

November 4, 2009

Sent via email: green.chemistry@dtsc.ca.gov

Re: Comments on Green Chemistry “Straw Proposal”

Dear DTSC staff:

This e-mail follows on my comments made at the Green Chemistry Workshop October 21st, 2009 at CalEPA during the “response actions” section of the agenda.

As I stated at the workshop, the California Product Stewardship Council submitted comments on the Green Chemistry Regulations Development on July 29, 2009, and I have attached it again for the record as we didn’t see it posted anywhere on the website in the comments section.

In the letter, we make the same points I made at the workshop except now they can be more specific as the straw proposal is available.

In short, our comments are that if what I heard DTSC legal staff say today is true, that an alternatives analysis must be conducted before a product can be considered for response actions, than we would ask that DTSC please develop a very streamlined analysis for products that have already been analyzed for toxicity and deemed too toxic to dispose of or current law prohibits disposal in engineered and monitored landfills in California. Those products should then go directly to “End of Life Management” as outlined on page 47 of the straw proposal.

However, there is a problem with this section as it reads as follows:

On or before one (1) year from the date the alternative analysis required by article XX has been completed, a manufacturer of a consumer product shall implement any of the following strategies for managing and reducing the life cycle impacts of the consumer product, including establishing and maintaining:

- (A) take-back programs; or*
- (B) statewide or local recycling or collection programs, or*
- (C) statewide or local programs to control priority chemical of concern or consumer product impacts to the environment.*

This section is unclear and does not follow the EPR Framework policy adopted by the California Integrated Waste Management Board. We would like the language changed to the following:

“Once the expedited alternatives analysis has been completed, the producer of a consumer product shall follow the roles and responsibilities outlined in the Extended Producer Responsibility Framework adopted by the California Integrated Waste Management Board in January of 2008. Specifically, the producer must develop a Stewardship Plan outlining their proposal to finance and manage the collection system for that product. Stewardship Plans shall be submitted to DTSC no longer than 12 months from the date of the end of the expedited alternatives analysis. DTSC will determine whether the plan is complete or not within 30 days of receipt. If complete, the DTSC shall determine through a stakeholder process collection rates and methodologies for the product that increase over time with a final goal of getting 100% of toxic products banned from disposal captured for proper management. Producers shall then submit annual reports to DTSC outlining efforts to reduce lifecycle impacts of the product, educate the public on participating in the collection system, and achieve collection rates as established at a minimum. Nothing in this section shall add to the existing local government burden to manage the product. Any reference to local government collection by producers will only be done voluntarily and with compensation for their services.”

We thank you for the opportunity to comment and look forward to seeing the next draft.

Sincerely,



Heidi Sanborn, Executive Director
California Product Stewardship Council