

July 15, 2010

The Honorable Linda Adams  
Secretary, California Environmental Protection Agency  
1001 I Street  
P.O. Box 2815  
Sacramento, CA 95812-2815

Dear Secretary Adams:

As public health and environmental advocates, we have closely followed the progress of the Green Chemistry Initiative, and have been encouraged by the Department of Toxic Substances Control's (DTSC) efforts during development of the program to solicit public participation and incorporate the public's input.

While we have a variety of concerns about the draft regulations issued on June 23, we were extremely disappointed and concerned to see that the draft regulations severely limit public input on decisions about regulatory responses to hazardous chemicals in consumer products or the assessment of safer alternatives.

Article 4 of the draft regulations appropriately allows any person to petition the Department to use the Chemical of Concern or Priority Product processes to prioritize a chemical or product for review. However, according to the regulations, the opportunity for public input effectively stops there.

The draft regulations make no provisions for public participation or comment on the alternatives assessment process. Manufacturers, or certified third parties that they hire, conduct the alternatives assessments, but there are no opportunities for the public to comment on the assessments or submit other information that might inform the Department's decision about available alternatives. Likewise, when the Department reaches a decision about a safer alternative or other regulatory response, there is no opportunity for public comment before the decision takes effect.

Without public participation at every stage of the process, the Green Chemistry Initiative will become a closed conversation between industry and the Department. This will unfairly stack the deck in favor of industry, which will have far greater opportunity to influence, delay or appeal the Department's decision. Inasmuch as the objective of the Green Chemistry Initiative is to protect public health by promoting safer alternatives for chemicals in consumer products, it seems a fundamental error to limit the opportunities for consumers to participate in the decisions that are supposed to protect them and their families.

In limiting opportunities for public participation on a regulatory action or alternatives assessment, the draft regulations also shut out other companies. Potential competitors and industry in general should have an opportunity to participate in decision-making that could affect their business, and they may very well have valuable information about alternatives. Likewise, the regulations do not allow for review and input by other government entities such as public health departments, school districts, emergency response agencies. All segments of the public and private marketplace should be able to participate in these critical decisions. As AB

1879 provides for the protection of confidential business information, there is no reason not to release the alternatives assessments and response action documents for public comment.

Participation by the public and other interested parties also is desirable given DTSC's undeniable resource constraints. The Department would benefit from the support of the public and public interest groups in the formidable task of challenging the status quo on thousands of chemicals and consumer products. Other groups can bring valuable assistance to the process, helping the Department reach better decisions.

We urge you to amend the draft regulations by allowing and proactively encouraging public participation at every stage of the process. If you would like to discuss our ideas for ensuring this vital component, we would be happy to meet with you at your convenience.

Thank you for your consideration of our concerns.

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