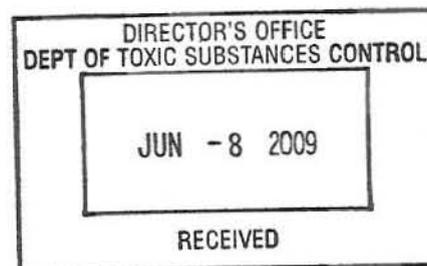


June 8, 2009

Mr. Mazier Movassaghi, Interim Director
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806



Dear Director Movassaghi:

Environmental Working Group (EWG) thanks you for the opportunity to comment on the Department of Toxic Substances Control's (DTSC) "Draft Straw Proposal" (Version 5.1, 4-23-09) that was presented at the Green Chemistry Workshop in April.

EWG commends the department for reaching out to stakeholders well before the formal draft regulations for the Green Chemistry Initiative (AB 1879 and SB 509) are promulgated, through public workshops, meetings with public interest organizations, and release of preliminary drafts such as the Straw Proposal. We also appreciate the ability to give you feedback at this early date without it being considered our formal or final position.

Per direction from your staff, we have avoided any paragraph-by-paragraph review of the document in acknowledgment that it is a work in progress. Rather, we have outlined our major points below as they pertain to the various sections of the Straw Proposal. There are praiseworthy aspects of the proposal, even in this early stage. At the same time, there are also other aspects of the proposal that we have significant concerns with.

In addition to the points below, EWG would like to emphasize the importance of incorporating a bottom line safety standard in any and all Green Chemistry regulations the DTSC promulgates. Specifically, we believe that protecting the most vulnerable -- infants and children -- should be this explicit bottom line. If the Department does not believe AB 1879 and SB 509 grants it such authority, EWG urges DTSC to work with the authors of these bills to obtain this authority in the near future. Without such a basic safety standard EWG has doubts about how robust any Green Chemistry program can be.

With this preface, EWG provides the following comments:

Chemicals of Concern

- EWG agrees with the proposal's general approach to identifying chemicals of concern and is pleased to see that the department is using a very broad list of criteria for placing chemicals on a "candidate" list.
- EWG is also pleased to see that DTSC intends to establish a minimum toxicity data set through this process.

Priority Chemicals

- DTSC has asked for help in determining how chemicals of concern will be prioritized for action; EWG urges that chemicals found in umbilical cord blood, in the hair and urine of babies, and/or in breast milk should move to the front of the line for agency action.
- Biomonitoring data should not have to be from California residents to be able to be considered as a reason to prioritize a certain chemical.

Alternatives Assessment

- EWG urges DTSC to assess chemicals rather than products in order to have a more robust and efficient program.
- DTSC must have the ability to take immediate action to regulate the most dangerous chemicals, ahead of any alternatives analysis process.
- To ensure that they are not biased, the alternative assessments must be conducted by independent third parties, rather than manufacturers; some fraction of these assessments should also be audited by DTSC.
- Alternative analyses should be paid for by industry.
- It is essential that the alternatives assessment process be completely transparent and that all data generated by the alternative analysis process be available to the public.

Evaluating the Alternatives Assessment and Determining Regulatory Responses

- Health and environmental considerations should always trump economic considerations.
- Some chemicals must be able to skip the alternatives assessment process and move directly to regulatory responses.
- EWG is very concerned with DTSC's proposal that regulatory action may be waived if "the [manufacturer] can demonstrate that research is in progress for the prioritized chemical of concern, and its alternatives." It is our experience that research is essentially always in progress on any chemical of concern. Action could therefore very easily be delayed indefinitely for any and all chemicals if this proposal is codified into regulation.

Thank you for considering our input. We look forward to working with you further.

Sincerely,

←//original signed by//

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Renée Sharp
Director, California Office

//original signed by//

Bill Allayaud 
California Director of Government Affairs