

November 16, 2015

Meredith Williams
Deputy Director
Science, Pollution Prevention, and Technology Program
Department of Toxic Substances Control
1001 I Street
Sacramento, CA 95814-2828

Dear Deputy Director Williams,

We submit these comments on the DTSC Draft Stage 1 Alternatives Analysis on behalf of Californians for a Healthy and Green Economy (CHANGE). CHANGE is a statewide coalition of environmental and environmental justice groups, health organizations, labor advocates, community-based groups, parent organizations, and others who are concerned with the impacts of toxic chemicals on human health and the environment. Because this draft only includes the first five of eleven proposed chapters and there are cross-references among the chapters, we may provide further comment on this section once Stage 2 is available for public comment.

We commend DTSC for a well written and clear document, with numerous examples and graphics to illustrate directions or recommendations. The life cycle analysis concept is presented particularly well, with excellent examples and summaries of documents prepared by such entities as Green Screen, Chesham, and the Toxics Use Reduction Institute. While we appreciate the hard work and care that went into the development of the Guidance, we offer the following specific comments and suggestions:

- CHANGE strongly supports the frequent mention of workers and occupational exposure, in addition to overall public health impacts. We particularly applaud the inclusion of an example comparing floor refinishing products, where the primary exposure would be occupational. However, we would like to see an explicit notation that occupational health is a discrete part of public health.
- We continue to be concerned with the stipulation that “an abridged report may apply if the responsible entity cannot identify an available, functionally acceptable, and technically feasible alternative during the first stage AA.” (Page 19). It is unclear what mechanisms are in place to ensure that any such claims are the result of a good faith effort to identify alternative chemicals or product redesigns. While the public comment on AAs will provide some oversight, the Department cannot rely on it alone to hold responsible entities accountable. DTSC should both retain, and clarify in the guidance its oversight role by being explicit about how it will ensure claims are valid. In addition, we recommend that the guidance specify that responsible entities must document which resources they consulted (as listed on page 29) in their application.
- While we understand that DTSC can make a variety of regulatory decisions if a responsible entity cannot identify a viable alternative, we remind the Department that part of the purpose of this process is to drive innovation of new safer chemical alternatives and product designs. Consequently, we urge the Department to make it explicit when describing when an abridged AA is acceptable (page 19) that a current absence of alternatives does not mean that the product can be sold in the state indefinitely and that a regulatory response may include limitations on product sales, a timeline for the development of an alternative, or other such mitigating factor.
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Asian and Pacific Islander Obesity Prevention Alliance * Bayview Hunters Point Community Advocates * Black Women for Wellness * Breast Cancer Action * Breast Cancer Fund * California Healthy Nail Salon Collaborative * California Latinas for Reproductive Justice * California Pan-Ethnic Health Network * Californians Against Waste * Californians for Pesticide Reform * Center for Environmental Health * Center for Race, Poverty and Environment * Clean Water Action * Coalition for Clean Air * Commonwealth * Communication Workers of America- District 9* Communities for a Better Environment * East Yard Communities for Environmental Justice * Environment California * Environmental Working Group * Forward Together (formerly Asian Communities for Reproductive Justice) * Green Schools Initiative * Green Science Policy Institute * Healthy 880 Communities * Healthy Child, Healthy World * Healthy Children Organizing Project* Instituto de Educación Popular del Sur de California * Just Transition Alliance * Making Our Milk Safe (MOMS) * Movement Strategy Center * Pesticide Action Network North America * Physicians for Social Responsibility – Los Angeles * Science and Environmental Health Network * Silicon Valley Toxics Coalition * United Steel Workers – Local 675 * Worksafe

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- Page 29 states “since a principal goal of the SCP regulations is to remove a Chemical of Concern that is not needed for the product function or performance, any alternative that may accomplish this goal is a viable option. If a manufacturer removes the Chemical of Concern entirely, or substitutes a chemical that is not defined in the SCP regulations as a Candidate Chemical, the manufacturer may be exempt from the AA requirement, or subject only to limited notification requirements.” It is unclear if the second sentence only applies to chemicals not needed for the product function or performance. CHANGE’s concern is that this unclear wording could lead to regrettable substitutions if a substitute that is chemically similar to the original is not listed as a COC because it is a recent reformulation or because there is little or no data on the substitute. What other criteria would be incorporated into an AA that will allow us to avoid this problem?
- While the Chapter 3 on Relevant Factors (starting on page 32) and the Guidance appendices are comprehensive, there remains a debate on what factors are most important or should be prioritized given the differences between chemicals, products, and their uses. CHANGE advocates that all relevant factors discussed in the Guidance must be considered, we recognize that alternatives may not be 100 percent benign and decisions will need to be made about what is and is not acceptable. We would recommend that DTSC stipulates the relevant factors that drove its choices for chemical/product combinations that must undergo an AA.
- Page 43 states that “the responsible entity may also use industrial data, engineering expertise, and other professional judgment to estimate exposure pathways. For example, process engineers may have enough expertise to determine potential releases in the work place by examining manufacturing and processing operations, such as vapors from processing equipment, that could result in worker exposure and releases to the environment.” As written, this statement indicates a misunderstanding of the relevant disciplines. For instance, process engineers can only describe ideal, theoretical situations, when equipment is properly maintained. However, as demonstrated by numerous catastrophic releases at refineries and chemical plants, deferred maintenance is now widespread. In this case, air monitoring conducted by those with industrial hygiene expertise would be more appropriate in order to capture real and likely exposure levels. Hence, we recommend that DTSC accept actual data from industrial hygiene experts, rather than theoretical models developed by engineers or other professional judgment.
- CHANGE appreciates DTSC’s awareness of environmental exposure pathways in its discussion of a theoretical model (page 45). However, the illustration implies only human exposure via water and related food chain uptake. We wonder why there isn’t an arrow on that page showing dust/airborne exposure to humans. While the assumption that dust either goes into waste water or storm drains may reflect a desire for simplicity or reflects a previous determination of relevant factors, we want the document to send a clear message that an AA must examine the entire world of pathways. An example would be flame retardants or janitorial cleaning products that could be ultimately inhaled by office workers after the product is used.
- CHANGE applauds the recognition of vulnerable populations with special sensitivity in the summary on page 48. We are curious to know how the guidance will address situations where there is no or little information on vulnerable populations and impacts on them (workers, children, fence-line communities, pregnant women, etc.) and look forward to reviewing Chapter 9 when it is drafted.
- While there is some information on key resources available from the occupational health agencies throughout the text, in the resource list on page 63, and in the appendices starting on page 74, the list is incomplete. We urge DTSC to consider adding specific resources from MIOSH, including their criteria documents on specific chemicals, their surveys of use information, and other technical documents listed on their website. Similarly, we recommend adding resources developed by the Occupational Health Branch in the California Department of Public Health, particularly the HESIS program. The latter has a specific mandate to maintain a repository for the

state on the health hazards of workplace chemicals. HESIS also has unique access to the workplace and the ability to request the names of downstream users of chemicals in certain situations. They also maintain a “Chemical Watch List” to identify emerging chemical hazards and often issue detailed hazard alerts years before NIOSH or other government agencies do.

While the comments above are solely related to the Stage 1 Guidance, CHANGE would like to comment on an issue that came up during the Green Ribbon Science Panel discussion on November 12, 2015 in anticipation of Stage 2. We do not believe it is the job of DTSC to protect or be concerned with the marketing or sales of products of responsible entities. Rather, DTSC’s responsibility is to regulate the use of toxic chemicals in products. Companies are masters of innovation and have a long history of meeting both consumer demand and regulations. They will do economic analyses that will drive their final decision on use of an alternative. While it may be true that a preferable alternative is not economically viable and may be part of the justification a company makes not to choose it, consumer response is a function of sales and market creation, not product safety.

We would also remind DTSC that while consumers do recognize the features and efficacy of a product; they do not know, despite corporate claims to the contrary about the chemicals in use or the impacts to human and environmental health which can influence their decisions. This is particularly true of the aesthetic expectations of a product – such as what constitutes a clean smell or product consistency -- which are the creation of industry itself and part of common marketing practices. These expectations or preferences should not be perpetuated if a danger to health and the environment is involved. Furthermore, the recommendation of one panel member that the Guidance recommends consumer studies (about product preference) is inappropriate. Such studies are not scientific studies; they are marketing studies and are the sole responsibility of a responsible entity’s marketing team as they seek to effectively present the attributes of their products.

Again, we commend DTSC for an overall clear and well thought out document that is accessible to both industry and the public. We appreciate the opportunity to provide these comments and look forward to doing so when Stage 2 of the Guidance is available for public review.

Sincerely,



Andria Ventura
On Behalf of CHANGE