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Request for Guidance and Regulatory/Enforcement Discretion in Light of COVID-19 Crisis Response

Dear Ms. Bolen and Bodine:

On behalf of the Portland Cement Association (PCA) and the larger cement manufacturing industry, let me express my sincere appreciation for the work you and your staff are doing to maintain open lines of communication with the regulated community and provide guidance and flexibility that will allow our members to continue providing critical materials and products while protecting human health and the environment.¹ These principles of transparency and flexibility will be more important than ever as the cement industry and other mining sectors grapple with the emerging COVID-19 crisis.

Increasingly, the COVID-19 crisis and necessary government and site-specific response activities are impairing the ability of facility operators to conduct certain routine and periodic tests, training, and reporting activities. The Portland Cement Association (PCA) and its Members are indicating that staff, contractors, and materials they rely on to conduct testing, calibration, quality assurance activities, and lab activities are unavailable due to travel restrictions, quarantine and lockdown requirements, and supply chain disruptions. Other traditional ways of conducting regulatory reviews, public meetings, and inspections may be impacted as well. This will only increase as staff, contractors, and federal officials are directly affected, either through illness or quarantine, and as federal and state officials impose more extensive restrictions. PCA is presenting these concerns to you as your Office develops enforcement guidance to respond to this crisis.

¹ Founded in 1916, PCA is the voice of the U.S. cement manufacturing industry and the widely recognized authority on the technology, economics, and application of cement manufacturing. It represents more than 91% of the U.S. cement manufacturing capacity. PCA members cement manufacturing facilities in 35 states and related cement and concrete operations in all 50 states, servicing every Congressional district.

PCA seeks compliance flexibility and enforcement discretion with respect to the timing, enforcement, and conduct of regulatory compliance activities in the following areas:

- Air
 - Delay or waive stack testing and any QA activities involving continuous emission monitors (CGAs, RATAs) required in 2020 due to inability of contractors to travel and operate within the plant and the unavailability of laboratory staff to conduct analyses
 - Elimination of routine CEM QA procedures where continuous supply of calibration gases cannot be secured (hospitals and medical centers are being given priority for some gases)
 - Use of a certified NIST-traceable thermocouple for APCD inlet temperature monitoring because third-party contractor may not be able to properly calibrate in time for next quarter due to reduced contractor staff (could still use the uncertified t-couple)
 - Delivery by vendors of materials needed for air pollution control equipment (ammonia, dust collector bags, etc.) in conducting required monitoring and control measures due to travel restrictions
- Water
 - Extend or waive NPDES outfall sampling requirements due to external laboratory staff being unavailable to conduct analyses during required sample hold times
 - Extend or waive groundwater sampling ~~deadlines for~~ activities typically done by external consultants at CKD landfills and other areas
- Oil Storage
 - Extend or waive tank integrity testing deadlines due to contractor not able to travel to plant
- Waste
 - Waive or extend requirement to ship offsite within 12 months should plant limit contractors in/out of plant or contractor unable to pick it up due to travel restrictions

Training

- Waive or extend CAA, CWA and RCRA training requirements for retraining staff due to social distancing and limitation of people in single place (in-person meetings being banned by companies in compliance with federal and state guidelines) and impracticability or unavailability of virtual training resources.
- Waive or extend Method 9 Visible Emissions (VE) Evaluator Certifications: these are six-month recertifications and many VE readers may be up for recertification during this period. Due to social distancing, it will be difficult to conduct the recertification but trained operators on site can still conduct the VE testing.

- Waive or extend training requirements for conducting hazardous waste storage for regulated generators if trained staff are unavailable. Documented inspections could still be conducted, just potential that there are not trained staff available.

Reporting

- Waive or extend deadlines for certain reporting requirements. It will be difficult to comply with many reporting requirements during this period of social distancing and travel restrictions. Staff working from home may not be able to access emissions or other environmental data and staff may not be able to travel to the plants to collect and review all hard copy records. Such reporting that plants may not be able to complete and would need flexibility include the following:
 - Semi-annual NESHAP report and Title V operating permit report
 - Criteria and Hazardous Air Pollutant Emissions
 - GHG
 - TRI

PCA appreciates the opportunity to express our members' compliance concerns in these uncertain times and we stand ready to work with you on these and other implementation issues that arise in the coming weeks. If you have any questions regarding these comments, please feel free to contact Louis Baer at 202-719-1981 or lbaer@cement.org.

Sincerely,

Charles L. Franklin
Vice President & Counsel
Government Affairs

CC: EPA Smart Sector Team