissions can be estimated using general parameters and emission factors.

Sections 93403(c)(1)(A) and (B) establish the contents of the abbreviated emissions data report for agricultural operations. Agricultural operations must report the information of 93404(a)(1) and (2), and the data needed to quantify permitted emissions sources, or, other data as identified within district methods as established under 93403(c)(4), and approved by the CARB Executive Officer.

With the inclusion of Table A-3 in Appendix A, for many specifically identified permitted processes, it is not necessary to collect all of the data specified in section 93404 order to effectively estimate criteria pollutant and toxics emissions. Therefore, as established in 93403(c)(2), certain sources are identified for abbreviated reporting, to simplify reporting and to minimize impacts on facilities and districts. For example, for certain sources, such as retail gasoline stations or combustion of natural gas, the emissions can be relatively easily computed from standard operational data such as annual gallons of fuel dispensed or million standard cubic feet of natural gas combusted. This information is retained as normal business practices, and can be used by local air districts to compute emissions.

Section 93403(c)(2)(A) establishes the framework for determining abbreviated reporting applicability for Additional Applicability Facilities, and section 93403(c)(2)(B) identifies the data reporting requirements for those abbreviated reporters.

Section 93403(c)(2)(A)1., is provided to establish that the abbreviated reporting requirements of this subsection only apply to the Additional Applicability Facilities subject to 93401(a)(1); it does not apply to the MRR, Criteria, or Elevated Toxics facilities, or individual source activities at these facilities.

Section 93403(c)(2)(A)2., refers to Table A-4 of Appendix A and identifies the permitted processes at facilities which may use the abbreviated reporting provisions for the purposes of complying with the regulation, if they meet the conditions described. Permitted processes include combustion of natural gas or propane in boilers and heaters, combustion of diesel oil or other fuels, in emergency standby engines or direct-drive emergency standby fire pump engines, retail sale of gasoline, cremation of humans or animals, and construction aggregate processing (where no asphalt products are used or produced). Please refer to the discussion of Table A-4 of Appendix A for more information.

Because the abbreviated reporting differs from full reporting, Section 93403(c)(2)(A)3. is included to establish that CARB or the local air district must notify the facility owner or operator that they are allowed to report under the abbreviated provisions. This is to provide documentation both for the regulatory agencies and the regulated facilities regarding the requirements, and to establish that the district or CARB will compute the emissions. However, facility operators are still required to provide data necessary to compute emissions, as established in the following section.

Section 93403(c)(2)(B) refers to Table A-4 of Appendix A and identifies the data that must be reported for each source which may use the abbreviated reporting provisions. Section 93403(c)(2)(B)1. requires that abbreviated reporters must provide the basic facility information and location data specified in 93404(a)(1)-(2). Then, 93403(c)(2)(B)2. refers to Table A-4 of Appendix A and identifies the sector-specific data that must be submitted for each process in order to meet the reporting requirements. Please refer to the discussion of Table A-4 of Appendix A for more information.

Section 93403(c)(3) specifies the emissions data that must be reported when the abbreviated reporting provisions are used, so that both facility operators and air districts are fully aware of the requirements. Both criteria air pollutants and toxics air contaminants must be quantified and reported from permitted processes. Unpermitted processes are not subject to reporting, because these sources are beyond the intended scope of the regulation, and any emissions are expected to be negligible when compared to permitted sources.

Section 93403(c)(4) is necessary to specify the overall methods that must be used to compute emissions, and that such methods must be approved by the CARB Executive

Officer to ensure that the approach used is science-based, well documented, accurate, and comprehensive in including all pollutants of concern.

With the addition section 93403(c)(5), the regulation provides the option for air districts to apply abbreviated reporting approaches to any sources they select, on approval by the CARB Executive Officer of a request submitted by the district to perform abbreviated reporting for a source category. The request is to include the processes to be included in the report, the data to be collected, and the methods used to quantify emissions. This provision was added to provide air districts flexibility to streamline the reporting process, so that individual facilities would not be required to submit data that would be superfluous for obtaining accurate emission estimates.

Section 93403(d). Submittal of Annual Emissions Reports

Section 93403(d) replaces section 93403(b) and 93403(c) in the originally proposed regulation. Primarily, the changes were included to streamline and simplify the regulation text and requirements. Also, the requirements related to initial year and subsequent year reporting were moved to 93403(a)-(b) to make the reporting schedule more cohesive. Overall, the core district and CARB data submittal requirements and dates were not revised in the updated text.

Sections 93403(d)(1)-(2) are simply a reorganization and restatement of the originally proposed requirements which identify when reports are required to be submitted to districts (May 1 of each year), and providing an optional mechanism for electronic data reporting to directly CARB. Section 93403(d)(2)(A) establishes when data must be submitted to CARB (which replaces the previous 93403(c)) and other provisions. But, there are no changes in the originally proposed CARB reporting deadline (August 1 of each year), notification requirements, what occurs if a report is not submitted by the deadline, and what must be reported if a district elects to quantify emissions data for a facility.

Section 93403(d)(2)(B) is original text, but the two sentences were relocated from previous sections 93403(b) and (c), for clarity. Section 93403(d)(3) is also previous text, which was originally located in section 93403(c)(2).

Section 93403(e). Release Location Data Reporting Requirements

Under the originally proposed regulation, the requirement to report emissions release data was included, as well as a schedule to defer reporting of some of the release data to provided sufficient time to collect the appropriate parameters. These requirements exist within the revised regulation, however they have been reorganized for cohesiveness, and updated to support the reporting for the Additional Applicability Facilities.

Section 93403(e)(1)(A) establishes a two-year deferral for reporting emissions release data for GHG, Criteria, and Elevated toxics facilities, to allow addition time to collect the

necessary data. This is consistent with the original proposal, which was previously in 93404(a)(8)(H).

Section 93403(e)(1)(B) is new text, which provides a similar two year deferral for the Additional Applicability Facilities, after they become subject to reporting. Provisions were also added to allow air districts flexibility in collecting and reporting release location data to CARB, to help balance workload and to align with district program priorities. This provision allows any air district, with CARB Executive Officer approval, to develop their own unique reporting schedules for collecting, preparing, and submitting the specified release location data, which would take precedence over the CTR Regulation statewide schedule.

Section 93403(e)(2), regarding update frequency, is text that was previously located in 93404(a)(8)(H), but was moved so that related release data requirements would be collocated.

Section 93403(f). Disaggregation for GHG Facilities

Section 93403(f) is text that was previously located in section 93404(a)(12), and was relocated because it is more appropriate to be in the reporting requirements section, rather than the report contents section. The underlying requirements were unchanged.

Strikeout of Sections 93403(b), (c), (d).

As mentioned previously, sections 93403(b) and (c) of the originally proposed regulation that are shown as strikeout in the revisions, were moved and reorganized to the new section 93403(d), to simplify and clarify the text. The underlying requirements were not changed. The original section 93403(d) was stricken because it is unnecessary because the core applicability provisions of 93401(a) require reporting by operators of new (or any) facilities that meet applicability requirements, so the requirement for new facilities does not need to be separately stated.

E. Modifications to Section 93404. Emissions Report Contents.

Section 93404 was modified to relocate elements related to timing and reporting requirements to section 93403. Changes were also made to reorganize some of the contents requirements to provide a more logical flow, to update the release location data requirements to better address stack and fugitive releases, and other changes, as individually discussed below. These changes required non-substantive renumbering of many sections within 93404, as shown in the underline/strikeout text provided in Appendix A.

Section 93404(a). General Contents.

Section 93404(a) was modified to relocate elements that are not associated with the emissions report contents, such as how data must be submitted (now in section

93403(c), and the reporting schedule and reporting requirements (now in section 93403(a)).

Section 93404(a)(2) for “Data year being reported” was moved to 93404(a)(1) for more logical organization.

Section 93404(a)(2) was modified to provide higher level heading for information related to “Facility information and location” data. Data fields related to this category were then organized under this heading, and are now listed as subsections (A)-(G). The only substantive update to the data elements in this section is the addition of the requirement to report the SIC code. This is necessary to be consistent with legacy reporting practices and systems for CARB, air districts, and U.S. EPA, and will have a minimal impact on reporters because SIC codes are already typically reported. The SIC code also aids in determining whether the facility is subject to the Permitted Process activities of Table A-3, and allows for quality assurance checks with the facility’s reported NAICS code regarding the correct classification of a facility. Other updates to the facility information and location data were to reduce complexity or redundancy in the text.

The original section 93404(a)(8), shown as ~~strikeout~~, was moved and replaced with section 93404(b)(6) as will be described. Subsection 93404(a)(8)(H), also in ~~strikeout~~ text, regards reporting timing, so it was relocated to section 93403(d) for more logical organization, and the schedule now shown in 93403(d) was updated to reflect the updated schedule requirements.

For the elements of section 93404(a)(3) for device data, section 93404(a)(3)(A) was modified to replace “identifier” with “name or ID” to provide a more specific requirement. Section 93404(a)(3)(D) was added to require reporting the Air District Permit ID, which is necessary to allow better tracking of the facility configuration and control device equipment utilized. Section 93404(a)(3)(E) was added to require reporting the design capacity of the device or emissions unit, if applicable, to allow better comparability between equipment at different facilities and within different air districts.

For the elements of 93404(a)(4) for process data, the changes to the associated subsections were made to clarify and simplify the text, and to use uniform terminology. There are no changes to the requirements.

For the elements of 93404(a)(5), the primary updates were to provide more specificity in the existing requirements, but the core requirements are unchanged. For example, in section 93404(a)(5)(C), the term “Pollutant code” was expanded to clarify that the code applies to criteria pollutants, and Emittent ID was added for reporting toxic air contaminants.

A new requirement was added to 93404(a)(5)(J) to require reporting of the permit rule or rule emissions limit for industrial sources (as defined), to provide information about the maximum amount of a criteria air pollutant or toxic air contaminant that a process is

allowed to emit. This can be used to evaluate the maximum potential emissions from a source, and to allow better comparisons between similar equipment types.

Section 93404(a)(6) for release location data was moved from the original section 93404(a)(8) to provide a more hierarchical organization, and to also provide a better structure for the data elements to be reported, and to subdivide the requirements to clearly distinguish between the requirements for “stack” and “fugitive” emissions. The original term “For each primary release location at the facility” was replaced with, “For each release location associated with a process at the facility.” Through this change, it is no longer necessary for reporters to determine “primary” release locations.

The provisions of 93404(a)(6)(B), and 93404(a)(6)(C)(1-6) are a reorganization of the original requirements, and do not meaningfully modify the original requirements, except for the addition of “Release point type,” which is an indication of whether the stack or release point is vertical, horizontal, goose-neck, vertical with rain cap, or downward-facing vent. This requirement was added to collect data that is important for source impact modeling, and is relatively straightforward for reporters and air districts to obtain.

Section 93404(a)(6)(D) is newly added text, to establish that for “fugitive” sources the option exists for aggregating sources and reporting them as a single location, rather than individually identifying each fugitive source location, which would be overly burdensome and not helpful for analysis. This change provides flexibility to reporters and will reduce the workload involved in identifying and reporting fugitive emissions release locations.

The section 93404(a)(12) text, shown as ~~strikeout~~, was relocated to section 93403(e), because it is more appropriate to have it in the reporting requirements section and not the report contents section. The requirements are unchanged.

Section 93404(b). Emissions and Sources.

Section 93404(b) was reorganized to provide a more logical flow, and to individually list certain components of the requirements so they are easier to understand. This particularly applies to reporting emissions from unpermitted processes, which was previously located in the initial paragraph text of 93404(b), and shown following the revised text as ~~strikeout~~. The requirements identified in 93404(b)(1) and 93404(b)(2)(A)-(B) are unmodified from the original proposal, except for specifying that total organic gases must be reported, and radionuclides must be reported in curies per year.

Section 93404(b)(2)(C) retains the requirement that portable equipment must be reported, except for portable engines or devices registered and reported under the Statewide Portable Equipment Registration Program Regulation (PERP). However, the requirement was modified to specify that portable equipment emissions that occur at a facility are required to be reported, regardless of equipment ownership. In addition, under this section, text was added such that emissions from PERP equipment must be

reported if the equipment is located and operated at a facility subject to reporting for three months or longer. This provision was added to address concerns that under certain circumstances, such as during petroleum refinery turnarounds, significant PERP equipment usage may occur, therefore it is important to capture these emissions to evaluate potential health impacts.

The ~~strikeout~~ text following the underline text of section 93404(b) was either reorganized (e.g., emissions to be reported), moved to other parts of the regulation (e.g., timing provisions), or became obsolete (e.g., toxics exceptions are no longer needed after the longer time-frame was provided for reporting these emissions).

Section 93404(c). Methods.

This section was substantially simplified, to remove extraneous language that is redundant with requirements previously established. The underlying requirements are unmodified. The contents of the paragraph shown as ~~strikeout~~ are included in the initial paragraph of 93404(c), in 93404(b), and in the definition of “Best available data and methods.” The same is true in the second ~~strikeout~~ paragraph in that if districts calculate emissions, the facility requirements are now in 93404(b)(1), the list of potential methods stricken is addressed within the “Best available data and methods” definition, and the requirement to provide methods used is provided in 93404(c).

Section 93404(d). Attestation.

Section 93404(d) was modified to clarify that the designated representative attests to the accuracy of data submitted by the designated representative, not to the accuracy of data submitted by others (e.g., data submitted by districts to CARB).

Section 93404(e). Emission Report Audits.

The contents of section 93404(e) were relocated to section 93505(c) for the Document Retention and Record Keeping Requirements, because it is logically more appropriate for this section because it is not a data reporting requirement. The requirement is unchanged.

F. Modifications to Section 93405. Document Retention and Record Keeping Requirements.

Section 93405(a) was modified to specify that even if a facility is no longer subject to reporting, they must still retain records as specified. This is necessary so that if errors or inconsistencies in reported data are discovered, the underlying data will be available to determine the source of the potential problem. Text from 93405(c) was relocated to 93405(a) because the list of potential retained records is most appropriate in this section, particularly after reorganizing 93405(c) to address audits.

The title for section 93405(b) was removed because it was unnecessary.

Section 93405(c) was modified to include the audit provisions that were previously located in 93404(e), which is the new text at the beginning and end of the paragraph. As mentioned, the listings of retained records was relocated to 93405(a). The section was also modified to change “reporting entity” to “owner or operator” to be consistent with usage used on other parts of the regulation.

G. Modifications to Section 93406. Confidentiality.

Minor editorial changes were made to section 93406(b) to change “shall” to “must” in the text. The sentence, “Claims of confidentiality may be made at the individual source or facility level, excluding any facility-level emissions data,” was removed because details of the disclosure of confidential data is covered by the referenced sections of CCR, title 17, section 91000 to 91022.

H. Modifications to Section 93407. Enforcement.

Section 93407(a)(1) was modified to clarify that failure to comply with any of the requirements of this article shall be a violation of this article, and to remove a list of circumstances to be considered in determining penalty amounts because the text is superfluous and not necessary in the implementation of the regulation.

Sections 93407(b) and (c) are only renumbering of sections 93407(a)(6) and 93407(a)(7) for clarity. There are no changes to the requirements.

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

No changes were made to this section.

J. Modifications to Section 93409. Severability.

No changes were made to this section.

K. Modifications to Section 93410. Implementation by CARB and by the Local Air Districts.

Section 93410(a)(1) was modified to remove text associated with districts collecting fees or penalties, because it is not appropriate for inclusion in the regulation, and it is an unnecessary restatement of pre-existing air district authority.

L. Addition of Appendix A. Applicability Thresholds and Lookup Tables for Facilities Subject to Reporting Per Section 93401(a)(4).

The updates to the applicability requirements in section 93401(a)(4) and the reporting schedules in section 93403, were added to phase-in reporting by geographic region (i.e., air district), and by industry sector. In support of these updates, Appendix A was added to the regulation, which includes three tables. Table A-1 provides a table-based representation of the reporting schedule as specified in 93403(b). Table A-2 establishes

the air district groupings referenced in section 93404(b). Table A-3 identifies the permitted processes that would make a facility subject to reporting applicability under 93404(a)(4)(C), and establishes the Sector Phases referenced in section 93403(b).

Table A-4 identifies the permitted processes and data elements to report for facilities qualifying for abbreviated reporting per section 93403(c)(2).

A more complete discussion regarding the individual tables follows. Also, for more information and rationale regarding the reasons for inclusion of the Appendix A permitted processes and the modified applicability requirements, please refer to the previous section, “B. Modifications to Section 93404. Applicability.” of this Attachment.

Table A-1. District Groups, Sector Phase, and Initial Data Year.

Table A-1 was added to provide a reference for owners and operators of facilities subject to 93401(a)(4)(C) and the schedule in 93403(b), to help determine their initial data year reporting, based on the facility’s District Group, Sector Phase, and if they are an “Agricultural Operation.” The table shows the two air District Groups, A and B, the Sector Phases 1, 2, and 3, and a separate column for Agricultural Operations. Please refer to the descriptions for section 93403(b) within this appendix, for discussion and rationale regarding the district grouping and timing phasing. Table A-1 provides the initial year in which data must be reported, so for District Group A, Sector Phase 1, there is an entry of 2021. This means that the first year of data reporting is for 2021 calendar year data, reported during 2022 for this group, and so on for the other groups.

Table A-2. District Group Lookup.

Table A-2 was added to establish the air District Groups, for the purpose of phasing-in reporting over time as described in 93403(b). Group A includes districts that during 2018 had communities selected under AB 617 for community air monitoring programs or community emission reduction programs. Group B includes the remainder of the air districts. District groups were included to distribute workload and resources required by facilities, air districts, and CARB, to implement the regulation over time. Refer to the descriptions for section 93403(b) of this appendix for further information regarding the district groupings.

Table A-3. Sector Phases and Applicability Thresholds for Facilities Subject Per Section 93401(a)(4).

Table A-3 was added to the regulation to establish the Permitted Processes subject to reporting under the applicability provisions of section 93401(a)(4)(C). The table also identifies the Sector Phase (for reporting timing), the Activity Level Reporting Threshold (for determining if a Permitted Process is subject to reporting based on activity levels), and Standard Industrial Classification (SIC) and NAICS (North America Industry Classification System) codes (to determine if a Permitted Process is subject to reporting based on the specified industrial sector within the Permitted Process category).

In developing Table A-3, the initial starting point was *Appendix E of the Emission Inventory Criteria and Guidelines for the Air Toxics “Hot Spots” Program*¹, August 27, 2007, which has been used by facilities and air districts for decades for identifying and classifying facilities that produce toxic emissions. This also provided a pre-existing, science-based framework and baseline for the reporting sectors and thresholds. This starting point was then expanded to include other sources of concern identified by environmental and community members, as well as those identified by CARB staff.

Multiple sources of information were consulted to ensure that the proposed sectors, processes, and thresholds provide good coverage of the pollution-emitting sources of potential concern, particularly for toxics. For example, staff examined the Dun and Bradstreet database of over 2 million businesses in California and their associated industry (SIC) codes and locations, in order to better understand the universe of businesses likely to emit pollution vs. those not likely to cause emissions of concern. Staff also compared the coverage of the proposed applicability provisions to the extensive list of categories covered by the US EPA MACT/NESHAPS² standards for toxics of concern. Staff also examined air district data provided by several districts regarding their permitted facilities, in order to better understand the coverage of the proposed applicability provisions. The combined suite of applicability provisions (MRR facilities, large criteria pollutant facilities, elevated prioritization score facilities, 4 tons/year criteria pollutant facilities, and the sectors specified in Table A-3) has been designed to provide good coverage of the sources expected to have emissions of concern.

Throughout the process of developing Table A-3, we consulted extensively with stakeholders over the past months to address industry, community and air district concerns and priorities. The goal of the table, and the updated applicability is designed to support health-protective emission reductions for everyone in California.

For toxics emissions, when determining applicability reporting thresholds, we included adjustments for the updated and more health-protective Office of Environmental Health Hazard Assessment (or OEHHA) risk guidelines, and considered the effects of near-source and neighborhood-scale impacts in our evaluation. It was also a priority to provide easy to understand applicability thresholds, such as gallons of fuel used, or gallons of coatings used, so businesses would not need to perform complex calculations to determine if they are subject to the reporting regulation. And finally, it was important to create mechanisms to phase-in the reporting requirements over multiple years to help balance and minimize resource impacts on affected businesses, air districts, and CARB. The following paragraphs discuss each element of Table A-3, and why it was included in the revised regulation.

¹ <https://www.arb.ca.gov/ab2588/2588guid.htm>

² US EPA has promulgated standards for hundreds of both major sources and area source categories of concern under its Maximum Achievable Control Technology (MACT)/National Emission Standards for Hazardous Air Pollutants (NESHAPS) program.

Sector Phase. The first column of Table A-3, the Sector Phase, identifies the sector phase (1, 2, or 3) for each activity, which combined with the District Grouping the facility is located in, is used to determine the initial year that data must be quantified. Sector phases were included in the proposed updates so all sectors would not be subject to reporting all within a single year. Instead, approximately one-third of the total number of sectors are become subject to reporting each year, which is also staggered based on the district group, as shown in Table 2. Permitted processes were assigned to sector phases based on several criteria including the potential toxic emissions from the source, the complexity and availability of data for the source, the number of sources in the category (used distribute workload among the phases), and alignment with other programs for scheduling.

Permitted Processes. The permitted processes column identifies those activities that are subject to reporting under the applicability provisions of 94301(a)(4)(C). Note that the requirement applies to “permitted” processes that are permitted by the local air district, and it does not apply to processes that are not permitted or processes that are only registered by the district. As mentioned in the introduction to the Table A-3 discussion, the starting point for identified sectors was the long-standing Appendix E of the Hot Spots Guidelines document. The Hot Spots sectors and thresholds were then updated and refined using updated data as described previously, and as discussed in the upcoming “Activity Level Reporting Threshold” discussion. The permitted processes identified were carefully selected, and included substantial stakeholder input, to identify sources that have the potential to produce health risks from air toxics emissions. Where appropriate, SIC and NAICS limitations were included (see next section), and activity thresholds were incorporated, where appropriate, to screen-out processes and facilities that are not expected to pose toxics risks under normally foreseeable circumstances.

As described previously in this attachment under section 93403(c), some permitted processes qualify for Abbreviated Reporting. In general, the option to use this abbreviated approach was included for permitted processes that may have many individual sources or facilities affected, and for which emissions can typically be quantified based on readily available input data, such as gallons of gasoline sold for the Retail Sale of Gasoline process. See the discussion for section 93403(c) in this attachment for additional information.

SIC and NAICS Codes. The SIC and NAICS columns of the table are included to identify industry sectors that are subject to reporting, if they exceed the activity threshold and perform the permitted process. A permitted process is subject to reporting if either the primary or secondary facility SIC or NAICS is included in the table. The SIC and NAICS designations are provided to limit the universe of sources that are subject to reporting, focusing on those that are most likely to engage in the permitted process indicated.

However, for certain permitted processes, the SIC and NAICS column includes the designation of “Any.” This means that that regardless of the SIC or NAICS assigned to a

facility, a facility operator is subject to reporting if they perform the permitted process and exceed the activity threshold for the process. For these permitted processes, the potential risks from the toxics that could be emitted are potentially high enough that in order to be health protective, it is necessary to include any facility or source that performs the indicated process.

Activity Level Reporting Threshold. The Activity Level Reporting Threshold column is included to establish a threshold level for each listed activity, below which reporting would not be required. Activity thresholds are provided in easy to use metrics, such as gallons or pounds of material used. This approach is used because such activity data is typically readily available to facility operators as part of normal business operations, and it avoids the more difficult task of computing actual toxic emissions to determine applicability.

As mentioned, the pre-existing Hot Spots toxics thresholds and sectors were used as a starting point for establishing applicability. But, staff also included adjustments to take into account the updated risk guidelines from the Office of Environmental Health Hazard Assessment, *Air Toxics Hot Spots Program Guidance Manual for the Preparation of Health Risk Assessments, 2015*³, which more completely incorporates childhood and full lifetime exposure risks to toxics, so they are more health-protective. We also made adjustments to thresholds and sectors to account for emerging chemicals being used, as well as persistent or bioaccumulative chemicals. Then, CARB staff did further fine-tuning to consider the potential toxic exposure impacts from combined or clustered facilities producing toxic emissions.

As shown in Table A-3, staff developed a toxic pollutant activity thresholds for processes that are known to produce toxic emissions. Certain permitted industry sectors are required to submit emissions data reports regardless of emissions. This type of “no threshold” applicability would apply to sources such as metal plating and hazardous waste facilities, which are known sources of concern for toxics emissions, regardless of the level of activity at the facility, and there is no definitive overall “safe” level for the toxics emissions from these sectors under potential exposure scenarios.

We have also identified sectors that must report if a throughput or use threshold is exceeded, such as gallons of fuel used. Some of the types of activities in this threshold-based category include permitted backup diesel engines, retail gas stations, auto paint and body shops, and commercial cooking and charbroiling. As mentioned, these individual thresholds were developed using health-protective considerations of the potential impacts of toxic emissions from the identified permitted processes (both individually and when combined with other potential nearby sources).

³ <https://oehha.ca.gov/air/crnrr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0>

Table A-4. Qualifying Permitted Processes and Data Elements to Report for Abbreviated Reporting Per Section 93403(c)(2)

Table A-4 identifies the permitted processes and data elements to report for facilities qualifying for abbreviated reporting per section 93403(c)(2).

Permitted Process. The first three processes, for natural gas combustion, emergency engines, and retail sale of gasoline, are included because: each of these categories has a substantial number of sources (i.e., over 5,000 each), making full reporting challenging for facilities, districts, and CARB. In addition, the emissions can be readily computed based on simple parameters, so full reporting is not necessary or beneficial to accurately determine the emissions. For the emergency engines category, the abbreviated reporting option was specifically limited to *permitted* emergency engines only, because they have district-imposed limits on the number of hours they are allowed to operate, which minimizes their potential for health impacts. Non-emergency engines, such as generators, may potentially be used for long periods of time, so therefore are not allowed to use the abbreviated reporting provisions. The fourth category shown, for cremation, is also relatively simple to compute, based on the amount of activity that occurs, which can be applied to a pre-existing emissions per activity factor, which is why it is included within abbreviated reporting.

Abbreviated reporting is also provided for construction aggregate processing, as long as no asphalt products are used or produced. The primary emissions from these facilities are typical soil-based, so are of less concern from a toxicity perspective, but asphalt products contain toxic chemicals, so asphalt operations are excluded from abbreviated reporting.

Data Elements to Report. For the data elements to be reported, for natural gas, gasoline sale, and cremation, the data is simply the amount of “activity” performed, including the quantity of natural gas consumed, gasoline sold, or material cremated. For emergency engines, additional information is needed to accurately compute emissions including the fuel use or hours of operation, the size of the device (horsepower), and the particulate matter emissions rate, which typically is expected to be obtained from the equipment manufacturer’s specifications. For construction sand and gravel operations, the mass of dried material produced must be provided, which is then used to estimate emissions. Different data elements must be reported for other sources, and where the data is not specified in the regulation, it will be identified in the district-prepared methodology that is approved by the CARB Executive officer.