

September 16, 2020

Mr. Gabe Ruiz
Manager, Toxics Inventory & Special Projects
Air Quality Planning and Science Division
California Air Resources Board
Submitted electronically to: ab2588ei@arb.ca.gov

RE: Comments by Small Business on the Proposed Amendments to the AB 2588
Emission Inventory Criteria and Guidelines Regulation (EICG)

Dear Mr. Ruiz:

The California Small Business Alliance (Alliance) is a non-partisan coalition of California trade associations committed to providing small businesses with a single constructive voice to advocate on their behalf before all branches of government, including air quality management districts and other environmental regulatory agencies. The individual businesses belonging to these trade associations, and their workers, are generally found in the working-class neighborhoods where they have resided 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 both accessible and available to all residents.

Alliance members appreciate the opportunity to provide comments on the proposed amendments to the AB 2588 Emission Inventory Criteria Guidelines regulation (EICG) because we are generally supportive of CARB's objectives to reduce exposure to toxic air contaminants from stationary sources, reduce health risk to the public, enhance the public's right-to-know that the quality of the air is the same for everyone, and streamline the EICG Regulation with other reporting programs, such as the Criteria and Toxics Reporting (CTR) Regulation. We hasten to mention that the Alliance was an active participant in the development of the CTR Regulation. As such, we can appreciate CARB's desire to synchronize these two programs to streamline its operations. For these reasons, we believe it is essential for us to explain how some of these proposals would impose additional financial and administrative burdens on small businesses.

Like other commenters, Alliance members support a phased implementation approach for including new chemicals in emissions inventories. However, unlike CARB's proposed approach -- adding 200 substances in Phase 1, beginning in January 2023, and over 700 substances in Phase 2, starting in January 2027, does not allow sufficient time for development of health reference values or integration of additional chemicals into emission inventories. For this and other reasons, it is our strong recommendation that CARB further refine the implementation schedule in a manner that

phases substances into inventories based on realistic estimates of the state's ability to conduct regulatory-grade, peer reviewed health assessments for those chemicals. This approach will prioritize substances for which sufficient information is available and identify data gaps for other chemicals that need to be filled.

As noted in our comment letter of May 22, 2020, during our participation in CARB's April 30th Public Workshop on the Proposed Amendments to the EICG, we observed that roughly 900 of the chemicals proposed to be listed in the draft Appendix A spreadsheet have not been evaluated and approved by the Office of Environmental Health Hazard Assessment (OEHHA), Office of Air Quality Planning and Standards of the Environmental Protection Agency, or any other authorized regulatory entity designated under Health and Safety Code (H&SC) section 44321. As such, we do not understand how CARB can reasonably conclude that these chemicals pose an acute or chronic threat to public health.

It is the position of the Alliance that chemicals that do not satisfy the listing criteria in H&SC section 44321(f) should not be included in Appendix A. Candidate chemicals should be subjected to a rigorous screening and prioritization process to determine if they occur in ambient air or present significant health risks before they are listed.

Whatever misgivings Alliance members had about the urgency by the CARB staff to bring the EICG regulation, and the amendment to the Criteria Pollutant and Toxics Emissions Reporting (CTR) regulation, to the CARB board by November 2020 have been greatly amplified because of the staggering number of additional chemicals for which there is little or no scientific data available and necessary to assess the extent to which these chemicals represent a potential risk to public health from exposure in ambient air. The task of assessing, or measuring, these chemicals will be more daunting because CARB has not provided CAS numbers for these additional chemicals. As such, we believe it is inappropriate, and scientifically indefensible, to make broad conclusions about the potential public health impacts associated with these chemicals.

Another example of the reasons for our discomfort about the way in which CARB is approaching this rulemaking was discovered upon reading the comments submitted by another stakeholder in which they discuss their concerns about the way in which isocyanates are proposed to be grouped and listed.

In their comment letter they argue that: *“different isocyanate substances can have different exposure routes, different metabolic pathways, different target organs, and different health hazards. In addition, the physical/chemical properties of the various isocyanates (i.e. mono-isocyanates, di-isocyanates and poly-isocyanates) are very different.”* Moreover, they argue that: *“some substances with an isocyanate functional group can be generated from sources not directly linked to production, use, or emission of commercial isocyanate substances. For example, non-commercial emissions of isocyanic acid (ICA) and simple mono-isocyanates can include fossil fuel combustion (engines), tobacco smoking, forest fires, and photochemical transformations of volatile*

amine substances. There may be potential scenarios where a regulatory threshold for total isocyanate can be exceeded even if all known commercial emissions of isocyanates are fully controlled or eliminated.”

In one of a number of comment letters that the Alliance submitted to CARB during the CTR regulation rulemaking process, we endeavored to explain that some of our members businesses are classified as “Job Shops,” in that the work they perform can and does vary from a wide variety of manufactured parts and is done in strict accordance with their customers specifications. The quantity of isocyanate substances used in these jobs ALSO 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 vague and insufficient to calculate the amount of isocyanate substances being used. And, to expect a small business owner to test every container or batch of paint, ink, adhesive and sealant for the exact quantity of isocyanates used would be extremely costly, tedious, and of questionable benefit to anyone.

In essence, 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.

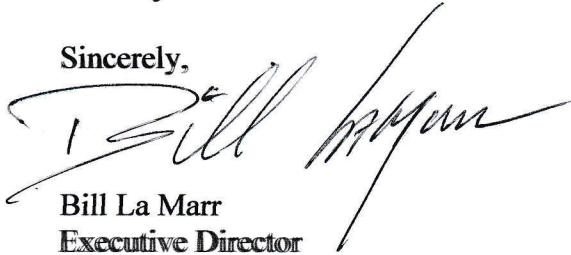
Moving on, Alliance members have a number of misgivings about CARBs proposal to develop provisional health guidance which is intended to be available as technical supporting information and would be posted on its website to help inform the regulated community, regulators, and the general public, as well as to support the later implementation stages of the AB 2588 “Toxic Hot Spots” Program consistent with how OEHHA-approved health risk values are currently documented.

While we find some relief in learning from the July 9th meeting of the CalEPA-CARB Scientific Review Panel on Toxic Air Contaminants that the initial guidance will be non-regulatory in nature, we are nevertheless concerned that the data to be collected from the ~900 additional chemicals is seriously deficient or nonexistent. And, while making it available in some preliminary form – even outside of the regulation – may not put a business in danger of being cited for a violation, it does place them at unnecessary risk of litigation by special interest groups and predatory attorneys.

To reiterate, we appreciate and generally support CARB’s ultimate goals to develop guidance to collect air toxics emissions data and make it available to the public, identify facilities that may have localized impacts, assess the risks to public health, notify nearby residents about significant risks, and reduce these risks to levels that are more health protective. We do not, however, believe that CARB should make any emissions data available for public consumption, nor to imply that the emissions are from a particular business or segment of industry, unless and until the data has been thoroughly and scientifically investigated, evaluated and OEHHA approved.

We look forward to collaborating with CARB, air districts, and other stakeholders, to make the EICG regulation, and the CTR regulation, beneficial to all and improves community air quality without causing economic harm to local businesses. We welcome the opportunity to discuss our comments and provide more specific suggestions should you desire.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill La Marr", written over a white background.

Bill La Marr
Executive Director

cc: Richard Corey, CARB
David Edwards, CARB
Tracy Goss, SCAQMD
Tung Le, CAPCOA
John Swanson, CARB