

May 22, 2020

Mr. Greg Harris
Chief, Greenhouse Gas Toxics Emission Inventory Branch
Air Quality Planning & Science Division
California Air Resources Board (CARB)
Submitted electronically to: Greg.Harris@arb.ca.gov

RE: Proposed Amendments to the AB 2588 Emission Inventory Criteria and Guidelines Regulation (EICG)

Dear Mr. Harris:

The California Small Business Alliance (Alliance) is a non-partisan coalition of California trade associations committed to providing small business with a single constructive voice to advocate before all branches of government including air quality management districts and other environmental regulatory agencies. The individual businesses belonging to these trade associations are generally found in commercial and industrial neighborhoods, and many of them have resided there for generations. Moreover, the small businesses which are represented by the Alliance are most often the only source of good paying jobs with benefits that are convenient and available to the residents in these working-class communities.

Alliance members appreciate the opportunity to provide comments on the proposed amendments to the AB 2588 Emission Inventory Criteria and Guidelines Regulation (EICG) because we are generally supportive of CARB's objectives to reduce localized air toxics exposure and risk from stationary sources, improve air toxics emissions estimates in support of public health, enhance the public's right-to-know, and streamline the EICG Regulation with other reporting programs, such as the Criteria and Toxics Reporting (CTR) regulation. And, while we appreciate CARB's desire to synchronize these two programs to streamline your operations, we believe it is essential for us to explain how some of these proposals would impose additional financial and administrative burdens on small businesses, which at the same time are generally small emitters.

During our participation in CARB's April 30th Public Workshop on the Proposed Amendments to the EICG, we observed that ~900 new substances are being proposed for addition to the three appendices, of which ~730 substances would be added to Appendix A-I, ~10 substances added to Appendix A-II, and ~160 substances added to Appendix A-III. We found it inadequate and unacceptable that CARB did not include textual detail and methodologies for testing and measuring in addition to the workshop slide presentation explaining how facilities would be expected to identify, quantify, test, and report on this considerable number of new substances. It also raised other questions about how facilities could possibly authenticate that a substance is emitted from any of its processes and/or operations, and in what amount.

It is worth noting here that during our involvement with the CARB staff in the development of the proposed amendments to the CTR Regulation, considerable discussion was given to the use of

default emission factors as an acceptable alternative to costly testing methods by some small emitters, in certain circumstances. However, for this method of abbreviated reporting to be acceptable and accurate, considerable work must be done to update these factors. Absent this investment of staff time and stakeholder engagement to update these factors it would be impossible for facilities to report on emissions they could not substantiate.

Another concern that Alliance members have about CARB's proposal to add hundreds more chemical substances to Appendix I without the benefit of testing is that it would have the potential to unnecessarily expose small businesses to even more rapacious litigation than they currently have to endure under Prop 65. Whatever CARB decides on how to treat these additional substances, the regulated community is entitled to clearly understand CARB's methodology and criteria for listing a chemical substance and/or for reassigning a substance from one Appendix to another.

The Alliance would be pleased to work with CARB, the air districts, and other stakeholders to identify ways to prioritize chemical substances and streamline the review of testing and measurement methods, so as to help move these substances quickly and efficiently from one Appendix to another.

Yet another concern that Alliance members have about the proposed amendments to the EICG Regulation is the proposal to organize certain chemical substances into functional groups. Of particular concern is CARB's proposal to establish groupings for chemical substances containing any amount of isocyanate and one for poly-and per-fluorinated chemicals (i.e., PFAS-related).

It is again worth noting here that during our involvement with the CARB staff in the development of the proposed amendments to the CTR Regulation, considerable discussion was given to the subject of listing any isocyanate use in Appendix A-II of that regulation. Below is an excerpt from our letter of March 28, 2019 and our comments pertaining to CARB's proposal:

***“Isocyanate compound use, including but not limited to print shops and commercial printing; aerospace manufacturing and maintenance, adhesive and sealants manufacturing; plastics foam products manufacturing; military facilities; and autobody shops: The activity level for reporting is any use of materials containing over 3 pounds of isocyanates per year. The Alliance feels compelled to remind CARB that commercial printers, autobody shops, and numerous other small business enterprises that apply coatings to substrates use products containing isocyanate compounds. Since these businesses are generally considered as “Job Shops,” the work they perform is done according to their customers' specifications, and the amount of isocyanates used in these jobs varies from customer to customer. While the manufacturers of coatings, inks, adhesives and sealants provide Material Safety Data Sheets (MSDS) with the products they sell, the information on these MSDS sheets is often insufficient (e.g. “less than one percent) to calculate the amount of isocyanates being used. To expect a small business owner to test every can or batch of paint, ink, adhesive and sealant for the exact amount of isocyanate compounds contained inside is as unrealistic as it would be to require them to allocate the amount used in each job in a day, week, or month.*”**

Small businesses of this type simply do not have the time, technical resources, and the level of sophistication to perform these kinds of analyses and still run their businesses. We believe this threshold is another example of collecting emissions data, less for the purpose of protecting public health and more for the purpose of collecting data.”

We respectfully submit that our same objections apply to the proposed grouping of PFAS-related chemical substances largely because they are ubiquitous in the environment, and virtually impossible to distinguish a specific small business as the source of emissions of either of these two chemicals from all other sources. For example, isocyanate emissions can come from fossil fuel combustion sources (i.e., IC engines), wildfires and other fires, tobacco smoke, and natural air transport.

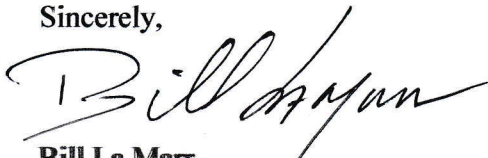
Emissions from PFAS-related chemical substances also come from a wide and diverse universe of sources. PFAS make up a diverse group of chemicals and materials consisting of different categories and classes. That is why we believe that CARB should bear the responsibility for first evaluating and designating which PFAS are known to emanate from certain industry operations before the regulation is amended.

We respectfully submit that by overregulating or banning of PFAS and isocyanate-related substances would eliminate a wide variety of important products that enable many aspects of modern society. Moreover, by prematurely reporting qualitative emission estimates using untested methods will not provide CARB, air districts or the public with meaningful or accurate data. And worse, by doing so, many small businesses could be mistakenly labeled "High Risk" or "Low Risk" thereby adding to the confusion about a process that is already criticized for being difficult to understand and lacking transparency.

To require small businesses to test and report on these chemical substances would place an unnecessary and inordinate financial and administrative burden on them, especially at a time when nearly half of all small businesses are in danger of failing if the economic turmoil caused by the COVID-19 pandemic lasts past Memorial Day, according to a recent survey by the National Federation of Independent Business and appearing in the Los Angeles Times.

Alliance members appreciate the opportunity to submit our comments on the proposed amendments to the EICG regulation. We look forward to continued discussions with CARB, air districts and other stakeholders on this important matter. Should you wish to discuss our comments in more detail, please contact me at billamarr@msn.com or (714) 778-0763.

Sincerely,



Bill La Marr
Executive Director

cc: Richard Corey, Executive Officer/CARB
Gabe Ruiz, CARB
Anne Klein, CARB
David Edwards, Ph.D., CARB
John Swanson, CARB
Tung Le, CAPCOA