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August 29, 2016

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

**RE: Proposal to List Children’s Foam-Padded Sleeping Products
Containing TDCPP or TCEP as a Priority Product**

Dear Director Lee:

The Consumer Specialty Products Association (CSPA)¹ appreciates the opportunity to provide comments on the proposal to list children’s foam-padded sleeping products containing TDCPP or TCEP as a priority product under the Safer Consumer Products Regulation. CSPA and our member companies have participated throughout the years-long regulatory development process through submission of written comments and participation in public hearings and workshops/seminars.

CSPA members are committed to manufacturing and marketing safe products that are protective of human health and the environment while providing essential benefits to consumers. As stated in previous submissions regarding the Safer Consumer Products Regulation, CSPA and our members support the broad goals of the Green Chemistry Initiative and will continue to work with the Department and other stakeholders in the state to help spur innovation and continue to ensure that products are safe.

CSPA offers the following comments on the proposal to list children’s foam-padded sleeping products containing TDCPP or TCEP as a priority product:

We appreciate that a primary goal of DTSC’s Safer Consumer Products program is “to reduce people’s exposure to toxic chemicals in consumer products.” First, we note that manufacturers have taken action to remove TDCPP and TCEP in children’s foam sleeping mats prior to the promulgation of this proposed regulation. Our comments are focused on the regulatory process as it relates to future priority products listings.

¹ The Consumer Specialty Products Association (CSPA) is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$80 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. CSPA member companies employ hundreds of thousands of people globally. Products CSPA represents include disinfectants that kill germs in homes, hospitals and restaurants; candles, and fragrances and air fresheners that eliminate odors; pest management products for home, garden and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day. Through its product stewardship program, Product Care[®], and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety and sustainability of their products.

CSPA has reviewed and commented on the first of two documents which DTSC will develop as part of its effort to provide guidance to responsible entities which will or might be required to conduct an alternative assessment (AA) on a Priority Product. CSPA again notes that the guidance document is robust on the factors to be considered but lacking clarity regarding its most basic processes for evaluating decisions made by a responsible entity. With regard to this proposed priority product listing, we are concerned that the AA process which will be required by this listing was not evaluated. Further, the second of the two AA guidance documents has not been released for public review and comment complicating the ability of stakeholders to fully understand the regulatory implications of the listing.

CSPA notes that Heather Stapleton, one of the peer reviewers of the Summary of Technical Information, is highly qualified as her research is referenced numerous times in the Technical Report. CSPA is concerned there may be a conflict of interest as three of her articles form a significant basis of report.² For future rulemakings, CSPA suggests additional consideration of perceived conflicts of interest of peer reviewers.

In the Notice of Proposed Action (NOPA), DTSC is anticipating a wide-range of potential benefits without any meaningful manner of measuring the benefits.

“The principle benefit of this proposed regulation is decreased exposure to TDCPP or TCEP in children’s foam-padded sleeping products to children, families, and childcare providers. Removing TDCPP and TCEP from children’s foam-padded sleeping products will lead to decreased concentrations of these chemicals in homes, day care centers, and schools. By reducing the potential for exposure to these flame retardants, particularly to children and employees of day care centers and schools, the potential for adverse health effects such as cancer, reproductive toxicity, developmental toxicity, and neurotoxicity will also be reduced. Because people are exposed to chemical flame retardants through the use of other common household products, including furniture and consumer electronics, DTSC is unable to quantify the potential health benefits that would accrue to children, families, and employees as a result of this regulation.”

CSPA notes economic impact highlighted on page 5 of the NOPA and suggests that this section would be much more coherent if a reference to the Economic Analysis were noted to substantiate many of the claims and recommends DTSC make significant effort to corroborate the economic effect of future rulemakings.

“Flame retardant-free foam is widely available, costs less, and has the same functional use as foam made with flame retardants. Additionally, there are no legal requirements for manufacturers to include chemical flame retardants in children’s foam-padded sleeping products covered by the proposed regulation. Due to availability and potential cost savings, DTSC anticipates that manufacturers will choose to use flame retardant-free foam in their products rather than completing an AA. Therefore, there will also likely be some cost savings, as well as potential profit increases, for children’s product manufacturers who opt to manufacture their foam-padded sleeping products using flame retardant-free foam.”

² Stapleton HM, Klosterhaus S, Eagle S, et al. (2009) Detection of organophosphate flame retardants in furniture foam and U.S. house dust. *Environmental Science & Technology* 43(19):7490-5.
Stapleton HM, Klosterhaus S, Keller A, et al. (2011) Identification of flame retardants in polyurethane foam collected from baby products. *Environmental Science & Technology* 45(12):5323-31 doi:10.1021/es2007462.
Stapleton HM, Misenheimer J, Hoffman K, Webster TF (2014) Flame retardant associations between children's handwipes and house dust. *Chemosphere* doi:10.1016/j.chemosphere.2013.12.100.

Ms. Barbara Lee
August 29, 2016
Page 3

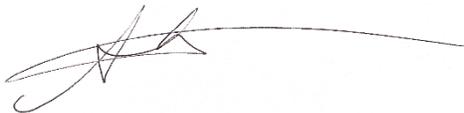
Conclusion

As DTSC moves to implement the Safer Consumer Products Regulation, we strongly recommend the Department review the lessons learned from this listing and determine where lessons learned can and should be applied.

We appreciate that DTSC has considered other programs with regulatory impact on the proposed priority products listing and urge DTSC to continue to address regulatory overlap to prevent unintended regulatory burdens on the regulated community.

Thank you for the opportunity to comment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Bennett', with a long horizontal flourish extending to the right.

Steven Bennett, Ph.D.
Senior Director, Scientific Affairs & Sustainability

A handwritten signature in black ink, appearing to read 'Kristin Power', written in a cursive style.

Kristin Power
Vice President, State Affairs

cc: CSPA Scientific Affairs Committee Green Chemistry Task Force
CSPA State Government Affairs Advisory Committee
Nicole Quinonez, Randlett/Nelson/Madden