

December 2020

CALIFORNIA AIR RESOURCES BOARD APPROVES SIGNIFICANT CHANGES TO STATIONARY SOURCE EMISSIONS REPORTING REQUIREMENTS, INCREASING NUMBER OF REPORTABLE CHEMICALS TO 1,300

To Our Clients and Friends:

The California Air Resources Board (CARB) recently approved significant changes to the requirements for reporting emissions from stationary sources to help monitor air pollution at local levels. Local air pollution control districts previously controlled reporting, but as of January 1, 2020, the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants implements uniform statewide annual reporting of criteria air pollutant and toxic air contaminant emissions data. The amendments adopted last week aim to improve this program by creating a unified reporting mechanism and establishing expanded and consistent reporting criteria.^[1] Thus, sources should stay up to date on changes to the regulation's reporting triggers and formats.

Among other changes, the amendments do the following:

- “Establish additional applicability specifications for sources emitting more than four tons per year of criteria pollutants (or 100 tons per year for carbon monoxide).”^[2]
- “Establish additional toxics-based applicability specifications based on identified activity levels for specified permitted emissions processes.”^[3]
- Establish a new applicability category encompassing “additional facilities located both statewide, as well as in the most highly impacted communities,” including, for example “retail gasoline fueling stations, dry cleaners, print shops, auto body and auto paint shops, metal plating, metal grinding and finishing facilities, coating and finishing facilities, industrial cleaning and degreasing operations, welding operations, facilities with backup diesel generators and emergency fire pumps, and others.”^[4]
- Create “abbreviated reporting options for specified industrial sectors to simplify reporting requirements.”^[5]
- Expand the regulation’s applicability from about 1,300 facilities to more than 60,000 facilities.^[6]
- Increase the number of reportable emission-producing chemicals from approximately 450 to more than 1,300 over a phase-in period based on chemicals’ known health effects, toxicity, and carcinogenic risks.^[7]

GIBSON DUNN

- Include provisions that allow the public to report information about potential emissions sources.^[8]

A CARB Board Member explained that emission inventories are “a fundamental tool for understanding the sources that contribute to California’s air quality and climate challenges.”^[9] The new amendments are designed to improve data collection and trend assessment to better prioritize reduction efforts in emissions hot spots.

The amendments’ cost impact on the private sector is “projected to be \$9.6 million annually, maximum,” primarily for data reporting.^[10] Local and state governments are expected to incur “a maximum of \$5.6 million and \$149,000 per year, respectively,” in implementation costs.^[11]

The next step in the process is for the Office of Administrative Law to review the amendments, and when they become final, they may be challenged by industry members who are impacted.^[12]

[1] See Proposed Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, art.2 (Requirements for Calculating and Reporting Criteria Pollutant and Toxic Air Contaminant Emissions), <https://ww3.arb.ca.gov/regact/2020/ctr/pro.pdf>.

[2] Public Hearing to Consider Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Staff Report: Initial Statement of Reasons at 5 (Sept. 29, 2020), <https://ww3.arb.ca.gov/regact/2020/ctr/isor.pdf>.

[3] *Id.*

[4] *Id.* at 9-10.

[5] *Id.* at 5.

[6] *Id.* at 2.

[7] CARB Approves New Approach to Measuring Stationary Source Emissions to Aid Local Air Pollution Inventory Efforts (Nov. 24, 2020), <https://ww2.arb.ca.gov/news/carb-approves-new-approach-measuring-stationary-source-emissions-aid-local-air-pollution>.

[8] *Id.*

[9] *Id.*

[10] Public Hearing to Consider Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants Staff Report: Initial Statement of Reasons at 2 (Sept. 29, 2020), <https://ww3.arb.ca.gov/regact/2020/ctr/isor.pdf>.

[11] *Id.*

GIBSON DUNN

[12] Amendments to the Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants, <https://ww2.arb.ca.gov/rulemaking/2020/proposed-amendments-reporting-criteria-air-pollutants-and-toxic-air-contaminants> (last visited Nov. 30, 2020) (tracking status of proposed amendments).



The following Gibson Dunn lawyers assisted in preparing this client update: Thomas Manakides, Abbey Hudson, Joseph Edmonds and Jessica Pearigen.

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's Environmental Litigation and Mass Tort practice group, or any of the following:

Stacie B. Fletcher - Co-Chair, Washington, D.C. (+1 202-887-3627, sfletcher@gibsondunn.com)

Daniel W. Nelson - Co-Chair, Washington, D.C. (+1 202-887-3687, dnelson@gibsondunn.com)

Thomas Manakides - Orange County (+1 949-451-4060, tmanakides@gibsondunn.com)

Abbey Hudson - Los Angeles (+1 213-229-7954, ahudson@gibsondunn.com)

Joseph D. Edmonds - Orange County (+1 949-451-4053, jedmonds@gibsondunn.com)

Jessica M. Pearigen - Orange County (+1 949-451-3819, jpearigen@gibsondunn.com)

© 2020 Gibson, Dunn & Crutcher LLP

Attorney Advertising: The enclosed materials have been prepared for general informational purposes only and are not intended as legal advice.