



March 2, 2020

Ms. Cheryl Niemi
Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7696

RE: Draft Report on Priority Consumer Products – Safer Products for Washington

Dear Ms. Niemi:

The American Chemistry Council (ACC) appreciates the opportunity to comment on the Department of Ecology's (ECY) Draft Report on Priority Consumer Products. Safety is a top priority for our member companies and we believe consumers deserve to have confidence that the products they buy are safe for their intended uses. Our members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of the products we produce and sell.

In addition to these general comments, individual ACC groups representing specific chemistries are also filing comments. We look forward to engaging with ECY as the draft report is completed and the department proceeds with implementation of the Safer Products for Washington law.

Specific Chemical Identification is Necessary

ACC urges ECY to clearly identify the priority chemicals within the priority products—either through related Chemical Abstract Services (CAS) registration numbers or other identifiers—to afford stakeholders proper notice of any potential regulatory action.

For example, Table 2 in the draft report contains extensive chemical acronym information, including acronyms that identify classes of chemicals. Chemical class, however, is not always sufficient information for a chemical manufacturer to identify a chemical they produce that may be regulated. Polyfluoroalkyl phosphates, for example, represent a chemical class that can span thousands of individual chemicals that encompass different carbon chain lengths, fluorination levels, and stereoisomers.

CAS registration numbers are available for most chemicals in commerce, although ACC supports additional chemical identification numbers, such as EPA's DTXSID and PubChem's SID. Moreover, given that Table 2 contains a column for CAS values, it seems logical to include CAS numbers for chemicals where values are easily obtainable. Mono-n-butyl-phthalate has no associated CAS registration number in Table 2, yet a quick search reveals it has been assigned registration number 131-70-4.

Prioritization and Efficient Use of ECY Resources

ACC urges ECY to ensure that credible, scientifically valid, and peer reviewed information is the basis for identifying priority products. We also urge ECY to closely examine conclusions of safety assessments conducted by regulatory agencies in the US and globally relative to individual chemistries used in certain applications. Identifying chemistries used in priority products that have already been subject to review by regulatory agencies and deemed not a risk for their intended use would not seem to be an efficient use of ECY resources.



Safer Alternatives

In several instances, the draft report makes general conclusions and statements regarding the availability of safer alternatives to identified chemistries used in priority products. These conclusions in some cases suggest the use of replacement chemistries or in others suggest a wholesale change in how the priority products are manufactured. For example, the report states that for flame retardants and electronics, "other solutions include using metal casings or removing the electronic source from the casing." (Page 18) ACC urges ECV to avoid making sweeping claims about alternatives, without providing information on the process by which ECV reached such a conclusion. In some cases, drop in replacements may not be available or completely redesigning a product may not be feasible or may result in unintended environmental impacts.

Undertaking alternatives assessments (AA) is complex process, yet a cornerstone for our industry. Companies invest significant resources into research and development, including seeking continuous improvement of their products and processes. ACC believes that a robust AA should account for:

- Both hazard and exposures;
- Human health and environmental safety/risk;
- A product's performance, including technical feasibility of the alternative in the product;
- Cost, economic impact and useful life;
- Lifecycle thinking/resource utilization;
- Other issues such as the function(s) of the chemical in the product, compatibility with other ingredients in the product and with machines used to make the product; availability of alternatives at a reasonable cost and sufficient quantity.

Additionally, AAs should identify alternatives that are accepted by the consumer in the marketplace and that deliver significant benefit to human health or the environment, throughout their lifecycle, when compared to the original chemical. Flexibility is also needed to account for differences in industries and companies; allow adequate time for the alternative to enter the marketplace, including opportunity for a re-assessment; and be portable and readily accepted in various jurisdictions in order to avoid duplicative efforts.

Prior to ECV taking any regulatory action regarding a priority product or suggesting the availability of a "safer alternative," ACC urges the Department to clearly articulate the process by which it plans to assess the availability of alternatives and provide stakeholders with an opportunity to review the information (and offer comment) it relied upon to support its recommendations.

Thank you for your consideration of our comments. If you have any questions, please do not hesitate to contact me at 916-448-2581 or tim_shestek@americanchemistry.com.

Sincerely,



Tim Shestek
Senior Director, State Affairs