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Ms. Krysia Von Burg
Safer Consumer Product Alternatives Regulation Coordinator
Regulations Section
Department of Toxic Substances Control
P.O. Box 804
Sacramento, CA 95812-0806

Re: Comments on Safer Consumer Products. Reference Number: R-2011-02

Dear Ms. Von Burg:

The California Industrial Hygiene Council (CIHC) is very pleased with the Department of Toxic Substance's efforts to incorporate stakeholder inputs in this latest version of the Safer Consumer Products Regulation.

Founded in 1990, the CIHC represents the occupational and environmental health profession in California and is affiliated with the American Industrial Hygiene Association (AIHA), an 11,000 member national organization, as well as the International Occupational Hygiene Association (IOHA), which represents the global community of Occupational Hygiene organizations in over 34 countries.

We do, however, respectfully submit the following comments regarding the latest version of the Safer Consumer Products, Chapter 55 of Division 4.5, Title 22, California Code of Regulations to recognize the regulation's improvements, as well as outstanding areas of concern, which ensure that its actual implementation is achievable and adds value to California's overarching efforts to manage risk properly .

Recognized Improvements:

The CIHC is encouraged by the following improvements:

Elimination of Certified Assessor- CIHC supports the removal of the "certified assessor" requirement and supports the quality assurance mechanism and public review process.

Candidate Chemical- CIHC supports the change in terminology to "candidate chemical" unless the chemical becomes listed in a "priority product" and designated as a "chemical of concern" with respect to the specific product. The move towards a more focused set of "chemical candidates" is favorable since it incorporates both hazard trait **and** exposure when identifying human health and environmental safety concerns.

Priority Product "Phase-In"- CIHC supports the focused start-up with the decision to select a maximum of five priority products to start the program. An initial beta-test phase for implementation will help resolve data management and administrative issues, while optimizing resources and ensuring that the regulation accomplishes its desired objectives.

Outstanding Concerns:

This newest version still does not address our most central comments (as outlined in previous submittals) and echoed in the scientific peer review process. The CIHC restates the need to focus the regulation on consumer product substances that pose "true risks" for human health and the environment (based on hazard, exposure, and probability of harm) as opposed to substances identified on the basis of "hazard traits" alone.

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Key areas that pose a challenge for the successful adoption of the regulation include the following:

Product Prioritization (PP) Process:
While the CIHC supports the phase-in approach for PP, it is not clear how the DTSC will select the first set of products to "beta-test" the regulation. It is critical for the agency to be transparent in detailing the selection criteria and rational to support the decision making process for the initial product prioritization.

Availability of Data:
The regulatory process is contingent on having quality data that is reliable, reproducible, and publically available. The data required to demonstrate functional and technical equivalence is unlikely to be readily available for comparisons, thus making the alternative assessment process problematic. It is unclear how the data gap issue will be addressed.

Alternative Assessment (AA) Methodology:
The Alternative Assessment (AA) process is unlikely to yield results that evidence clear benefits across the spectrum of environmental and human health end points. The AA process will likely involve weighing additional competitive functional and commercial parameters which rely on factors such as performance, availability, and cost, among others. A transparent decision making process should be outlined that combines the use of scientific data and value judgments needed for the comparative assessment processes.

Alternatives Assessment (AA) Timeframe:
The timeframe for the AA process is unreasonable, particularly given how resource intensive it is. The AA process encompasses the following: 1) consolidate the inventory across the supply chain, 2) conduct the impact assessment, 3) analyze and validate the results, and 4) innovate and manufacture a new alternative product. The proposed timeframes and resources for the AA process reflect an implementation naivety that will prove very challenging and costly for manufacturers to meet.

Practical Quantitation Limit:
The CIHC is concerned about the Agency's change in the proposed regulation which would set the threshold for an Alternatives Assessment exemption using the Practical Quantitation Limit (PQL) of the priority product's specified chemical of concern, as opposed to defining a specific *de minimis* concentration for the substance. This would mean that any detectable level of chemical, even at the parts per trillion level, could trigger the need for an AA. This approach ignores the "threshold" concept of toxicity concern, and completely eliminates the concept of *de minimis* concentration as a threshold concept. It replaces the appropriate science of toxicology and dose-response with the technological ability and sensitivity of analytical instrumentation. This is critical!

It is the sincere hope of the CIHC that we can continue to assist in helping craft a process that is transparent and effective in endorsing products that mitigate adverse environmental and human health exposures to both workers and the general public alike.

Should you wish to discuss our comments further, please contact us.

Respectfully Submitted,

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