



The Dow Chemical Company
200 Larkin
1605 Joseph Drive
Midland, MI 48674
U.S.A.

June 6, 2017

Transmitted Electronically via CalSAFER at: <https://calsafer.dtsc.ca.gov/>

Barbara A. Lee
Director
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Re: Listing Spray Polyurethane Foam Systems with Unreacted Methylene Diphenyl Diisocyanates as a Priority Product (R-2016-04)

Dear Ms. Lee:

On March 22, 2017, the California Environmental Protection Agency's Department of Toxic Substances Control (DTSC) issued its proposed *Listing Spray Polyurethane Foam Systems with Unreacted Methylene Diphenyl Diisocyanates as a Priority Product* rulemaking under the Safer Consumer Products (SCP) program. The Dow Chemical Company (hereinafter "Dow") appreciates the opportunity to submit comments to DTSC in response to the proposed listing.

Dow opposes the proposed listing because we believe it is unwarranted and misdirected. The proposal is based on inaccurate characterizations of the spray foam products, as well as a misunderstanding of the safety practices and trends associated with their use. Moreover, DTSC has not met some of the necessary requirements for listing spray polyurethane systems with unreacted MDI under the SCP program (that their priority product listing protocol/process entails).

Dow Building Solutions (DBS), a business unit of The Dow Chemical Company, provides innovative building science solutions that help improve building energy efficiency in the state of California. Our spray polyurethane foam (SPF) insulation materials sold in the state -- 2 component low pressure FROTH-PAK™ Insulation and Sealant kits and refills, and high pressure



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STYROFOAM™ Spray Polyurethane drum Foam (SPF) -- are critical products for meeting the state's energy efficiency goals for buildings.

Designed for professional use, our SPF two-component, chemically cured polyurethane foams function, and can be purchased, as either an air sealant or a Class A fire-rated insulation. Both the sealant and the insulation products quickly expand to fill cavities, penetrations, and gaps greater than two inches. Air infiltration accounts for 25%–40% of a building's energy loss (www.EnergyStar.gov). Air sealing and insulating with FROTH-PAK™ Sealant & Insulation or STYROFOAM™ SPF helps deliver on the following key benefits:

- **Energy Efficiency** — Our SPF systems limit drafts and heat loss, decreases load on HVAC system, & helps the building use less energy, resulting in lower utility bills and minimizing carbon footprint;
- **Health** — Our SPF helps improve indoor air quality as the result of fewer entry points for dust, dirt, allergens and pests;
- **Comfort** — Building occupants enjoy more consistent temperatures and fewer drafts while dampening outside noise;
- **Durability** — Our SPF systems reduce air and moisture infiltration, helping to prevent rot, decay and other issues that are potentially harmful to structural integrity.

Dow previously commented to the DTSC on this proposed listing in May 2015 and has engaged in many conversations with the DTSC, including oral testimony made during the May 16, 2017 public comment session. These communications and oral testimony have covered several topics including:

- The California Department of Toxic Substances Control (DTSC) has failed to demonstrate that SPF products present the potential for widespread or significant adverse impacts as required by its own regulations. DTSC's peer reviewer B. Nemery, MD PhD appears to agree. This chemical/product combination is well-studied and is already subject to robust regulatory controls and stewardship programs.
- The proposal is muddled by the multiple systems available on the market and the unique characteristics of each system; they should be evaluated individually as required under SCP. If evaluated individually, Dow feels analysis would show these products to be safe for use.
- SPF products are highly researched and well understood. For example, Volatile Organic Compound (VOC) testing of cured Dow SPF insulation foams are conducted to verify conformity with the California Department of Public Health VOC as requested.
- Building Code Report AC377, which Dow maintains on its SPF Insulation products, requires user training to be provided by Dow or the Spray Polyurethane Foam Alliance (SPFA) to ensure installation is done by a professional contractor who is certified,



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- accredited or authorized by Dow or SPFA. This training serves to enhance safe product handling by the professional in addition to basic product use.
- As a part of its commitment to Responsible Care® and implementation of the Responsible Care Product Safety Code, Dow has a robust product stewardship program that includes providing clear labeling, safe handling documents, and training. When used as instructed, these products are safe for use and don't need to be regulated under SCP.
 - Widely available industry information and training for safe use are regularly accessed as shown by industry data. This along with other industry efforts allow these products to be used safely.

It is Dow's belief that existing regulations, product stewardship and training effectively promote the safe use and handling of SPF products. It is further Dow's belief that regulating SPF under the Safer Consumer Products regulations would not offer any meaningful increase in product safety, and elimination of SPF from the California market place would be detrimental to the carbon footprint of the state.

Additionally, Dow supports the detailed comments being provided to DTSC by The American Chemistry Council Diisocyanates Panel, and the Center for the Polyurethanes Industry's Spray Foam Coalition (referred to as ACC) with regard to this proposed listing and previous comments made by them. Dow agrees that many facets of this proposed listing have not been appropriately or fully considered. As noted by ACC, challenges with the proposed listing include: inclusion of products that are not consumer in nature and/or fall under other regulatory oversight, grouping of many different products into one listing, misrepresentation of health and environmental data, omission of the full benefits of SPF to California, lack of acknowledgement of the existing significant product stewardship and training in the industry, and lack of complete economic analysis. Further details are provide in the June 2017 ACC comments.

At Dow, we are committed to applying science expertise to create sustainable solutions to some of the world's greatest challenges. This includes a commitment to the Product Safety Code of Responsible Care® which drives us to make health, safety and environmental protection an integral part of designing, manufacturing, marketing, distribution, using, recycling and disposing of our products. We believe spray polyurethane insulation and sealing foams are critical tools for improving our global climate, and meeting California's building energy efficiency goals, through reduction of energy use.



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If you have any further questions, please contact our North American Product Stewardship team for Dow Building Solutions.

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Sincerely,

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cc: Meredith Williams, Deputy Director, Safer Products and Workplaces Program
Karl Palmer, Chief, Safer Products and Workplaces Program