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August 12, 2020

Mr. Gabe Ruiz
Manager, Toxic Inventory and Special Projects Section
California Air Resources Board
Submitted Electronically to ab2588ei@arb.ca.gov

Re: Comments on July 29, 2020 Revised Draft Amendments to the AB 2588 Emission Inventory Criteria and Guidelines Regulation

Dear Gabe,

Once again, the California Council for Environmental and Economic Balance (CCEEB) appreciates the opportunity to provide these comments on the proposed amendments to the AB 2588 Emission Inventory Criteria and Guidelines Regulation (EICGR). As we have indicated in the past, CCEEB and its members support the public "right to know" principle, which is at the very heart of the AB 2588 Air Toxics Hot Spots (ATHS) program. We believe it is critical that this important program remain an effective tool for communicating health risks to the public, and not become so complicated that its effectiveness is reduced.

We offer the following comments on the material released on July 29. These comments supplement our May 21, 2020 submission. *Our specific recommendations are shown in italic font.*

- **Addition of substances to Appendix A-I**

  As noted in our May 21 comments, we continue to believe that a substance should only be added to Appendix A-I when emissions from a source can be reliably estimated using an established testing method or other method that results in a high degree of confidence. However, the proposed revisions released by CARB on July 29 add a significant number of additional compounds to Appendix A-I, thus exacerbating the issues we raised in our previous comments. Substances quantified and reported in Appendix A-I should only be used in risk screenings and assessments when they can be quantified and after OEHHA has established reference exposure levels and/or cancer potency risk factors.

  While we support revisions in Section II on page 17 of the July 29 draft that clarify that operators do not need to quantify emissions of a substance if there is no emission quantification method available, *we believe that substances for which this is applicable should be removed from Appendix A-I and placed in Appendices A-II or*

A-III. The title of Appendix A-I is "Substances for Which Emissions Must Be Quantified," and including in this list compounds exempt from quantification requirements unnecessarily confuses an already complicated regulation.

- **Reporting requirements should be limited to routine and predictable emissions**

OEHHA's HRA Guidelines explain that the hot spots program is limited to reporting of "routine and predictable" emissions.

> "the emissions reported under this program [Hot Spots Program] are routine and predictable and include continuous and intermittent releases and predictable process upsets or leaks. Emissions for unpredictable releases (e.g. accidental catastrophic releases) are not reported under this program." [emphasis added][1]

The EICGR should have a legal mechanism to not report, or to report zero, for compounds that are not routinely and predictably released by a facility.

At the very least, *Section II.H should be amended to align with Appendix C*. At present, the only reference in the EICG to Appendix C is in Table I, which reads:

> If you need help identifying some likely substances from your facility's operation, refer to : Appendix C: Facility "Look-Up" Table

The proposed amendments to Appendix C further confuse the issue as to which substances need to be identified. The heading for Appendix C includes the following language:

> NOTHING IN THIS APPENDIX SHALL BE CONSTRUED AS REQUIRING THAT SOURCE TESTING BE CONDUCTED FOR SUBSTANCES SET FORTH IN THIS APPENDIX. FURTHER, IN CASES WHERE A SUBSTANCE SET FORTH HEREIN IS NOT PRESENT AT A PARTICULAR FACILITY, THE FACILITY OPERATOR SHALL NOT ATTEMPT TO QUANTIFY THE EMISSIONS OF SUCH SUBSTANCE, BUT SHALL PROVIDE ADEQUATE DOCUMENTATION TO DEMONSTRATE TO THE DISTRICT THAT THE POSSIBLE PRESENCE OF THE SUBSTANCE AT THE FACILITY HAS BEEN ADDRESSED AND THAT THERE ARE NO EMISSIONS OF THE SUBSTANCE FOR SPECIFIED REASONS.

In contrast, the table headings for Appendices C-I and C-II read:

> ALL FACILITIES ARE RESPONSIBLE FOR IDENTIFYING AND ACCOUNTING FOR ANY LISTED SUBSTANCE USED, MANUFACTURED, FORMULATED, OR RELEASED; THIS APPENDIX IS NOT AN EXHAUSTIVE LIST.

The above language suggests that all of the substances listed in Appendices C-I and C-II must be identified and quantified for each applicable facility within each device category, notwithstanding the language in the heading for Appendix C as a whole. *We suggest that the*

[1] Pp 1-2, OEHHA HRA Guidelines Feb 2015.

[2] See https://www.ourhealthyfuture.org/sites/default/files/pdfs/fs_-_pfas_exposure_routes.pdf.

shorter table heading shown above for Appendices C-I and C-II should be deleted, leaving the longer heading for Appendix C as the guiding principle for both C-I and C-II.

Furthermore, the column heading for Appendix C-II reads "Some Specific Substances (Gaseous, aerosol, and particulate releases including but not limited to)", while this qualifying language ("gaseous, aerosol, and particulate releases") is not present in the column heading for Appendix C-I. This discrepancy implies a distinction between the two appendices that we believe was not intended. *We suggest that this qualifying language either be included in both C-I and C-II, or excluded in both C-I and C-II, to avoid any implication of a distinction between the two.*

- **Pooled source testing to develop/improve emission factors**

In the early years of the AB 2588 program, CARB encouraged and coordinated the use of pooled testing program for various categories of sources to develop a robust and technically defensible set of emission factors in an economical manner. Given both the passage of time and CARB's desire to add substantially more compounds to the program, *CCEEB strongly encourages CARB to again pursue this approach.* This would further support CARB's objectives by helping to speed the development of technically sound emission factors for the new compounds CARB seeks to add to Appendix A.

- **Terminology for exemption and update reporting levels**

In Section II, p. 8 of the EICG, the phrase "High-Level Facility for Update Reporting" (and similar phrases for "Intermediate-Level" and "Low-Level") adds unnecessary confusion to an already confusing (to the public) process, since these terms are defined and used differently than similar phrases used by California air districts in the context of prioritization scores. The inclusion of a footnote in Figure 2 of the EICG does not eliminate the confusion. *CCEEB suggests that CARB identify different terminology applicable to exemption and facility reporting levels – referring, for example, to "Group 1 Facility for Update Reporting", etc.*

- **Use of provisional health values**

CCEEB believes that CARB's proposed use of provisional health values is antithetical to the premise of the AB 2588 program in that it replaces the public's "right to know" with a "right to speculate." CARB should take the time to establish non-provisional health values, and can prioritize establishing non-provisional health values for substances based on reporting under the CTR/EICGR, proximity to sensitive receptors and other relevant scientific information.

We understand CARB has proposed to use provisional health values to perform facility risk prioritization, but not for facility health risk assessments. We <u>agree</u> that provisional health values should <u>not</u> be used for health risk assessments. *However, we <u>strongly believe</u> that provisional health values <u>are not</u> <u>suitable</u> and <u>should not be used</u> to determine facility risk prioritization, and that the EICGR should not include provisional health values*. The purpose of facility risk prioritization is to prioritize HRAs for facilities that are likely to have high HRA results, presumably to inform the public of potential health risks and to reduce these risks as

soon as possible. However, by prioritizing facilities using provisional health values, CARB may end up unintentionally prioritizing facilities with reported health risk substantially lower than facilities that were not prioritized but that actually pose higher risk. This is likely to lead to public confusion which, again, runs contrary to the basic objectives of the AB 2588 program.

- **Implementation Schedule**

In order to address the new listings in Appendix A, new quantification methods may need to be developed in order to enable field testing. That testing may not occur in a timely manner due to strained testing and analytical lab resources. As a result, *CCEEB recommends that facilities have a full reporting cycle to conduct testing for new compounds, with an exception clause to account for delays beyond the facility's control.*

- **Source Testing**

CARB should clarify that non-municipal WWTPs should not be required to be source tested if they do not meet the definition of "open source" (i.e., they do not accept waste streams that can contain and potentially emit any substance in Appendix A-I).

- **PFAS**

The July 29 draft adds to Appendix A-I numerous additional compounds categorized as poly- and per-fluorinated chemicals (i.e., PFAS related). As we noted in our previous comments, the mechanism through which these compounds become airborne and result in public exposures via inhalation is highly uncertain. Multiple studies suggest that as much as 99 percent of total exposure is from food consumption, i.e. oral ingestion.[2] Less clear is the extent of airborne risks to the public, or even what concentrations of PFAS emissions are in the ambient air. Research on PFAS emissions is most often focused on migration and deposition to groundwater and surface water supplies, rather than direct toxic exposure from inhalation of particles (i.e. as an air toxic), and the current state of work to develop methods to measure concentrations is "challenging."[3,4] Use of per- and polyfluoroalkyl substances (PFASs) is ubiquitous in industry. Given the fact that the predominant exposure route is not inhalation, we believe that the AB 2588 program provides an inadequate regulatory platform for addressing the potential health risks associated with exposure to these compounds. *We believe that PFASs should be removed from Appendix A and, as an alternative, we recommend that CARB work with its sister agencies in developing a coordinated approach. We suggest that a task force should be set up under CalEPA including CARB, DTSC and SWRCB to address this issue in a manner that reflects the multimedia nature of the problem.*

[2] See https://www.ourhealthyfuture.org/sites/default/files/pdfs/fs_-_pfas_exposure_routes.pdf.
[3] See http://pubs.awma.org/flip/EM-May-2020/driscoll.pdf.
[4] See https://www.epa.gov/chemical-research/research-and- polyfluoroalkyl-substances-pfas#2

We thank you and the staff at ARB for the opportunity to comment, and we look forward to working with you on the proposed rule amendments. Should you have questions or wish to discuss our comments, please contact me or our Policy Director, Janet Whittick, at janetw@cceeb.org or (415) 512-7890 ext. 111.

Sincerely,

Bill Quinn
President and CEO

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