February 28th, 2020

Hazardous Waste and Toxics Reduction Program
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7896

Re: Comments on Safer Products for Washington - Draft Report on Priority Consumer Products

To Whom it May Concern,

CompTIA appreciates the opportunity to comment on the Draft Priority Consumer Product Report. Since some of our members are in electric and electronic equipment (EEE) industry, we have reviewed draft reports chapter of electric and electronic equipment (device casings) and provided comments below.

Scope

The scope of this priority product is too broad and could potentially have huge negative impact to the EEE industry. There is no definition of electric and electronic equipment (device casings) in the draft. The draft report lists "adaptor" as an example of EEE that contains plastic casings, which we believe should be excluded from the scope as it is technically immature to identify alternative solutions for these accessories (e.g. adaptor, external cable and connector). Flame retardant free materials (e.g. metal) usually cannot be used as shield of the accessories.

Also, the examples listed are all consumer products. It is not clear if the device casings used in other EEE products such as industrial monitoring and control equipment, medical devices, electrical equipment, telecommunication system, etc., are also in scope. Without thorough socio-economic impact analysis, it is very risky to apply the regulation to such a broad product scope.

We recommend starting from a much narrower scope of products for this regulatory evaluation. For example, the European Commission (EC) Regulation (EU) 2019/2021 only applies the restriction of halogenated flame retardants to enclosures and stands of electronic displays, not all EEE products. If needed, the regulation can be expanded to other products in the future.

Substance grouping

There is not enough scientific evidence that the whole group of organohalogen flame retardants and several phosphorus flame retardants identified as priority chemicals are hazardous to human beings and the environment. The potential exposure data and references collected in this draft are mainly associated with some additive flame retardants. Reactive flame retardants can chemically react with the polymer and become part of polymer matrix, and thus do not cause exposure to human being and the environment under normal use conditions. Therefore, it is not appropriate to designate a huge group of substances as priority chemicals without sufficient scientific data, impact analysis and alternative assessment. The regulation on the flame retardants which do not pose a risk could potentially cause regrettable substitution. All flame retardants must be assessed on a case-by-case basis prior to the regulatory rulemaking.

Coherence with other regulations

It may create confusion if similar regulations across the globe have different legal requirements, unless the differences can be justified. As listed in the draft, Consumer Product Safety Commission (CPSC) initiates a rulemaking to prohibit organohalogen flame retardants in four product categories including plastic casings surrounding electronics. However, CPSC only focuses on the additive, non-polymeric organohalogen flame retardants. Regulation (EU) 2019/2021 for electronic displays restricts halogenated flame retardants. Neither include phosphorus flame retardants within their scope. Therefore, we suggest Washington state harmonize with other similar regulations as much as possible. This could enable the consistent requirement throughout the supply chain and facilitate more accurate data collection and communication.

De Minimis Concentration

In general, most regulations define the de minimis concentration limits, below which the presence of the substance is considered allowable. De minimis concentration limits are necessary for the companies to determine compliance as there is no absolute absence. For example, EU REACH (Registration, Evaluation, Authorization and Restriction of Chemicals) applies 0.1% by mass in article to the Candidate List of Substance of Very High Concern for Article 33 communication. Therefore, it is recommended to establish reasonable de minimis concentration limits for priority chemicals in the priority products.

Thank you for reviewing our comments and for your consideration. Please contact Anna Powell (apowell@comptia.org) with any questions you may have.

Sincerely,

Anna Powell
Director, State Government Affairs – West
CompTIA