



March 13, 2014

Omya Inc.
P.O. Box 10
Whipple Hollow Road
Florence, VT 05744

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT,
HOUSING AND GENERAL AFFAIRS**

Tel 802-770-7500
Fax 802-483-2105

www.omyainvermont.net

Re: Supplement to Omya's March 12, 2014 Testimony on S.239

At the request of the Committee, Omya reviewed the basis of the State of Maine's inclusion of "crystalline silica" on its "Chemicals of Concern" list, and the basis of the State of California's inclusion of "crystalline silica" on its "Initial Candidate Chemicals" list.

As shown in the screen shot immediately below, crystalline silica's 2011 listing in Maine was parenthetically qualified as being only for "inhaled in the form of quartz or cristobalite from occupational sources". [Note that per Omya's previous testimony, the most common polymorph (form) of crystalline silica is quartz, which occurs as ordinary sand and as an impurity in Omya's marble and other economic minerals mined in Vermont. Cristobalite and the other crystalline silica polymorphs are relatively scarce in nature and generally not found in minerals mined in Vermont.]

(from: http://www.maine.gov/dep/safechem/concern/documents/ChemicalsofConcernList12_2011.pdf)

Published by Maine DEP
December 30, 2011

CAS	Chemical of Concern Name	TYPE OF TOXICITY					End Dis
		(Persistent Bioaccumulative and Toxic) PBT	(Very Persistent and Very Bioaccumulative) vPvB	(Persistent, Bioaccumulative and inherently Toxic) PBiT	(Carcinogenic, Mutagenic and Reproductive (Toxicants)) CMR	Carcinogen	
14295-43-3	Benzo[b]thiophen-3(2H)-one, 4,7-dichloro-2-(4,7-dichloro-3-oxobenzo[b]thien-2(3H)-ylidene)-			Canada PBiT List			
14808-60-7	Silica, crystalline (inhaled in the form of quartz or cristobalite from occupational sources)					IARC	

Omya's understands that California's "Safer Consumer Products Act" is still quite new and not far along in the implementation process. Omya's further understands that California has so far published only its "Initial Candidate Chemicals List", which eventually will be pared down to a lesser number of "Candidate Chemicals" linked to a "Priority Products List". As shown in the screen shot below, crystalline silica is on the Initial Candidate Chemicals List but is parenthetically qualified as being only for "(Respirable Size)".

(from: <http://www.mofo.com/files/Uploads/Images/130826-Informational-Initial-Candidate-Chemicals-List.pdf>)

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
"INITIAL" CANDIDATE CHEMICALS LIST- SEPTEMBER 26, 2013

CAS RN	Candidate Chemical and/or Group Name	Has group members	Hazard Trait	Authoritative List Name	Initial List
14464-46-1	Silica, Crystalline (Respirable Size)		Carcinogenicity; Respiratory Tox	NTP 12th RoC - known; OEHHA RELS; Prop 65	Yes

The parenthetical qualifiers associated with the Maine and California crystalline silica listings were taken directly from the International Agency for Research on Cancer (IARC) document that first declared crystalline silica to be a human lung carcinogen. The qualifiers used by both States deliberately reflect the specific conditions noted by IARC, and later by the U.S. National Toxicology Program (NTP), so that the wording of the listings would be consistent with the findings of those agencies. Two key findings were that carcinogenicity was seen only from the inhalation route of exposure, and only from respirable-size particles which were defined as being less than 10 micrometers in size (again, roughly 1/10th the diameter of the average human hair).

Even if Vermont were to include qualifiers like Maine's and California's in an eventual listing of crystalline silica as a Vermont Chemical of High Concern, it would be of no practical effect because S.239 as written makes no allowance for the consumer product exposure assessment that would be necessary to consider such qualifiers.

Therefore, as requested by the Committee, Omya respectfully suggests that the most practical consideration for crystalline silica would be the revision of Section 1772 as follows to add the underlined wording:

§ 1772. DEFINITIONS

As used in this chapter:

(1) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism. "Chemical" shall not mean crystalline silica in any form, as or derived from ordinary sand or as present as a naturally occurring component of any other mineral raw material including granite, gravel, limestone, marble, slate, soapstone, and talc.

Omya appreciates the opportunity to present testimony to the Committee, and hopes that the insight and information provided proves helpful in the Committee's consideration of S.239.