

November 16, 2007

Maureen Gorsen
Director
Department of Toxic Substances Control
California Green Chemistry Initiative
P.O. Box 806
Sacramento, CA 95812-0806
green.chemistry@dtsc.ca.gov

Re: Summary Comments on the California Green Chemistry Initiative

Dear Director Gorsen:

The Consumer Specialty Products Association (CSPA) has appreciated your continual efforts to include us in the discussions and stakeholder input on the Department of Toxic Substances Control (DTSC) California Green Chemistry Initiative. We also appreciate this opportunity to provide supplemental comments in addition to the information that we have provided on the “Conversation with California” website.

CSPA is a national nonprofit trade association that represents more than 260 companies engaged in the formulation, manufacture, distribution and sale of consumer, institutional and commercial products. CSPA member companies manufacture and market a wide range of products, including: cleaning products, disinfectants and sanitizers, candles and air care products, household pesticide products, automotive products used to clean and maintain vehicles, and polishes and floor maintenance products.

CSPA members are committed to manufacturing and marketing safe products which are protective of human health and the environment while providing essential benefits to consumers. CSPA and our members support the broad goals of the Green Chemistry Initiative and look forward to working with DTSC and other stakeholders in the state to help spur green chemical innovation and ensure that products are safe.

I. Background

CSPA member products improve the quality of human life and are necessary to protect the public health against dangerous diseases, infestation, and unsanitary conditions. CSPA members are committed to providing products that are thoroughly evaluated for human and environmental safety and go through rigorous safety-based assessments before they are brought to market. CSPA members are also committed to clear and meaningful labeling on consumer products, i.e., label instructions are written to ensure that consumers use products in accordance with label instructions. Finally, CSPA members are committed to the development of green products that are safe for human health and the environment. In addition, CSPA members routinely apply green chemistry

and green engineering principles in their operations and have been honored with awards for their efforts.

The consumer products industry develops products that meet or exceed safety requirements of all state and federal agencies in the United States and Canada charged with regulating those products, including the California Department of Pesticide Regulation, the California Air Resources Board, and other state agencies, U.S. Consumer Product Safety Commission (CPSC), the U.S. Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the U.S. Food and Drug Administration (FDA), Health Canada, and Environment Canada.

While we support the California Green Chemistry Initiative and believe there is much that can be done to address and spur the development of green chemical technology, CSPA believes that regulation of our members' products under current federal and state regulatory authorities provides safety and protection to consumers. Below is a short summary of the various regulatory authorities that ensure the safety of consumer products and their ingredients. While it is not an exhaustive list of the regulatory requirements these products undergo, it illustrates the extensive oversight that already surrounds the manufacturing and marketing of consumer specialty products.

II. Toxic Substances Control Act (TSCA)

The Toxic Substances Control Act (TSCA) gives EPA the authority to regulate chemicals produced or imported into the United States. EPA repeatedly screens these chemicals and can require reporting, testing or a complete ban of those that may pose an environmental or human-health hazard.

Any person intending to manufacture or import a chemical substance first must determine whether the substance is listed on the TSCA Inventory. If it is not listed, the prospective manufacturer or importer must satisfy premanufacturing notice (PMN) requirements before commencing production or importation of the substance. In filing a PMN, the manufacturer or importer must give their identity, specific chemical identity, product volume, use, exposures (worker, user and consumer), and environmental fate. Additionally, any test data relating to environmental or health effects of manufacturing, processing, distributing, using, or disposing of the new chemical substance must also be submitted.

The PMN must be filed at least 90 days prior to the commencement of commercial production or importation of a new chemical substance. EPA's review of a PMN consists of seven major stages designed to ensure that EPA examines all aspects of a new chemical, including its physical and chemical properties, potential toxicity, exposure of workers, users and consumers, and economic benefits. EPA has the authority to prevent, delay, or limit manufacture after the initial PMN review period ends. EPA can issue an administrative order regulating a new chemical substance if the Agency finds that there is insufficient information to reasonably evaluate the risk and either the chemical may present an unreasonable risk to health or the environment or it will be produced in

substantial quantities with the result that either substantial quantities will enter the environment or there will be substantial or significant human exposure to the substance. While EPA does not require a designated set of toxicity testing to be included in the PMN submissions, it has identified several categories of chemicals and the concerns areas where it has required such tests. Under these requirements a company must provide information addressing these risk concerns or face restrictions based on default assumptions.

EPA has broad authority to regulate the existing chemicals in commerce as well. If a chemical presents unreasonable risks to health or the environment, EPA *must* initiate a rule-making to regulate the chemical. As of 2007, EPA has issued over 1300 Significant New Use Rules, which restrict the manufacture, import, or processing of a substance¹.

EPA can prohibit or limit the manufacture, processing, distribution, commercial use or disposal of the chemical; prohibit or limit the use of the chemical in a concentration above a specified level; require adequate warnings and instructions with respect to the chemical's use, distribution in commerce or disposal; require record-keeping; prohibit or regulate disposal of the chemical; and require notification to the purchasers or the general public about the risks involved and to replace or repurchase a chemical substance or mixture if requested. EPA also has the authority under TSCA to require manufacturers of substances to develop safety and environmental data.

III. Consumer Product Safety Act (CPSA)

The Consumer Product Safety Act (CPSA) provides that when the Consumer Products Safety Commission (CPSC) finds an unreasonable risk of injury associated with a consumer product it can develop a standard to reduce or eliminate the risk. The CPSA also provides the authority to ban a product if there is no feasible standard, and it gives CPSC authority to pursue recalls for products that present a substantial product hazard.

The CPSC is authorized to set safety standards as to consumer product performance, composition, contents, design, construction, finish, packaging and labeling. In general, the manufacturer of a consumer product subject to regulation must issue a certificate announcing compliance with the applicable standards, and must label the product with the date and place of manufacture, the identity of the manufacturer, a certification of compliance with any applicable rule, and a brief description of such rule.

Manufacturers are required to immediately notify the CPSC if it obtains information which reasonably supports the conclusion that a product: (1) fails to comply with a consumer product safety standard or banning regulation or a voluntary consumer product safety standard upon which the CPSC has relied upon; (2) contains a defect which could create a substantial product hazard described in the CPSA; or (3) creates an unreasonable risk of serious injury or death.

¹ <http://www.epa.gov/oppt/pubs/oppt101c2.pdf>, Table 1.3-2, page 11 (combination of 5(e) and non-5(e) SNURs)

In the last ten years, CPSC obtained 472 voluntary recalls involving 110 million product units. During this time, CPSC obtained 1031 corrective actions (including recalls and other actions to keep unsafe products from consumers).

IV. Federal Hazardous Substances Act (FHSA)

The Federal Hazardous Substances Act (FHSA) requires labeling of hazardous substances sold to households. It prohibits the sale or introduction into interstate commerce any product which does not comply with the regulations. FHSA regulations provide specific guidelines to determine potential risks specific to the entire formulation and package. Product risk assessments are the basis for label decisions and precautionary label text to protect consumers and children. At a minimum, labels must include hazard signal word, affirmative statement of hazards, the name of each component that contributes to the hazard, and precautionary measures to be taken to avoid risk, required or appropriate instruction for first aid treatment, handling instructions, storage instructions, and “Keep out of reach of children.”

V. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides the basis for regulation, sale, distribution and use of pesticides in the U.S. FIFRA authorizes EPA to review and register pesticides for the specified use which a registrant applies for. Before registering a new pesticide or new use for a registered pesticide, EPA must first ensure that the pesticide, when used according to label directions, can be used with a reasonable certainty of no harm to human health and without posing unreasonable risks to the environment. To make such determinations, EPA requires more than 100 different scientific studies and tests for active ingredients. In fact, EPA has banned and severely restricted 64 pesticides in the United States. When EPA registers a pesticide, it approves the product’s label, which includes (among other things) directions for use, hazard warnings, and precautions. It is a violation of FIFRA for any person to use a pesticide in a manner inconsistent with its EPA-approved labeling.

EPA also has the authority to suspend or cancel the registration of a pesticide if subsequent information shows that continued use would pose unreasonable risks to health or the environment. EPA may decide to remove a pesticide from the market based on information from a variety of sources: new studies conducted by the registrant, the Government, or a third party; incident information submitted by a registrant; or results of the EPA’s periodic review of pesticides and tolerances.

EPA is currently completing a review of those pesticides registered before November 1984 to ensure that they meet current scientific and regulatory standards. This process, called reregistration, considers the human health and ecological effects of pesticides and results in actions to reduce risks that are of concern. Concurrently, EPA has begun a registration review process for those products registered subsequent to 1984 and for those

pesticides that were review under the reregistration process previously. These ongoing review processes assure the continual reexamination of the safety and environmental profile of pesticides.

EPA and the states enforce FIFRA primarily through stop sale, use, and removal orders, civil penalties, or a combination of the two. Unlawful acts under FIFRA include: selling an unregistered or misbranded pesticide; selling a pesticide whose composition differs from the one described in the pesticide's registration application, violating EPA's labeling requirements, failing to file annual production reports, and violating FIFRA's export requirements.

VI. Recommendations for Product Stewardship & Safety-based Assessments

As stated in our November 6 "Conversation with California" entry, CSPA supports company performed safety-based assessments of consumer products prior to the marketing of a product, that take into consideration all of the phases of a product's life-cycle. CSPA also supports appropriate use-restrictions for chemical ingredients when scientific safety-based assessments indicate that they cannot be used safely in a consumer product or use application. CSPA and our members believe that every responsible company should be performing these types of safety-based assessments and supports initiatives that recognize companies for these types of procedures.

In fact, CSPA has demonstrated our industry's commitment to manufacturing and marketing safe products which are protective of human health and the environment while providing essential benefits to consumers, when we initiated our Product Care program in 2001.

CSPA's Product Care program is a stewardship program for the consumer and institutional specialty products industry where participating companies have agreed to go beyond government regulations in emphasizing health, safety and environmental concerns by carefully designing products, purchasing raw material and packaging, operating safe manufacturing facilities, promoting safe storage and distribution, providing useful product information, answering consumers questions and anticipating product disposal needs. CSPA believes that these types of product stewardship programs should be considered as frameworks for programs developed under the Green Chemistry Initiative.

Product Care provides a framework for companies to identify and commit to stewardship principles, share ideas and information and benchmark better performance. Participating companies have pledged to develop management principles for each of seven areas in a product's life cycle from development in a research facility through product use and disposal. Through this program Companies Must Commit to Evaluate:

1. **Product Design**
2. **Raw Material, Package and Service Supply**
3. **Manufacture and Production Site Management**

4. *Product Storage and Distribution*
5. *In-market Support, Incident Evaluation and Follow-up*
6. *Consumer Education and Outreach*
7. *Product Disposal*

Stewardship did not begin when CSPA's Product Care program was initiated in 2001. Responsible companies have long followed policies promoting safe products that provide important health benefits while not adversely affecting the environment.

CSPA believes it is vital that these types of product stewardship programs and companies that participate in these programs be recognized and fostered through any program developed under the Green Chemistry Initiative. In particular, CSPA believes that DTSC and California can leverage and recognize programs like Product Care as a way of encouraging companies to establish robust procedures to ensure product safety and environmental safety.

VII. Recommendations for Chemical Data Development Initiatives

Chemical data development efforts should build on existing statutory and regulatory structures, voluntary initiatives, and data development efforts. CSPA does not support California-specific data development requirements and pre-market approval process for chemicals or consumer products. However, CSPA supports collaboration by DTSC and California in ongoing work by other government agencies to assess chemicals and consumer products. Specifically, California and DTSC could leverage efforts by Health and Environment Canada in addressing priority chemicals in the Chemicals Management Plan. DTSC and California could collaborate with these agencies on their high priority list and avoid needless duplication of current data development and prioritization efforts. DTSC and California could also participate in the effort launched in August during the Security and Prosperity Partnership (SPP) with under the Montebello Agreement involving trilateral cooperation among the governments of Canada, the United States and Mexico to share chemical information and safety assessments.

In addition if DTSC and California move forward with efforts to establish chemical priorities the process should be collaborative and should include scientific experts in toxicity and exposure, chemical manufacturers, consumer product manufacturers, and nongovernmental organizations. CSPA believes inclusion of manufacturers of the chemicals and consumer products could provide toxicity and exposure/use data to determine whether the uses of "priority chemicals" are safe or should be restricted.

As referenced above, CSPA does not support pre-market approval of chemicals or consumer products, because this would be an incredibly burdensome and expensive process for the State of California and would unnecessarily slow down the development of products. For example, the Department of Pesticide Regulation registers approximately 12,000 pesticide products sold in the State and in 2005-06 it cost the

agency over \$17.5 million to review and approve these products². To require pre-market approval for the hundreds of thousands of chemicals and consumer products in commerce would be cost-prohibitive.

VIII. Support for Appropriate Ingredient Disclosure

Throughout Green Chemistry discussions and in recent market research consumers and others have expressed a desire to know what ingredients are in the products they use in their everyday life. These consumers are interested in having this knowledge in order to make informed product choices.

It may appear that product ingredient information may not be readily available to consumers; however, our members willingly provide information to meet consumer needs. While some organizations have expressed concerns about ingredients in consumer products, much of this information is inaccurate. This is primarily due to the reliance on outdated resources that are dependant on old technologies or on assumptions made by sources that are not well versed in specific product chemistries.

CSPA and our members support an appropriate approach to providing accurate information to consumers through ingredient communication. Our industry stands behind the safety of our products and the appropriate use of chemical ingredients in those products. We would like to work with DTSC and the State of California to implement a means of ingredient communication that would provide consumers with the information they can use to make informed decisions regarding the products they use in their homes.

IX. Essential Principles for Green Chemistry Initiatives

As any Green Chemistry program moves forward, CSPA believes, that in order for the effort to be credible and have a positive impact it must be structured in a way that includes all stakeholders and provides a sound scientific basis for the program. Specifically, Green Chemistry should ensure the safety of chemicals and consumer products through the use of sound science in the decision-making process.

Additionally, green chemistry programs should be designed to ensure that products remain technologically and commercially feasible to produce; and that product efficacy, performance, and usability are not compromised or undermined. As such, Green Chemistry must foster innovation and not limit the development of new chemistry technologies.

X. Support for Initiatives to Spur Green Innovation

Stimulating green chemical innovation has been a core concept of the Green Chemistry Initiative, and discussion of this topic has shown the promise that new technologies have for improving the standard of life in California and reducing environmental impacts.

² Department of Pesticide Regulation, *Our Budget and Finances*,
<http://www.cdpr.ca.gov/docs/dept/budgets/budget.htm>

CSPA supports collaborative efforts to encourage public and private partnerships with the goal of developing “greener” products and “environmentally responsible” ingredients rather than mandatory and voluntary state labeling programs that endorse green products or programs that stipulate a single third-party certification of green products.

CSPA supports initiatives that provide incentives for companies that innovate and develop technologically and commercially feasible products using green chemistry. CSPA also supports recognition for companies that develop sustainable business operations, processes, and/or products. We also believe there are unique opportunities in California for research that identifies areas for the use of green chemistry in consumer products. Essential elements to ensuring that these technologies become widespread are implementing State policies that are designed to overcome barriers to commercial application of green chemistry research and development efforts.

XI. Conclusion

Once again, CSPA has appreciated DTSC’s efforts to include all stakeholders in the discussions during the California Green Chemistry Initiative. CSPA believes that the Green Chemistry Initiative holds incredible promise for helping spur green innovation in California. We also believe that the Initiative can leverage ongoing chemical data development initiatives in setting chemical priorities. Further, CSPA believes that DTSC should recognize and encourage the current product stewardship procedures and safety-based assessments that companies perform prior to marketing a consumer product. CSPA would also look forward to working with DTSC and the State of California on an appropriate ingredient information system to help inform consumers when making their purchasing decisions.

CSPA looks forward to continuing to work with DTSC through the Green Chemistry Initiative, as recommendations are developed, and CSPA hopes that our continued participation in this discussion will provide meaningful help to the endeavor.

Please feel free to contact me directly at (202) 833-7328, or CSPA’s in-state representation, Laurie Nelson at (916) 446-1111 if you have any questions about these comments.

Respectfully Submitted,



Andrew R Hackman
Manager, State Affairs Programs