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Krycia Von Burg
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Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806
Re: Proposed Regulations, R-2011-02, Safer Consumer Products

Submitted via E-Mail

Ms. Von Burg:

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments on the California Department of Toxic Substances Control's (DTSC) Proposed Regulation R-2011-02 Safer Consumer Products.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members employ tens of thousands of people and produce more than 95% of the household appliances shipped for sale. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances are also a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

AHAM supports DTSC's intent to limit potential exposures or the level of potential adverse impacts posed by toxic chemicals in consumer products. However, the scope of the regulation is unnecessarily broad and AHAM believes that because home appliances are well-regulated in this area already, they should not be the focus of this regulation, if not entirely excluded from the prioritization process. DTSC's treatment of home appliances in such a manner would be consistent with the Department's objectives for the following reasons.

I. Home appliances are well-regulated by other entities

Sections 69503.2 and 69503.3 of the proposed regulation both state that "Other Regulatory Programs" are among the factors DTSC must consider in its prioritization process. With respect to home appliances, this factor should be dispositive in granting AHAM products a very low

priority, or excluding them entirely. Home appliances are already well-regulated at the federal level through a number of agencies.

Under the Consumer Product Safety Commission alone, AHAM's members must conform to regulations under several pieces of legislation, including the Consumer Product Safety Act, The Consumer Product Safety Improvement Act, and the Refrigerator Safety Act. The Toxic Substances Control Act, as administered by the U.S. Environmental Protection Agency (EPA), also requires mandatory reporting and safety requirements relating to chemicals that pose potential risks. This is in addition to mandatory greenhouse gas reporting rules. In addition, the U.S. Department of Energy (DOE) regulates energy conservation of appliances under the Energy Policy and Conservation Act of 1975 (EPCA), as amended by the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007. The Federal Trade Commission also mandates energy labeling for many of these same products under Energy Policy and Conservation Act. In addition, though not a mandatory regulatory program, the success of the ENERGY STAR program, administered by DOE and EPA, has made it mandatory in the market place.

Furthermore, the appliance industry is already taking significant voluntary steps to achieve the goals of DTSC's proposed regulations. AHAM is publishing a series of sustainability standards for major, portable and floor care appliances that address materials of concern. The Safer Consumer Products regulations would therefore not have any significant impact in protecting human or environmental health, but would instead simply serve as an unnecessary burden on an already stressed industry.

II. Prioritization Factors

A. Intended Product Uses

Section 69503.2(a)(1)(B)(1) of the proposed regulation states that “[b]ased on reliable information, the Department shall also give special consideration to the ability of the Chemical(s) of Concern in the product to contribute to or cause widespread adverse public health and/or environmental impacts.” One of the factors DTSC is to consider is “intended product use(s), and types and age groups of targeted customer base(s).”

While AHAM acknowledges that its members' products are used by a broad cross-section of consumers, the products do not contribute to or cause widespread adverse public health and/or environmental impacts. If AHAM products are not going to be excluded from the prioritization process, then this provision of the regulation seems to indicate that they warrant special consideration and lower prioritization than products that are directly aimed at these individuals.

B. Containment of Chemicals of Concern

Section 69503.2(a)(1)(B)4(d) of the proposed regulation states that another factor is “[p]ublic and/or aquatic, avian, or terrestrial animal or plant organism exposures to the Chemical(s) of Concern in the product during the product's life cycle, considering... [c]ontainment of the Chemical(s) of Concern within the product.”

As stated before, any direct exposure to chemicals is already regulated by other entities, therefore, with respect to appliances, this provision goes toward any other Chemical(s) of Concern that may be present. If a Chemical of Concern were to be present in home appliance products, it is likely to be part of a component contained within the appliance. Such components present much less of a risk to the consumer than those that involve direct contact with the user. Given these facts, that such a chemical would largely be contained within the appliance furthers the reasons that home appliances are low enough priority under the proposed regulations that they should be excluded from its scope.

C. Disposal of home appliances at end-of-life

Section 69503.2(a)(1)(B)5 of the proposed regulation states that DTSC must consider “[p]roduct uses, or discharges or disposals, in any manner that would contribute to or cause adverse waste and end-of-life impacts.”

Implied in this provision is that DTSC should also consider product end-of-life scenarios that minimize adverse consumer impacts. Especially with regard to major appliances, the home appliance industry and its products already benefit from a decades-old established market-based system in which these units are collected and recycled at over 90 percent. The fact that the home appliance industry is far ahead of most others in developing a system to deal with end-of-life issues further illustrates that the industry should not be included during DTSC’s prioritization process.

III. Conclusion

AHAM emphasizes that DTSC’s proposed regulations have too broad a scope, and that the scope should be altered to exclude home appliances. These products are well-regulated and DTSC’s action will not decrease any risk these products might pose, but would instead impose unnecessary burdens on their manufacturers during an already challenging economic time. If DTSC chooses not to exclude these products, the provisions specified above show that home appliances should not be considered a priority product under reasonable circumstances.

Submitted respectfully,



Kevin Messner
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