

COALITION FOR SUSTAINABLE CEMENT MANUFACTURING & ENVIRONMENT
1029 J Street, Suite 300, Sacramento, CA 95814, 916-447-9884

December 9, 2010

Ms. Mary Nichols, Chairman
California Air Resources Board
1001 "I" Street
Sacramento, California 95812

**Subject: Comments on the ARB Draft Revised AB32 Mandatory Reporting Regulations
Missing Data Provisions for Continuous Emission Monitoring Systems**

Dear Ms. Nichols:

The purpose of this letter is to provide comments on the California Air Resources Board (ARB) Draft Revised AB32 mandatory reporting (MR) regulations issued October 28, 2010 (specific sections identified below), which define missing data provisions for facilities reporting using continuous emission monitoring systems (CEMS). We are requesting that ARB review this letter, provide a response, and, if the changes are acceptable, include the specified changes in the final version of the revised AB32 MR rules. Without the changes requested in this letter, there could potentially be severe problems associated with missing data provisions in the revised AB32 MR rules causing over-reporting of GHG emissions and an unwarranted onerous financial burden under the cap & trade program for facilities with CEMS.

Item #1—Request change to indicate that missing data procedures only apply whenever unit combusts fuel:

Section 95129(b) of the draft revised AB32 MR rules requires that the missing data provisions in 40 CFR Part §75.31 to 75.37 be used for units that report under Tier 4 (using CEMS). However, the reference to circumstances when missing data provisions should be applied (namely whenever the unit combusts fuel) is missing, because that statement is found in §75.30 (a). Therefore, we request that §95129(b) be modified as follows:

Missing Data Substitution Procedures for Other Units Equipped with CEMS. The operator of a stationary combustion unit who monitors and reports emissions and heat input data for that unit under section 95115 of this article using Tier 4 of Subpart C (40 CFR §98.33(a)(4)) must follow the applicable missing data substitution procedures in 40 CFR Part §75.30 to 75.37 (revised as of July 1, 2009) whenever the unit combusts any fuel.

Item #2—Request change to provide confirmation from ARB that missing data provisions do not go into effect until reporting in 2013 (for 2012):

The following section 95103(h) allows a deviation from the AB32 MR rules in 2012 (for 2011) under certain circumstances:

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§95103(h) *Reporting in 2012*. For emissions data reports due in 2012, in cases where monitoring equipment and procedures were not in place in 2011 to enable reporting under the full specifications of this article, operators and suppliers must report 2011 emissions using monitoring and calculation methods that are applicable to them from 40 CFR Part 98. Electric power entities must report 2011 electricity transactions (MWh) and emissions (MT of CO₂e) under the full specifications of this article as applicable in 2012.

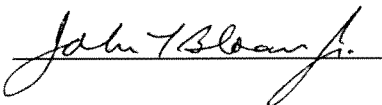
To comply with missing data provisions under 40 CFR Part 75 (a provision which was included for the first time on October 28, 2010 and has not yet received final approval) requires that new data acquisition systems be specified, purchased, installed and started up, which requires six months from the time final rules are set. Therefore, we would like to ask that the following language be added to the end of the above section 95103(h):

“Therefore, missing data provisions under 40 CFR Part 75 as specified in §95129(b) do not go into effect until January 1, 2012, implying that the DAS must be operational and specific data collection and calculations for implementing missing data provisions begin on January 1, 2012. Data collected in 2011 is not subject to 40 CFR Part 75 missing data provisions.”

Item #3—Request clear guidance from ARB that, to the extent that rule changes are made in 2011, the compliance deadlines will be extended accordingly:

It is not possible for companies to make investments in equipment until rules are finalized. Companies face great difficulty in having to retrofit or replace equipment already purchased to comply with initial regulatory drafts. For most equipment, there is at least a six-month lead time for specification, procurement, installation, and start-up of equipment. Therefore, to the extent that technical rule changes are made in 2011, we recommend that these rule changes be completed and the final rules be set no later than June 30, 2011, and that, if this is not possible, the compliance date for the provisions in the revised AB32 MR rule be extended to six months after the date the final rules are set.

Sincerely yours,



John T. Bloom, Jr.
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Vice President & Chief Economist, U.S. Operations, Cemex

CC:

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