

August 11, 2020

Mr. Gabe Ruiz
Manager, Toxics Inventory and Special Projects Section
California Air Resources Board
1001 I Street
Sacramento, CA 95814
E-mail: ab2588ei@arb.ca.gov

Subject: AB 2588 EICG Comment Letter

Dear Mr. Ruiz:

This letter from the California Cement Manufacturers Environmental Coalition (CCMEC) is in response to the draft amended AB 2588 Emission Inventory and Criteria Guidelines (EICG) dated July 28, 2020. CCMEC represents all five cement manufacturers in California. CCMEC looks forward to participating in the EICG rule development process and to providing scientific support to ARB on issues pertaining to the Portland Cement manufacturing industry.

General concerns:

The scientific basis for the chemical additions in Appendix A and modifications to other appendices has not been documented in detail, such that outside parties cannot effectively respond to these additions. Hence, the comment period ending August 12, 2020, is not valid from a scientific information or CEQA procedural perspective. Furthermore, given the large number of chemicals being added (several hundred chemicals added at one time versus 2 or 3 at a time, as has been the case for the past 20 years), it would likely take at least 90-120 days to respond to the chemical additions, not 14 days. Even after 120 days, the comments could be incomplete. See below for recommendation to instead spread out the listing process in Appendix C over the next five years. While the Appendix A list has been discussed in previous releases (again without detailed documentation), the Appendix C and D documents were released for the first time on July 28, 2020.

CCMEC is presenting comments in the following areas:

- Appendix C chemical listing process
- Appendix D source testing requirements
- Use of emissions data for newly listed chemicals in prioritization score (PS) and health risk assessment (HRA) calculations

In each of these areas, the rules include chemical listings and other determinations with potentially far-reaching implications on regulated facilities without providing scientific documentation or justification and without explicitly stating ARB policy with respect to these listings, suggesting that there is a possible intent to deceive the reader and dampen opposition to the changes.

Comments on Appendix C, Chemical Listing by Source Category:

The draft EICG document shows that a large number of new chemicals that have been assigned to the “Clay, Glass & Stone Products” (CGS, SIC 32xx) category in Appendix C (with fuel combustion chemicals included, as specified in CGS section), as follows (All numbers of chemicals shown are approximate, especially since lists are difficult to understand):

- 93 new sub-compounds in existing chemical groups such as metals or PAHs (new to Appendix A-1)
- 33 chemicals that are new to Appendix A-1
- 88 chemicals were previously in Appendix A-1 but not assigned to CGS in Appendix C
- Total 214 chemicals added to CGS in Appendix C that require evaluation by ARB and industry (increasing the chemical list from 126 to 340, approximately).

Our concerns are as follows. The chemical listing in Appendix C has no scientific justification and has not gone through technical peer review or industry commenting process. The Appendix C chemical listing process is extremely sudden and rushed, and the speed of adoption is unprecedented. Many of the chemicals listed in Appendix C do not make sense and appear to be random, and there is duplication within both Appendix A-1 and Appendix C, which is confusing.

Based on these concerns we have the following comments.

The listing of chemicals by source type in Appendix C should be a regulatory process with its own public meetings, milestones, and timeline. Given that there are no standards for de-listing and no mechanism available for de-listing the chemical once listed by ARB, the listing in Appendix C has enormous significance for the entire AB 2588 regulatory process.

The Appendix C listing should be a scientific process where chemical listing basis (Appendix A-1) and relevance to the cement industry (Appendix C) is reviewed in detail for each chemical. The technical review should be chemical-specific and involve experts in analytical chemistry and process engineering, as well as toxicology and health impacts. The 2020 rule can still announce the start of the future listing process for Appendix A-1 incorporation into Appendix C lists, but without actually doing that incorporation now, when there is no scientific basis yet for doing so.

The listing of chemicals in Appendix C should be done gradually over time, with no more than 20 chemicals being added at a time, allowing enough time for outside comments. The integration of the new Appendix C chemicals in the AB 2588 regulatory process should be implemented gradually over a period of five years or more (e.g. 20-40 chemicals per year). Given that, in the past, it previously took 1-2 years to add 3-5 chemicals, this proposal of 20-40 chemicals per year is still an extremely accelerated process!

As members of the public as well as the cement industry, we believe that the above due process benefits the public as well as industry, because it prevents a rush to judgment and an excess of unrefined health risk information triggering a public disregard for risk findings.

Comments on Appendix D, Source Testing Requirements

ARB should consider engineering and scientific judgment in determinations of whether a chemical is present, including non-volatility, non-presence in mined/natural materials, physical barriers to chemical release, molecular structure (chemical instability), other chemical theory, and other scientific principles.

Given the technical uncertainties and high expense of source testing (especially for chemicals expected to be present at extremely low levels where they are difficult if not impossible to measure), we recommend that source testing be a last resort for emissions quantification, not the method of first choice “to the extent technologically feasible”, as stated in Appendix D. Additional comments relating to source testing are as follows:

- Where source test methods are not currently available for new chemicals (as specified below), simplified quantification should be accepted for new chemicals for the first two years of the program (2023 and 2024). Note that “new chemicals” for a source type refers to chemicals listed in Appendix C for the first time for that source type (whether or not the chemicals were already listed in Appendix A before).
- Source testing should not be required in the long run (after the initial two-year period as specified in the previous bullet) unless simpler quantification methods are inadequate.
- Where source testing is the only option, source testing should not be required until published source test procedures are available that have undergone scientific peer review.

Also, there needs to be a published policy for use of detection limit values in emissions reporting and HRA, and this policy development should be subject to a public process and based on scientific data and procedures.

Comments on Use of Emissions Data for Newly Listed Chemicals in Prioritization Score (PS) and Health Risk Assessment (HRA) Calculations

ARB should not require prioritization score or HRA calculations using interim toxicity values for newly listed chemicals (and should include this statement in writing in the rule version sent to the Board), just yes/no/maybe whether the chemical is present and the basis for this statement.

CCMEC appreciates the opportunity to comment on ARB’s amended AB 2588 Emission Inventory and Criteria Guidelines (EICG) dated July 28, 2020 and looks forward to working further with ARB to address the cement industry concerns.

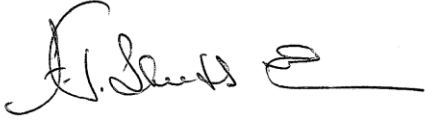
CCMEC

CALIFORNIA CEMENT MANUFACTURERS ENVIRONMENTAL COALITION

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For questions and/or concerns, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Sheets", followed by a horizontal line extending to the right.

Frank T. Sheets
CCMEC Chairman
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