

**From:** Michael E Heltzer <michael.heltzer@basf.com>  
**Sent:** Thursday, October 11, 2012 11:56 AM  
**To:** GCREgs@DTSC  
**Subject:** Safer Consumer Product Alternatives Regulation, Chapter 55 of Division 4.5 of Title 22 of the California Code of Regulations (Z-2012-0717-04) (July 2012)

Dear Ms. Von Burg:

BASF Corporation is submitting comments regarding the Department of Toxic Substances Control's (DTSC) proposed Safer Consumer Product Alternatives Regulation of July 2012, which has been issued pursuant to the 2008 enactment of Assembly Bill 1879. Stats. 2008, c. 559 (AB 1879). BASF supports the intent of the proposed regulation, which Director Raphael has referred to as a "systematic approach to reducing toxic chemicals in consumer products," and we appreciate the fact that this version has opted to focus the program initially by only identifying up to five priority products. However, we still cannot endorse the current draft and believe the proposed regulation will be more effective if the regulated community and consumers can operate under a greater degree of certainty.

BASF Corporation is the North American subsidiary of BASF SE – *The Chemical Company*. We combine economic success, social responsibility and environmental protection. Through science and innovation we enable our customers in almost all industries to meet the current and future needs of society. Our products and system solutions contribute to conserving resources, ensuring healthy food and nutrition and helping to improve quality of life. We have summed up this contribution in our corporate purpose: *We create chemistry for a sustainable future*. BASF has five facilities in the state of California (Rancho Cucamonga, Orange, Newark, Dinuba, and Fremont), and we are a member of groups active in discussions related to the green chemistry issue, including the American Chemistry Council, American Cleaning Institute and Green Chemistry Alliance.

Among the more critical areas where the proposal lacks clarity is the manner in which DTSC will distinguish between or prioritize the respective hazard traits or environmental or toxicological endpoints that caused a chemical to be placed on the initial list of 1200-plus "chemicals of concern." §69502.2(a). DTSC should utilize a subsequent prioritization to identify a discrete subset of the highest priority chemicals in that group of 1200-plus, which should rightly be identified as "chemicals of concern." In short, 1200-plus actionable chemicals is far too unwieldy, and the goal of DTSC should be a manageable process focusing on chemicals which exhibit the greatest hazards, *i.e.*, substances known to cause cancer or developmental or reproductive harm and substances known to be persistent, bioaccumulative and toxic in the environment as designated by the U.S. Environmental Protection Agency and others.

Other examples where clarity in the proposed rule would be appropriate include, but are not limited to the following:

- The process of using "reliable information" to assess whether a chemical should be added to the "chemicals of concern" list. §69502.2(b)(3). We suggest this should be clarified by incorporating a specific and scientific weight-of-the-evidence assessment. In doing so, DTSC will correctly avoid allowing a single study, regardless of its quality, to be the determining factor in a chemical's placement on the list.
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- DTSC's response to public comments. The proposed regulation leaves the door open to the possibility that DTSC may not respond to all public comments. §69502.3(d). Given the scope and the likely impact of the safer alternative program, a response by DTSC to all comments it receives seems appropriate.
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- The assessment and prioritization of products. As drafted, the regulation identifies a vague, subjective process by which DTSC will establish a list of "priority products." We recommend DTSC create a clear, step-by-step and more objective analysis that utilizes credible, scientifically valid measurements in order to determine which products will be regulated.

Related to the issue of clarity, BASF also believes that the scope of the current proposal, which would establish an all-encompassing program covering virtually all commercially available products and their packaging, *e.g.*, bulk chemicals,

goes beyond the intent of the Legislature when it adopted AB 1879. We suggest that the Legislature intended DTSC to take a more modest approach and focus attention on minimizing the potential for exposure to hazardous chemicals of concern in more everyday consumer products and to encourage innovation in these products that safeguards human health. In our opinion, the approach in the draft regulation for such broad product coverage will create an unworkable framework that will increase uncertainty in the business community.

BASF appreciates DTSC's consideration of our concerns, and remains supportive of the intent of the proposed regulation and underlying statute. Please contact me if you have any questions.

Sincerely,

**Michael E. Heltzer**  
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