Household & Commercial Products Association

Comments submitted on behalf of the Household & Commercial Products Association

December 31, 2024
Kim Morley
Washington Department of Ecology, HWTR Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: Draft Identification of Priority Products Report to the Legislature

Dear Ms. Morley,

On behalf of the Household & Commercial Products Association[1] (HCPA) and its members, we want to convey our comments on the Draft Identification of Priority Products Report to the Legislature, Cycle 2. HCPA supports the efforts of the Washington Department of Ecology (Ecology) but would like to raise some key considerations to ease the implementation of the Safer Products regulations.

HCPA appreciates Ecology's efforts to solicit and incorporate stakeholder feedback into the regulation to help move the marketplace. To help Ecology improve and refine the draft rule, we offer the following comments.

For years, HCPA has been a leading advocate for companies, helping them demonstrate their unwavering commitment to transparency, product stewardship, and sustainability. This commitment is aimed at protecting consumers and workers. It is highlighted by HCPA's support in the passage of the California Cleaning Products Right to Know Act, a significant step towards transparency. It mandates the online and on-label disclosure of intentionally added ingredients, including those identified in Cycle 2. HCPA also maintains a Product Ingredients Dictionary[2] to aid companies' disclosure efforts and includes information about product categories, chemical classes, and ingredient functions.

HCPA is concerned that several of the sources utilized in the Draft Identification and Technical Supporting Document are significantly dated and no longer reflect products in the marketplace. This is particularly noticeable when older reports highlight a lack of

[1] HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than $180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. HCPA represents products including disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for pets, home, lawn, and garden; 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.

[2] California Cleaning Products Right to Know Act, https://legiscan.com/CA/text/SB258/id/1653091

ingredient transparency and predate the state-based ingredient disclosure requirements that have been adopted nationally. HCPA recommends that Ecology revisit the older reports and verify that current versions of identified products contain the priority chemical.

HCPA recommends that Ecology include CAS numbers with identified Priority Products to aid stakeholders and industry in identifying potentially impacted products.

HCPA is deeply concerned with including formaldehyde releasers used in cleaning and household care products as a Priority Product category and strongly opposes this designation. Preservatives, including formaldehyde-releasing antimicrobial chemistries, play crucial roles in ensuring the safety and sustainability of water-based products. Formaldehyde-releasers are registered as pesticides by the United States Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and by the Washington Department of Agriculture. EPA must approve each preservative for use in a particular type of cleaning product and household product. When the EPA reviews products that make pesticidal claims, preservatives are considered inert ingredients and approved as part of the EPA's review of data on the final formulated product. Preservatives are essential in cleaning product formulations, especially those in liquid or aqueous form or impregnated in wipes, which are especially susceptible to microbial contamination. Preservatives protect consumers to ensure the safety and product effectiveness while preventing product spoilage throughout its lifecycle. This is an area where HCPA members deal with formulation challenges every day, and they have also developed a series of educational articles[3] and efficacy guidelines to assist formulators.[4] Further, HCPA supports the comments submitted by the Center for Biocide Chemistries, which raises similar concerns.

The use of formaldehyde releasers as preservatives in cleaning products is a regulated antimicrobial pesticidal use, and the EPA thoroughly evaluates the exposure and use data for the use patterns, including preservation of cleaning and household products, as part of the product registration. In addition, the EPA, as part of its registration review process, is currently developing draft risk assessments for formaldehyde releasers.[5] During this risk assessment process, the EPA will scrutinize data of registered and actual use of formaldehyde releasing chemistries for preserving cleaning and household care products. The EPA will consider human health and environmental impacts associated with this use pattern and identify any risks that necessitate mitigation (i.e., limitations on usage or concentration limits). It should be noted that while EPA's Registration Review case for formaldehyde releasers is not

[3] See https://www.happi.com/critical-elements-of-household-product-preservation/

[4] See https://member.thehcpa.org/products/product/MicrobialGeneralGuidanceMGG-005

[5] These draft risk assessments are anticipated to be released for public comment during the fiscal year FY 2025, https://www.epa.gov/pesticide-reevaluation/upcoming-registration-review-actions

completed, they have been previously assessed by EPA[6] and ECHA,[7] and both Agencies found to pose no unreasonable risk to human health or the environment from their use as a preservative in cleaning and household products.

Product formulators must consider how the preservative works with the overall product, such as impacts due to pH, physical state of the product, means of product delivery, intended shelf-life, etc. Product formulators must have a wide range of preservative choices, as not all preservatives can be used in every type of cleaning and household product. Formulators also need to utilize various types of preservatives to help limit microbial tolerance to other preservatives; without a variety of preservatives, formulators would likely need to rely on more hazardous chemicals to ensure the stability of their products and experience bacterial contamination. The selection of a preservative for a formulation is considered throughout the product development process, and substituting a different preservative can be extremely difficult for an existing product and likely would require a complete product reformulation.

Formaldehyde-releasing preservatives work by slowly releasing minute amounts of formaldehyde over time and provide broad-spectrum antimicrobial activity, addressing a wide range of bacteria, fungi, and other pathogens that could otherwise compromise product integrity.

HCPA notes that bronopol has multiple modes of action and does not always release formaldehyde as part of its function as a preservative. Bronopol inhibits cellular growth and their ability to reproduce by disrupting the cellular processes of microorganisms.[8] HCPA also notes that while bronopol can be categorized as a formaldehyde releaser, this is not always the case, and it has been shown that there is pH and temperature dependence for the release of formaldehyde.[9]

We encourage Ecology to defer to the U.S. EPA, ECHA, and other regulatory agencies that assess a significant volume of data specific to these chemistries' uses and use patterns to determine whether there is a risk to public health or the environment. We strongly advocate against regulating formaldehyde releasers in cleaning and household care products under the Safer Products Program. Should Ecology proceed with this regulatory action, we urge Ecology to suspend its implementation until the EPA completes its Registration Review decisions for each formaldehyde-releasing chemistry case. This will provide Ecology with the most comprehensive risk and benefit information on these chemistries' uses in applications of concern to Ecology.

With respect to organobromine or organochlorine substances in toilet and bathroom

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[6] see RED at https://archive.epa.gov/pesticides/reregistration/web/pdf/2770fact.pdf

[7] See https://echa.europa.eu/documents/10162/f1f54f23-7b17-97d1-6e33-1563a09a4bdf

[8] See https://pmc.ncbi.nlm.nih.gov/articles/PMC175953/

[9] See https://enviromicro-journals.onlinelibrary.wiley.com/doi/abs/10.1111/j.1365-2672.1981.tb01267.x and https://www.researchgate.net/publication/228857638_The_Release_of_Formaldehyde_upon_Decomposition_of_2-Bromo-2-nitropropan-1_3-diol_Bronopol

deodorizers, HCPA notes that EPA is currently evaluating 1,4-dichlorobenzene under TSCA and that the information gathered for the risk evaluation is likely more relevant and up-to-date than the ATSDR information relied upon here.[10] HCPA encourages Ecology to defer to the U.S. EPA and its assessment of a significant volume of data specific to 1,4-dichlorobenzene uses and use patterns to determine whether there is a risk to public health or the environment.

HCPA is concerned that while the number of priority products identified is low, how the information is compared to the full category of total products paints a misleading picture of the scale of the impact. For example,

> *"We don't know if these products contain ortho-phthalates, but we do know that ortho-phthalates are commonly used as a component of fragrance ingredients to make scents last longer after product use. This was one of our findings from Cycle 1 of Safer Products for Washington when we evaluated ortho-phthalates used as a component of fragrances in personal care and beauty products (Ecology, 2022b). We found 5,655 products in the category of 'household' that contain fragrance ingredients input to the Mintel GNPD from the North American market in the last ten years (2014–2024) out of a total of 9,576 product records with ingredient information available (Figure 3) (Mintel, n.d.)."*[11]

The passage implies that *any* household product containing a fragrance ingredient also contains an ortho-phthalate. Comparing this to the 53 products identified from the Consumer Product Information Database (CPID) containing diethyl phthalate (DEP) earlier in the analysis,[12] there is a wide disparity between the observations. While we do not dispute the hypothesis that DEP is not always disclosed, it is uncommon, and the likely number of products containing DEP is much closer to those identified in the CPID. In addition, Figure 3 further compounds the problem. HCPA strongly recommends that Ecology revisit the section and emphasize what is known rather than unknown.

HCPA appreciates the opportunity to provide comments and looks forward to working with Ecology throughout the regulatory process. Do not hesitate to contact me with any questions.

Sincerely,

Steven Bennett, Ph.D.
Executive Vice President, Scientific & Regulatory Affairs

[10] See https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-p-dichlorobenzene

[11] Technical Supporting Document, Page 41.

[12] Technical Supporting Document, Page 40.