



RUBBER
manufacturers
association

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November 16, 2015

Ms. Barbara Lee
Director
Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95814
(via CalSafer Web Portal)

Re: Draft Stage 1 Alternatives Analysis Guide

RMA is the national trade association representing major tire manufacturers that produce tires in the United States, including Bridgestone Americas, Inc., Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli Tire North America; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation. We support a science-based approach to alternative analysis (AA).

When identifying alternatives in Stage 1, RMA recommends that the AA guide provide flexible options for ensuring an AA Stage 1 report is complete. We also recommend that the performance of alternatives should be a pass/fail criteria in Stage 1 of the AA. Last, the Guide should provide additional guidance as to how completing an abridged AA will work.

I. RMA recommends that the Guide should provide a list of flexible options to ensure that an AA Stage 1 report is complete.

The Safer Consumer Products Regulation (SCPR), first stage AA, includes six steps: (1) identify the product requirements and function(s) of the Chemicals(s) of Concern; (2) identify alternatives; (3) identify factors relevant for comparison of alternatives; (4) initial evaluation and screening of alternative replacement chemicals; (5) consideration of additional information; (6) preliminary AA report preparation. CAL. CODE REGS. tit. 22, § 69505.6. The SCPR includes additional information to be considered for each of the six steps in the first stage AA, however it does not specify certain criteria that must be included in a Stage 1 AA report. The AA Guide also outlines criteria to be considered in completing each of the six steps in the first stage AA, however the guide does not specify which specific criteria must be considered. The purpose of the Stage 1 AA Guide “is to provide useful approaches, methods, resources, tools, and examples to help responsible entities fulfill the regulatory requirements in the AA.” Draft Stage 1 Alternatives Analysis Guide, Page 8 of 106.

In order to help responsible entities fulfill the regulatory requirements in the Stage 1 AA, RMA recommends that DTSC specify which criteria must be considered for each of the six steps in the first stage AA. RMA appreciates the flexibility that DTSC provides in the Stage 1 AA

guidance and the various tools DTSC includes for developing a Stage 1 AA. However, responsible entities need certainty that the factors they consider in a Stage 1 AA report will ensure they have completed the requirements of the Stage 1 AA report. We recommend that DTSC provide a minimum list of requirements that a Stage 1 AA report must include.

II. RMA recommends that the performance of Alternative Chemicals should be a pass/fail criteria in Stage 1 of the AA.

Step 2 in the Stage 1 AA requires responsible entities to identify potential alternative chemicals to the chemical of concern. Alternative chemicals that cannot provide the same safety and performance characteristics as the chemical of concern in the priority product should not be required to be further considered during a Stage 1 AA.

For example, tires are highly engineered products that must meet Federal Motor Vehicle Safety Standards (FMVSS) established by the National Highway Traffic Safety Administration (NHTSA). NHTSA requires that all tire manufacturers self-certify that tires sold in the U.S. meet FMVSS. Many of the chemical ingredients in tires are present because they impart critical functions to meet NHTSA FMVSS and the composition of tires cannot be modified without substantial research and testing. Changes in tire composition could affect critical attributes such as stopping distance, tire wear, tire fuel efficiency and other safety-related features. Any change in the composition of tires typically requires feasibility studies and lengthy, multiple tests to ensure that the tires continue to meet FMVSS. Consideration of other State and Federal safety regulations such as the FMVSS established by NHTSA should be included when determining the availability of functionally equivalent alternatives. Alternative chemicals that would not enable a product to meet State or Federal performance or safety regulations, at the same level as maintaining the chemical of concern in the product, should not be considered.

Additionally, tire manufacturers design tires with additional features built into the tire, beyond these federal requirements. For example, specific customers may also specify certain performance targets in original equipment tires. If tire manufacturers are no longer able to meet customer requirements because an alternative chemical does not enable the tire to meet performance characteristics, tire manufacturers may be in breach of contract with their customers. Therefore, functionally equivalent, alternative chemicals must meet the same performance characteristics that a chemical of concern provides in a priority product, and should not merely enable the manufacturer to continue to meet State or Federal safety standards. RMA recommends that meeting Federal and State safety regulations or customer requirements must be of primary importance in evaluating the availability of functionally equivalent alternatives in step 2 of the Stage 1 AA. Alternatives that do not provide the same performance characteristics, or do not enable a tire to meet federal safety regulations or customer performance requirements should not require further evaluation under the Stage 1 AA.

III. The Stage 1 AA should include additional guidance as to how the abridged AA will work.

The Stage 1 AA Guide discusses options for other compliance options that differ from the standard two-stage AA process. These other compliance options include submitting an

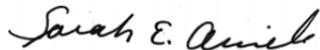
Abridged AA. The SCPR specifies that after completing the first five steps of the first stage AA, a responsible entity may submit an abridged AA if they determine that “a functionally acceptable and technically feasible alternative is not available.” Draft Stage 1 Alternatives Analysis Guide, Page 19 of 106.

The Stage 1 AA Guide states that the abridged AA report contains the analysis findings for the first stage and portions of the second stage of the AA process. Additionally, it specifies that an abridged AA must “identify milestones and dates for implementing proposed regulatory responses to limit or reduce potential adverse impacts associated with the Priority Product until the responsible entity researches and develops a safer alternative.” *Id.* The SCPR does not specify that a responsible entity must incorporate portions of the second stage of the AA into the abridged AA. If there are no acceptable functional and technically feasible alternatives, responsible entities should not be required to complete sections of the second stage of the AA. RMA recommends that DTSC clarify how the abridged AA process will work in the Stage 1 Guide.

I. Conclusion

RMA again thanks DTSC for this opportunity to comment on Stage 1 AA Guide. Please contact me at (202) 682-4836 if you have questions or require additional information.

Respectfully Submitted,



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Rubber Manufacturers Association